

## United Nations intervention in refugee crises after the Cold War

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**Abstract.** Refugees have been ubiquitous in recent cases of international intervention. But, to what extent do refugees serve as the rationale to intervene? Do refugee flows legitimate intervention? To answer such questions, principal cases of recent UN interventions are examined including Northern Iraq (to protect the Kurds), Somalia, Haiti, Bosnia and Rwanda. Substantial evidence is found in UN resolutions and related documents to infer a trend towards greater consideration of refugees when deciding about intervention. Yet, such consideration is less 'humanitarian' than security-focused. That refugees pose threats to others, not solely or principally their own suffering, continues to dominate multilateral decisions to intervene.

### Introduction

In 1979, there were 4.6 million refugees worldwide. Just fifteen years later, by early 1994, that figure climbed to a peak of 18.2 million. Twenty-four million persons were also displaced and scattered internally among many conflict zones. That is, one out of every 130 people in the world was displaced as a result of persecution, violence or natural disaster. In the following three years, the number of refugees declined somewhat to 13.2 million as a consequence of repatriation after conflicts in Afghanistan, Cambodia, Ethiopia, and Mozambique had ceased. At the same time, however, those who had been internally displaced rose to about 30 million.<sup>1</sup> Such displaced persons fled human rights abuses, ethnic conflict, and generalized violence. In addition, there are many others who have left their home voluntarily in search of work or basic subsistence.<sup>2</sup> The UN High Commissioner for Refugees estimates that there are 25–30 million legal labor immigrants. In addition, there are probably 20–40 million illegal labor immigrants.

Taken together, a total of 80–100 million people live outside of their countries of origin (citizenship), or perhaps 1½ percent of the entire population of the world.<sup>3</sup> It follows that increased attention has been devoted to the effects of refugees, internally displaced, and other migrants have on host countries' economies and security.<sup>4</sup> Governments have felt increasing pressure to curb immigration of all kinds from a public backlash against refugee and others.

At the same time, humanitarian crises, communal conflicts and a renewed focus on collective security have drawn more international attention after the Cold War. Since 1989, the international community has intervened in

ostensibly internal conflicts on a number of occasions in which the Cold War's ideological stalemate had precluded action in past decades. That a conflict poses a threat to 'international peace and security' has justified UN involvement; this is the language found in the UN Charter with respect to Chapter VII enforcement action. These have been 'internal' conflicts insofar as fighting or other forms of conflict have been contained within particular state borders. Yet, they have had implications and effects beyond their borders. One of the most noticeable and urgent results has been the creation of large refugee flows that have created significant strains on receiving countries or have had otherwise unwanted and destabilizing consequences.

Refugees have been ubiquitous in all recent instances of significant international intervention. To what extent did refugee flows or potential refugee flows play a role in arguments for, and decisions to, intervene? Further, what are the implications for these recent refugee-related interventions? Do recent interventions indicate a change in international discourse regarding intervention, thereby changing the basis for legitimate international intervention? In addition, will intervention lead to an emerging regime of in-country protection coupled with decreasing support for traditional forms of refugee protection?

I address such issues by examining several instances of UN sanctioned military intervention in internal conflicts that produced large refugee populations – the creation of safe havens in Northern Iraq to protect Kurds, plus the diverse cases of Somalia, Haiti, Bosnia, and Rwanda. Despite obvious differences, all have three things in common. First, they are all situations where large numbers of refugees have crossed or attempted to cross international borders. Second, they are all instances where the international community, through the UN, has undertaken or called for military activity in the refugee-producing state. Third, they have all taken place since the end of the Cold War – that is, since 1989/90.

These cases are examined below through several different lenses. First, the way in which the intervention is framed in Security Council resolutions provides clues about how humanitarian actions are conceptualized. Second, debate before and after interventions gives a glimpse of how the international community sees these actions. Third, various political, security, and humanitarian interests that favor intervention may suggest the likelihood of further interventions.

Finally, implications for future debates about intervention are considered. I argue that a convergence of factors – more refugees, increased public pressure to assert control over borders, and greater possibilities for Security Council action – has led, in some instances, to possibly precedent-setting intervention in cases of mass refugee movements.

## **Intervention**

Intervention in the emerging global order is multi-faceted. At its core are transborder forceful efforts to influence a government or the outcome of an internationally-relevant situation, regardless of whether a government is involved. It can include activities such as overthrowing a government or forcibly annexing territory. However, intervention can also include the ambiguous use of force that involves governmental acquiescence or resistance, and the acquiescence or resistance of a rebel group. A state or international organization undertakes intervention to address a security or humanitarian problem in a particular territory. *Humanitarian* intervention focuses attention on the humanitarian rationales to intervene, and emphasizes action that mitigates the humanitarian situation.

Outside the strict realm of intervention is the concept of humanitarian access, including instances where the UN or aid organizations negotiate with governments to gain access to affected populations in the midst of civil wars or other humanitarian emergencies, or where humanitarian access is obtained without the consent of a government, with no military component in either case. The distinction between access and intervention is important. First, only states or organizations of states have resources to undertake interventions, while a wide variety of actors can engage in humanitarian access activities. Second, the legal basis for humanitarian access differs from that for intervention. Third, differences between the two activities have implications for their conceptualization within discourses about sovereignty.<sup>5</sup>

To what extent might peacekeeping activities fall under the rubric of intervention? Traditional peacekeeping operations would not qualify as intervention since all parties to a conflict are presumed to have accepted the peacekeepers' presence. Further, the military component of traditional peacekeeping has been relatively small. However, there have been instances where peacekeepers have found themselves in ambiguous situations – where not all parties accepted their presence, where they have been attacked by one or more parties to a conflict, or where the mandate for peacekeeping gradually has been changed to include more enforcement (that is military) activities. In cases such as Somalia and Bosnia, the line between peacekeeping and intervention becomes blurred, and the international community is drawn to intervene whether it had intended to do so or not.

This article concerns instances where multilateral military operation have been undertaken or threatened in refugee-producing or potentially refugee-producing situations. Once identified, were these interventions undertaken for security or humanitarian reasons? Further, can one distinguish between the two? Answers to these questions will be significant for how interventions are conceptualized and carried out in the future.

## Cases

### *The Kurds*

Forceful action undertaken or legitimated by the international community was first undertaken after the end of the Cold War in Operation Desert Storm (early 1991) the essentially US operation which expelled Iraqi forces from Kuwait. At the end of the war, as a result of increased persecution of the Kurds living in northern Iraq by the Iraqi regime, approximately 1.8 million Kurds tried to flee. 1.4 million went to Iran (where, by May 1991, there was a total of 2.3 million Iraqi refugees), and another 400,000 went to the border with Turkey where they were prevented from entering the country.<sup>6</sup> In response, several UN and unilateral actions were taken.

First, on April 5th, the Security Council passed Resolution 688, which 'insist[ed] that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq. . . .' The legitimacy of this resolution was vigorously debated. France argued that massive human rights abuses, even if not accompanied by threats to international security, were worthy of intervention by the Security Council, which 'would have been remiss in its task had it stood idly by, without reacting to the massacre of entire populations, the extermination of civilians, including women and children.'<sup>7</sup> China, which abstained on the vote for 688, made reference to the 'domestic jurisdiction' clause in Article 2(7) of the UN Charter, arguing that it was an internal matter.<sup>8</sup> The resolution made it clear that it was not violations of human rights but the consequences of those violations – refugees as threats to peace and security – which provided the basis for Security Council action.<sup>9</sup> As US Ambassador Thomas Pickering stated: 'The *transboundary impact* of Iraq's treatment of its civilian population threatens regional stability.'<sup>10</sup> However, some members did cite human rights concerns as legitimating international interest. France argued that such violations come under international concern 'when they take on such proportions that they assume the dimension of a crime against humanity.'<sup>11</sup> Britain concurred. Others argued that the UN had a responsibility to follow through on events arising out of earlier actions in Kuwait and Iraq.<sup>12</sup>

Several forces pushed the allies toward intervention. First, Stromseth notes that: 'As television reports brought their suffering into homes around the world, Western governments could no longer characterize the situation in Iraq as a strictly "internal" matter.'<sup>13</sup> This relates to what has been called the 'CNN effect'; to many, the United States and other governments appear to respond to humanitarian emergencies only when global media focus on a particular situation, showing graphic pictures on evening news broadcasts which generates domestic pressure to 'do something.' This is not always true, and rarely can one find a simplistic correlation between television coverage and action.<sup>14</sup> However, a number of recent incidents, from world reaction to the

1984–85 famine in Ethiopia to the US intervention in Somalia would seem to bear this out.

James Mayall has a slightly different interpretation in the Iraqi case, arguing that policy changed ‘because the attention devoted by the Western media to the plight of the Kurds along the Turkish border threatened the political dividends that Western governments had secured from the conduct of the war itself.’<sup>15</sup> That is, rather than responding to popular calls for intervention, the US and other countries were more worried about undermining the fruits of their victory against Hussein. In addition, the United States had an interest in further weakening Saddam Hussein’s grip on power, and saw such activity as a means to this end. Yet, American reluctance to intervene at the outset, suggests that this was not the only motivation behind its eventual action.<sup>16</sup>

France and Turkey ensured that the Security Council considered the Kurdish situation. France’s interest in the human rights aspects of this situation have been noted. Turkey’s interest was clear; it had its own Kurdish population, with which it was essentially at war. Certainly it did not want hundreds of thousands, and perhaps up to one million, more Kurds flowing into Turkey. While Ankara recognized that allowing their kin into Turkey might have engendered good will among Kurds in Turkey, there was also concern that this would attract even more refugees.<sup>17</sup> In addition, the prospect of having even more people to join the Kurdish uprising was frightening to the government.

Nor did Ankara want to be responsible for hundreds of thousands of refugees without any international assistance. Turkey argued that these refugee flows were a threat to regional security. Iran argued the same with respect to the Kurds in the northern part of the country and Shi’ite Muslims in the south.<sup>18</sup> Turkey pushed its NATO allies to help it cope with this situation by protecting these refugees and internally displaced who might become refugees. As one diplomat stated, the US was primarily concerned that ‘refugee concentrations in Turkey were threatening to become semi-permanent locations for the Kurds that could spell trouble and economic headache for Ankara for years to come’.<sup>19</sup>

The nature and geography of the international response to Kurdish refugees is telling. Safe havens were set up near the Turkish border, and significant amounts of aid were sent to this region. Further, there were ‘psychological operations teams persuading refugees to come down from the border mountains,’ with a planned rate of 7,000 per day over thirty days.<sup>20</sup> Such persuasion helped Turkey reduce the pressure and perceived threat from refugees. The same was not true of refugees in Iran. Safe havens were not close to the Iranian border, and relatively little aid was provided to those in Iran. Many refugees who returned from Iran did so because of the paucity of humanitarian assistance. We can account for such a disparity by close relations Turkey enjoyed with the allies, and the antagonistic relations Iran had with the West.<sup>21</sup> ‘In effect, the refugees for whom Iran was the nearest border were penalized for their host government’s poor relations with the United States.’<sup>22</sup>

The United Kingdom, France, and the (initially reluctant) United States

declared, first, a ‘no-fly zone’ in northern Iraq (as well as in southern Iraq where the Shi’ite population was threatened), and second, a plan to create Kurdish enclaves, protected from the Iraqi military, and introduced forces to carry out this plan. The result has been a *de facto* Kurdish state in Northern Iraq. These countries relied on resolution 688 to legitimize their actions. Yet, resolution 688 did not specifically authorize force, and the Secretary-General did not request it, although he did acquiesce in the intervention.<sup>23</sup> Thus, while the Allied powers were engaging in activity which responded to the *spirit* of resolution 688, the consortium of great powers did not adhere to the *letter* of the resolution.

The UN had a separate presence in northern Iraq. Iraq signed a Memorandum of Understanding (MOU) with the UN on April 18, 1991 which allowed the UN to have a presence in all of Iraq – not just the north – to provide humanitarian aid to the ‘affected Iraqi civilian population.’ This was supposedly based on a request from Iraq. That Iraq was already under military pressure from the Allies, and was also a defeated country, however, meant that this action was not voluntary.<sup>24</sup> The United Nations High Commissioner for Refugees (UNHCR) played a significant role in providing humanitarian assistance. However, its role also has been criticized. Specifically, UNHCR acquiesced in Turkey’s decision to deny Kurdish refugees the right to cross its borders (which was temporarily reversed).<sup>25</sup> Instead, UNHCR assisted the Kurds within Iraq, thereby aiding Turkey in keeping Kurds out.

Situations such as this prompted a UNHCR official to state that the organization was becoming a ‘Migration Management Organization,’ helping states maintain sovereign control of their borders.<sup>26</sup> It is unclear what else UNHCR, by itself, could have done – it has no troops or other resources to force a government to open its border. However, as argued below, this is but one of the first instances in which the focus has been to prevent people from leaving their countries of origin, thus not becoming refugees in other countries. Such situations offer no effective asylum options.

Allied troops on the ground were later replaced by a UN contingent known as the UN guards, which were deployed within the framework of the MOU. They were to protect Kurds in safe havens (although the MOU made no explicit mention of protecting the Kurds), both those which stayed in Iraq, as well as those who were persuaded to return from the border region by the implicit promise of allied, and then UN, protection.<sup>27</sup> In fact, the main deterrent to Iraqi incursions remained the air power which enforced the no-fly zone.

The allied intervention was unquestionably a violation of Iraqi sovereignty. This led to a curious situation where those who, just months earlier, took forceful action to uphold the sanctity of state sovereignty were, undermining that same concept.<sup>28</sup> Further, these actions demonstrate an increased willingness among some more powerful state actors to take forceful humanitarian action in contravention of a state’s wishes.<sup>29</sup>

At the same time, however, the Kurdish intervention showed Security Council reluctance explicitly to authorize force.<sup>30</sup> Resolution 688 focused on

the international effects of human rights abuses – i.e. refugees – while some of its supporters also argued that human rights abuses themselves were grounds for intervention. Refugee flows seem to have been the most significant factor precipitating intervention, within which security aspects of the refugees were the principal concern, while humanitarian aspects occupied an important but still secondary position.

### *Somalia*

UN involvement in Somalia was notably different from actions in northern Iraq. In Somalia, Siad Barre's regime fell in January 1991, quickly leading to an escalation of civil strife and the collapse of state authority. Various humanitarian organizations were in the country aiding the displaced and other victims of continuing violence. As the civil war intensified, it became harder to ensure that aid could get where it was needed, and some organizations were forced to hire some groups who were continuing the fighting as private security to protect aid convoys, with varying degrees of success. In 1991 and early 1992, aid organizations began to call attention to an impending famine. In fact, the World Food Program had predicted famine in December 1990.<sup>31</sup> By August 1992 it was estimated that as many as 1.5 million people were in immediate danger of starvation, and perhaps 4.5 million people were at risk of being affected by malnutrition.<sup>32</sup> In December, it was estimated that 400,000 people had died from starvation.<sup>33</sup>

The refugee situation continued to worsen from 1991 into 1992. The number of Somali refugees who fled to neighboring Ethiopia and Djibouti had peaked by the end of 1991, but the numbers of refugees in Kenya continued to grow in 1992. During the middle part of 1992, as many as 1,000 Somalis a day were streaming into Kenya.<sup>34</sup> By the end of 1992, there were also approximately 2 million internally displaced persons in Somalia, many of whom were potential refugees.<sup>35</sup>

The international community was slow to take concrete action to address the security issue. Many of the aid agencies that had been in the country for a number of years continued their work under increasingly trying circumstances, although some pulled out because of the insecure conditions under which they were forced to operate. In fact, because of that insecurity, the United States, which had begun to mount an aid airlift, but did not want to actually land in the country, proposed dropping parcels of food from the air. The International Committee of the Red Cross (ICRC) said this would disrupt its humanitarian networks among the various factions.<sup>36</sup>

The global community appeared indifferent. The end of the Cold War seemed to presage a new era of cooperation in the UN and greater possibilities for a wide variety of humanitarian actions, and activities in Iraq appeared to show this. However, unlike Iraq, there was no oil or other strategic considerations to justify Somalia as a vital US interest. Indeed, as the struggle for the hearts and minds of the Third World dissipated with the Cold War,

so did Western interest in Africa.<sup>37</sup> Economic and other resources were put into reconstructing the economies of Eastern Europe, leaving less money and less attention to Africa (with the exception, of course, of South Africa which had a unique mixture of strategic and political interests to ensure that it received attention).

The UN Security Council first took note of the situation in Somalia with resolution 733 of January 23, 1992. It stated that the Security Council was '[g]ravelly alarmed at the rapid deterioration of the situation in Somalia and the heavy loss of life . . . and aware of its consequences on stability and peace in the region,' and that it was '[c]oncerned that the continuation of this situation constitutes . . . a threat to international peace and security.' It called on the UN and other organizations to increase humanitarian assistance and for the parties in the region to ensure their safety. It also imposed a military embargo on Somalia under Chapter VII of the Charter. On March 3, 1992, two of the major leaders in the civil war signed a cease-fire. However, fighting continued and, on March 17, the Security Council passed resolution 746, which used similar language to frame the issue: it was '[d]eeply disturbed by the magnitude of the human suffering caused by the conflict and concerned that the continuation of the situation in Somalia constitutes a threat to international peace and security,' and it called on all parties to ensure the security of humanitarian workers.

Resolution 751, which was adopted on April 24, used exactly the same language as the previous resolutions with regard to the connection between human suffering and peace and security in the region. It established a peacekeeping force for Somalia – United Nations Operations in Somalia (UNOSOM) – which was to monitor the cease-fire and provide security for humanitarian convoys in Mogadishu and the surrounding area. Final agreement on the deployment of UNOSOM was not achieved with all parties to the conflict until June 23.<sup>38</sup> Resolution 767 of July 27, 1992, continued to make the connection between the humanitarian situation and a threat to international peace and security, and called on all parties to cooperate with the UN and aid organizations. However, the Security Council did say, for the first time, that it 'does not exclude other measures to deliver humanitarian assistance to Somalia.' This is a clear reference to the possible use of force to protect humanitarian aid. On August 28 the Council passed resolution 775 which expanded UNOSOM to 3,500 troops, although they were never deployed. However, it is doubtful that even this number of peacekeeping forces would have had much of an effect outside of Mogadishu. What was needed was a peace *enforcement* operation rather than a peace *keeping* force.<sup>39</sup>

Such an operation finally occurred in December 1992 after the Security Council passed resolution 794 on December 3rd. The United States had offered to mount an extensive intervention in the country under UN auspices. The resolution authorized 'all necessary means to establish as soon as possible a secure environment for humanitarian operations in Somalia.' This force became the Unified Task Force (UNITAF), code named Operation Restore Hope, and

involved the deployment of troops on December 9th. At its height, UNITAF involved 37,000 troops.<sup>40</sup>

In the short term, intervention had a positive effect overall. The southern part of the country which UNITAF controlled was significantly more secure, more relief shipments were being delivered, and the threat of starvation receded. Yet, there were still significant problems related to the disarming, or lack thereof, various factions. When UNITAF withdrew in May 1993 to be replaced by UNOSOM II, these problems remained.<sup>41</sup>

What are the implications of UN and US action? First, in none of the Security Council resolutions leading to UNOSOM and UNITAF were refugees mentioned. Each and every resolution referred to humanitarian suffering and the conflict in general as a threat to international peace and security. Framing the matter in such a way continued the practice of resolution 688 which portrayed effects of the persecution of the Kurds in the same way. However, 688 also laid out the connection between human rights abuses and refugee flows. This obviously worried states bordering Somalia. While Turkey had its NATO allies to ensure that its concerns with respect to Kurdish refugees received Security Council attention, Kenya, Ethiopia, and Djibouti had no such relationship with great powers, and thus were unable to insert their fears into the Security Council agenda. Further, making this specific link might have increased pressure on the Security Council to address the refugee crisis directly and earlier with Chapter VII action.

The UN was dealing with the refugee crisis in a significant manner. UNHCR set up innovative crossborder 'Preventive Zones' along the Kenya/Somalia and Kenya/Ethiopia borders. These programs were set up to help all displaced persons in this region, regardless of the country where they were present. Aiding internally displaced in Somalia, it was thought, might prevent them from becoming refugees; and, viewing the entire region as a contiguous zone of operation would allow UNHCR to more easily facilitate repatriation of Somali refugees.<sup>42</sup> Kenya certainly saw the refugees as security threats and wanted them to go home.<sup>43</sup> The presence of Somali refugees resulted in a 'brazen wave of killings, rapes, and armed robberies throughout 1992,' which occurred as a result of weapons smuggled into Kenya from Somalia and used by Kenyan and Somali gangs, and '[p]ersistent robberies and vehicle thefts on highways forced relief workers to travel with police protection between refugee camps.' Both Somalis and Kenyan police were blamed for the violence.<sup>44</sup> That the presence of refugees, and other factors, contributed to the insecurity of Kenyan refugee zones on the Somali border is, however, undeniable.

The forceful intervention, which provided a significant albeit temporary improvement in Somalia's internal security and humanitarian conditions, came almost two years after Somalia had begun its final descent into complete chaos after the ouster of Siad Barre. Why did it take so long and why did the US finally intervene? The UN had put considerably more emphasis and spent more money on the peacekeeping operation in Cambodia, although 'it might be

argued that the security situation in Cambodia was not as desperate as it was in Somalia.' For most of 1992 the commitment to Bosnia-Herzegovina was also greater.<sup>45</sup> This, as noted above, reflected a shift away from Africa as an area of interest. Further, Bosnia was of a more direct interest to some of the permanent members of the Security Council. Kenya and Ethiopia, on the other hand, had no such leverage. Although they were being affected directly and negatively by Somali fighting, any concerns they might have had did not carry the same weight.

Samuel Makinda argues that, by the end of 1992, Boutros-Ghali and US President George Bush had convergent interests in undertaking more forceful action. Boutros Ghali was frustrated that warlords and clan leaders had prevented the deployment of UNOSOM I. George Bush, on the other hand, 'was embarrassed by the fact that the new world order, which was identified with US leadership, was now characterized by the mass starvation of Somali children.'<sup>46</sup> Bush waited until after the Presidential election in early November to go ahead with his offer of forces. He had not wanted such action to harm his ultimately unsuccessful bid for re-election. At the same time, television news was filled with pictures of the 'mass starvation of Somali children,' and there was, consequently, increased public pressure for him to take action to ameliorate the situation.<sup>47</sup> That is, he was being subjected to the aforementioned 'CNN effect.' As one observer argues, 'it is difficult to imagine that the West will stop choosing its "victims" on the basis of whim and interest.'<sup>48</sup> The whim in the case of Somalia was that starving children in that country were put on television, while the tens of thousands killed in southern Sudan were not. The interest appears to have been President Bush's need to react to public pressure, created by those images, to do something.

The US put the intervention solely in terms of humanitarianism, ignoring the political dimensions of the problem: 'The US interpretation, which left aside the crucial problem of a political settlement, fitted in well with its ambitious timetable to start withdrawing American troops as early as January and its commitment to "zero casualties," an approach influenced by the lack of conviction behind a media-driven intervention.'<sup>49</sup>

Thus, refugee flows played a much different role in Somalia than in the case of the Kurds in Iraq. In Somalia, the US and other Western countries had no strategic interests and, as a result, saw no vital interests requiring quick intervention. The intervention which did occur was, in a significant way, based on humanitarian grounds. While Bush may have been pushed into it by an outpouring of public compassion (or, rather, pity),<sup>50</sup> the basis for intervention was humanitarian. One million refugees were added to the mix of humanitarian concerns. The horrific situation in Somalia proper, rather than direct international effects (i.e. refugees), was the focus. The Security Council, while not identifying refugees as the basis for its actions, nevertheless implied that its resolutions were due to such a concern. In sum, the problem of refugees is thoroughly interwoven with other factors that led to peacekeeping and intervention in Somalia in 1992.

## *Haiti*

The case of Haiti brought together dramatic flows of refugees, human rights concerns, Chapter VII action by the Security Council, and direct interest of one of the great powers. As such, Haiti exemplifies an environment in which UN action is predictable. Reactions in the region to external intervention may also have established a precedent.

On September 30, 1991, Jean Bertrand Aristide, Haiti's first democratically elected president, was overthrown in a military *coup*. During the next three years, we saw the spectacle of small fragile boats filled with refugees trying to make it to the United States. Uneven and ineffective reaction by the OAS and UN, including the imposition of sanctions ostensibly against the military government that followed Aristide, were the hallmarks of 1991–1993.

The OAS was the first international body to take action in the wake of the *coup*. The OAS called on Aristide to be returned to power, declared that the military government would not be recognized, and recommended sanctions. Less than two weeks after the *coup*, the UN General Assembly passed resolution 467 condemning the military takeover. Throughout 1992, the OAS continued to be the focus of international activity aimed at returning Aristide to power.<sup>51</sup>

On December 11, 1992, however, the UN Secretary-General appointed a special representative on Haitian matters. From that point on, the UN became the focal point for international response to Haiti's crisis. As Acevedo argues, the 'shift to the UN forum was prompted, at least in part, by the prospect of a massive influx of refugees, which drew high-level attention to Haiti's crisis in early January 1993, both from the outgoing Bush administration and from President-elect Bill Clinton'.<sup>52</sup>

In fact, the flow of refugees from Haiti had become a significant policy issue earlier in 1992. Haitians had been attempting to reach the US by boat for many years, and the US Coast Guard routinely interdicted them. Between 1981 and 1990, 24,000 Haitians were stopped at sea, while only six were allowed to make asylum claims in the US. Following the *coup*, the Coast Guard began taking Haitians to the US naval base at Guantánamo Bay, Cuba, where they were 'screened in' to make claims for asylum. Soon, there were as many as 12,000 Haitians at the base. In May 1992, President Bush ordered the Coast Guard to return these people to Haiti without evaluating their asylum claims. Through 1992, more than 40,000 Haitian had been interdicted, and during that year 29,500 had been forcibly returned.<sup>53</sup> Only 54 Haitians were admitted to the US as refugees.<sup>54</sup> Thus, by the time the UN became involved in a significant way in December 1992, Haiti was a major policy priority for one of the biggest players in the UN.

During the 1992 presidential campaign, Bill Clinton stated that he would reverse the policy of forced repatriation. However, just before he was inaugurated, he announced that he would continue that policy, and that only

asylum claims made in Haiti would be evaluated.<sup>55</sup> The policy seemed to have its intended effect – discouraging Haitians from leaving Haiti and attempting to reach the US – and only 2,329 Haitian were interdicted and returned in 1993.<sup>56</sup>

But conditions which prompted the refugee exodus in the first place were still in place. On April 4, 1994 exiled President Aristide gave a six-month notice ending the 1981 accord between Haiti and the US which had allowed the repatriations. One month later, President Clinton announced that asylum claims would be processed on ships. A hunger strike by Randall Robinson, Director of TransAfrica (a non-governmental organization), may have been partially responsible for Clinton's change of policy.<sup>57</sup> At the same time, the Haitian military began to make it harder for Haitians to leave the country. However, many *were* able to leave, and 24,917 Haitians were stopped and taken into Coast Guard custody in 1994. At the same time, the US began using Guántanamo Bay to process the refugees.<sup>58</sup> It also tried to get countries in the region to allow processing and to take in some of the refugees, at least temporarily.<sup>59</sup> In July, the US changed policy again and announced that Guántanamo Bay would be used as a temporary safe haven for refugees, but that no refugees would be eligible for resettlement in the US.<sup>60</sup>

The Security Council passed its first resolution on Haiti on June 16, 1993, a year and a half after the *coup*. Resolution 841 'noted with concern the incidence of humanitarian crises, including mass displacement of population, becoming or aggravating threats to international peace and security,' and stated that it was:

. . . concerned that the persistence of this situation contributed to a climate of fear and persecution and economic dislocation which could increase the number of Haitians seeking refuge in neighbouring Member States and convinced that a reversal of this situation is needed to prevent its negative repercussions on the region . . .

It found that the Haitian crisis 'defines a unique and exceptional situation warranting extraordinary measures by the Security Council. . . . [and] the continuation of this situation threatens international peace and security.' And, it implemented sanctions against Haiti under Chapter VII. On August 27, resolution 861 suspended the sanctions when it seemed that the *coup* leaders were implementing the Governor's Island agreement which was to restore Aristide to power. After the United Nations Mission in Haiti (UNMIH) was prevented from arriving in Haiti by the military, and it was clear that the *de facto* authorities were not implementing the agreement in good faith, resolution 872 of October 13, 1993 reinstated sanctions. On May 6, 1994, just two days before President Clinton announced the policy of shipboard processing of refugee claims, the Security Council tightened sanctions with resolution 917. Resolution 933 of June 30 noted 'the deteriorating humanitarian situation in

Haiti' and 'that the situation in Haiti continues to constitute a threat to peace and security in the region. . . .'

It was not until resolution 940 of July 31 which authorized military action to reinstall Aristide that refugees were mentioned specifically again. Resolution 940 stated that the Security Council was:

Gravely concerned by the significant further deterioration of the humanitarian situation in Haiti, in particular the continuing escalation by the illegal de facto regime of systematic violations of civil liberties, the desperate plight of Haitian refugees . . .

It determined 'that the situation in Haiti continues to constitute a threat to international peace and security in the region. . . .' The US heightened its rhetoric regarding its will to intervene over the ensuing month and a half and US military ships were moved into position off of Haiti. Finally, a settlement was reached with a team led by former President Jimmy Carter on September 18 after the military leadership found out that a US invasion force was on its way and paratroopers would land in a few hours.<sup>61</sup> Aristide returned to Haiti on October 15, 1994.<sup>62</sup>

Haiti is the clearest case to date of refugee flows leading to eventual intervention. Michael J. Glennon argues that, in resolution 940, the 'Security Council dealt with the refugee problem not as a potential cross-border threat but, rather, in the context of humanitarian considerations.'<sup>63</sup> The Council *did* speak about 'the desperate plight of Haitian refugees,' in contrast to resolution 688 about Iraq that mentioned the 'massive flow of refugees towards and across international frontiers and . . . cross-border incursions, which threaten international peace and security in the region. . . .' Even in their role as helpless victims rather than as a national security threat, refugees can be seen as a basis for intervention. Yet, resolution 940 on Haiti must be placed within the context of the previous three years. Given such a perspective, refugees as direct threats to international peace and security were the motive for eventual US-led intervention. Certainly resolution 841 made the direct connection between refugees and security.

In addition, because the US undertook the intervention, Washington's motives are particularly relevant rather than those of each Security Council member. Between the *coup* and August 1994, 67,493 Haitians were interdicted at sea; most of these were forcibly repatriated. In August there were also approximately 14,000 Haitians at Guantanamo Bay.<sup>64</sup> The US obviously had little concern for them as refugees. Rather, they were seen as a security threat – a mass of humanity to be kept out of the country. This feeling must have been reinforced by a vigorous debate in the US about immigration and growing anti-immigration sentiment, particularly in Florida where Haitians would have landed had they made it to the mainland.<sup>65</sup>

The Haitian crisis must also be put in the context of the developing Cuban

refugee crisis. In 1994, the numbers of asylum seekers from Cuba attempting to reach the US expanded dramatically, from 3,656 in 1993 to 37,139 in 1994. As a result of increased tensions between Cuba and the US, Fidel Castro made it easier for people to leave. President Clinton then announced that Cubans, too, would be taken to Guantánamo Bay and held, reversing a longstanding policy of giving presumptive refugee status to Cubans.<sup>66</sup> Thus faced with the prospect of tens thousands of boat people arriving on its shores from two different countries simultaneously, the US tightened up its borders even more.

Further, it is noteworthy that intervention came only weeks before the agreement allowing for the repatriation of Haitians was to have expired. Had that expiration occurred, US efforts to interdict and repatriate Haitians would have been challenged and would have appeared illegitimate. Certainly the Clinton Administration considered these damaging prospects when deciding if and when to intervene. That the US returned Haitian refugees to a dangerous situation in violation of its international commitments, and that it took so long to intervene<sup>67</sup> led to the conclusion that only increased international criticism and a mounting refugee crisis brought military action on September 18, 1994. Beyond the US, however, some Latin American countries unaffected by the refugee crisis supported forceful action to return Aristide to power. Although not a consensus view, Haitian crisis may prove to be a precedent.<sup>68</sup> However, despite previous Latin American opposition to intervention, there may now be increasing support for humanitarian intervention, of which refugee flows will probably be a part:

But a precedent is being created that could well rescue some future democratic government in Nicaragua or Trinidad or even Paraguay from the hands of its own soldiers – and, more importantly, will deter the soldiers from seizing power in many more countries. It is not just an American initiative, and it is not just business as usual.<sup>69</sup>

A contrary view is offered by Michael Glennon who argues that the precedent will be ambiguous at best:

In Haiti . . . sovereignty lost. But sovereignty's loss was not an unarguable gain for the community of nations, because the community has not adequately considered either the rationale for continued ad hoc opportunism or the impact of its precedents on future attempts to avoid the piecemeal and move toward principle.<sup>70</sup>

Haiti represents a case where security aspects of refugee flows were the main impetus behind intervention. A significant, but still ambiguous, role in creating a legitimate basis for intervention may also have been played by humanitarian considerations.

### *The former Yugoslavia*

The international response to war and genocide in the former Yugoslavia indicates what can happen when there is no will to address an internationally relevant conflict, combined with potentially large numbers of refugees. Confronted with large numbers of potential refugees, European countries emphasized not the right to seek asylum, but rather the right to remain in ineffectual 'safe zones' for which the UN supposedly guaranteed security.

As Yugoslavia disintegrated in 1991, fighting erupted in two former republics. Although federal (Serb) forces withdrew from Slovenia after brief skirmishes, and UN peacekeepers (UN Protection Force – UNPROFOR<sup>71</sup>) were deployed in Croatia in January 1992. In April, the European Union recognized Bosnian independence and fighting broke out in that republic as well.<sup>72</sup> Over the ensuing months, the fighting escalated and the 'ethnic cleansing' – genocide – of Bosnian Muslims became evident. Refugees flowed among and out of the republics. By the end of 1994, there were 2.6 million refugees and internally displaced in and around the former republics. Approximately 530,000 refugees were in Europe, of whom more than 300,000 were in Germany alone. The rest of the displaced were in the former territory of Yugoslavia, either as refugees or as internally displaced.<sup>73</sup>

The overall international response to the genocide in the former Yugoslavia was very weak. After the fighting spread to Bosnia, UNPROFOR peacekeepers were deployed to protect aid convoys. Yet, they had a very circumscribed mandate to use force. Commanders on the ground had to rely almost entirely on negotiations to get aid through to where it is needed, frequently resulting in delays of weeks or months. The UN and NATO periodically made bold statements regarding the need to use force to ensure humanitarian aid can get to where it is needed and to end the Serbian siege of several Muslim enclaves which were designated 'safe zones' by the UN, most notably Sarajevo. However, in the face of demonstrated genocide, hundreds of thousands dead, and two million refugees, the international community generally failed to take forceful action to address the situation.<sup>74</sup> The only exceptions to this were a few instances where NATO forces bombed Serbian forces which violated the so called 'safe zones' around the enclaves, which turned out not to be very safe at all. Yet, until the spring and summer of 1995 – more than three years after the genocide became apparent to the world community – these were very limited and did not result in significant improvements.<sup>75</sup> Only then did NATO expand its air strikes, to such a degree that along with Croatian and Bosnian gains on the ground, the Serbs finally negotiated an end to the war.<sup>76</sup> In addition, the UN had imposed sanctions on Serbia for its support of the Bosnian Serbs, which caused substantial economic strains in Belgrade. Had force been used three years earlier, the course of the entire conflict may have been dramatically changed.

The first of many Security Council resolutions on the conflict in the former

Yugoslavia was 713. It referred to the 'heavy loss of life and material damage, and . . . the consequences for the countries in the region' which constituted a 'threat to international peace and security,' and it imposed an arms embargo on Yugoslavia. Resolution 724 was the first to refer to displaced persons, as a group in need of assistance, rather than as refugees or potential refugees. Resolution 752 noted 'the large number of refugees and displaced persons' and supported the efforts to deliver humanitarian assistance and facilitate voluntary return of the displaced. Resolution 770 noted 'that the situation in Bosnia and Herzegovina constitutes a threat to international peace and security and that the provision of humanitarian assistance in Bosnia and Herzegovina is an important element in the Council's effort to restore international peace and security in the area.' It also mentioned the possibility of creating 'safe areas,' and Resolution 824 formally declared Sarajevo and other cities to be such.

From 1991 through 1995, there were 91 Security Council resolutions on the former Yugoslavia – 25% of the 361 total resolutions during that five year period – but only one referred to refugees specifically, while a couple others referred broadly to displaced persons. In general, the resolutions, when referring to threats to international peace and security – on which international action could be based – put such threats in the generic terms of 'the situation,' fighting, and various facets of the humanitarian situation. As opposed to the case of the Kurds and resolution 688, mass flows of refugees were not explicitly constructed as 'threats to international peace and security.' Nonetheless, refugees were definitely a concern to the West, and in particular countries such as Germany.

Those supporting UN involvement in the conflict used three intertwined justifications for that involvement. These were that the refugee situation, the humanitarian situation resulting from the war, and the human rights violations perpetrated by the Bosnian Serbs threatened international peace and security.<sup>77</sup> Certainly the general humanitarian situation (which included massive displacement) and the genocide of the Muslims received significant attention and figured prominently in Security Council resolutions legitimating the (ultimately rather mild) forceful actions. Those refugees which fled the territory of the former Yugoslavia received much less attention, although they played a significant role in the wider milieu of European immigration policy.

As a result of significant increases in refugee claims from a number of different countries in the 1980s,<sup>78</sup> and alongside deepening European integration, several agreements were signed to attempt to better control refugees movement in Europe. These include the Schengen Agreements of 1985 and 1990 and the Dublin Convention of 1990 which were intended to harmonize policies related to asylum and the general movement of people into and among a number of West European countries.<sup>79</sup> When the war first started, some states passed special laws to allow in refugees from Croatia, although as the war spread, states began to restrict the numbers of refugees. States then waffled

between opening and closing borders to refugees, at least partly in response to public mood.

Significant public unrest, however, was associated with dramatically increasing numbers of refugees. Nowhere was this more evident than in Germany, which had the single largest refugee population, particularly a proportion of prior residents. In 1993, Germany significantly amended the 1949 Basic Law which had allowed almost anybody to enter and apply for asylum and receive welfare benefits.<sup>80</sup> The following year, the German Border Guard was given new powers to operate outside their traditional areas of operation to crack down on smugglers and illegal immigrants.<sup>81</sup>

The increased desire to control borders, coupled with increasing numbers of refugees, were an impetus behind the creation of 'safe areas.' The logic is simple: 'By having certain regions that are safe so that people would not have to leave in the first place, the pressure on asylum countries would thus be relieved.'<sup>82</sup> Safe areas were also expected to have a humanitarian effect – ameliorating the conditions which forced some to become refugees – as well as decreasing the number of asylum seekers in Europe.

This focus on prevention went hand in hand with a more general interest in preventive protection by UNHCR and others. UNHCR has acquired a *de facto* expanded mandate which includes providing assistance to a wide variety of groups of people including the internally displaced and others within a conflict zone. Aiding such individuals might mitigate some of the factors which lead them to become 'official' refugees – those that have crossed an international border – rather than internally displaced. However, there is great concern that increased interest in the 'right to remain' may, at the same time, undermine the right to leave and seek asylum. Not only is this an unintended consequence, but may also be behind the focus on in-country protection. As noted, this was a major reason behind the creation of 'safe havens' in northern Iraq. The former Yugoslavia is thus another instance, like Iraqi Kurdistan and Haiti, where the institution of asylum is being eroded.<sup>83</sup>

In the former Yugoslavia, UNHCR was designated the 'lead agency,' and thus moved from its original mandate of helping refugees, to addressing the source of refugees.<sup>84</sup> It could not adequately perform this function for two reasons. First, stopping refugee flows required a political solution to end the fighting and genocide. Second, UNHCR did not have the necessary backup to ensure that it could gain access to affected populations. That is, the so-called 'safe areas' were not safe at all.<sup>85</sup> Although the Security Council made pronouncement after pronouncement regarding the safe areas, and repeatedly declared its intention to defend them with force and retaliate if attacked, it did not follow through with its threats and residents of these areas continued to be in constant danger. At one point in August 1992, the US sought to move from '*preventive protection* . . . [toward] an even more minimalist concept of *preventive assistance*, in which protection was no longer to be a prerequisite for preventing refugee flows.'<sup>86</sup> Rhetoric from world leaders continued to be about safe areas and protection. Yet, such an early discus-

sion of aid being sufficient to prevent refugee flows presaged the following three years without political will to provide real protection while also undermining asylum possibilities.

At the same time, the focus on internal protection (however flawed in practice) *did* have the effect of keeping most displaced persons within the boundaries of the former republics. First, because of the lack of follow through, some cities, like Sarajevo, were under siege and the residents could not leave and become 'displaced' in the first place. Second, aid that did get through had a partially ameliorative effect, thus allowing the European countries to claim that they were providing an alternative to refugeehood.<sup>87</sup> The reality was much different. These resolutions and partial aid activities 'serve[d] to maintain a facade of humane concern'<sup>88</sup> while actually undermining access to asylum.

Thus, refugee flows were significant in international policy concerning the former Yugoslavia. But, for four years this policy included almost no forceful action to protect the displaced. Focusing on a right to remain, while providing no credible force to ensure that right enabled European countries to undermine asylum and keep out potential refugees when immigration had become a significant domestic policy issue among West European publics.

#### *Rwanda*

The genocide in Rwanda and its aftermath resulted in one the largest refugee populations – about 2 million – in recent years. Within a relatively short time, conditions in and near Rwanda produced more deaths than all situations discussed above combined. Yet, little was done by the international community to prevent the slaughter or to respond to the humanitarian crisis.

After the assassination of President Juvenal Habyarimana of Rwanda on April 6, 1994, the latent civil war reemerged and a genocide of minority Tutsi and Hutu supporters by the majority Hutu began in Rwanda. In the following two and a half months, on the order of one million people were slaughtered, and by the end of the year 1.7 million refugees had flowed out of the country, while another 1.2 million were displaced within the country.<sup>89</sup> Most of these refugees were Hutu who were fleeing potential retribution for the genocide, including leaders and others who actually perpetrated the genocide, as well as Hutus who did not participate in the killing.<sup>90</sup> Although nobody could know exactly when the genocide would start, there was advance knowledge by the commander of the UN Mission for Rwanda (UNAMIR), Gen. Romeo Dallaire, that a genocide was being planned. His informant, a 'very important' government official, claimed that Hutu forces could kill 1,000 people per twenty minutes.<sup>91</sup> This information was passed on to UN headquarters in New York but seems to have gotten lost in the bureaucracy.<sup>92</sup> In the days following the beginning of the massacre, UNAMIR tried to engage in what protection activities it could. With few troops at its disposal, a weak mandate and few resources, UNAMIR could do little. In fact, a number of

Belgian soldiers were killed by the Hutu forces, after which the Belgian government withdrew its troops from UNAMIR.<sup>93</sup>

The first Security Council resolution, 912, came on April 21, fifteen days after the genocide started. Rather than increasing UNAMIR troop strength to a level where it might be able to intervene and prevent further killing, it withdrew all but 270 troops, leaving it impotent in the face of continuing carnage. It did note 'the displacement of a significant number of the Rwandese population, including those who sought refuge with UNAMIR, and the significant increase in refugees to neighbouring countries . . .' Widespread killing and large masses of refugees, however, did not seem to require substantial forceful action in the eyes of the Security Council. Resolution 918 came almost a month later on May 17. It stated that the Security Council was

Deeply concerned that the situation in Rwanda, which has resulted in the death of many thousands of innocent civilians, including women and children, the internal displacement of a significant percentage of the Rwandan population, and the massive exodus of refugees to neighbouring countries, constitutes a humanitarian crisis of enormous proportions . . .

It was also 'concerned that the continuation of the situation in Rwanda constitutes a threat to peace and security in the region.' The resolution expanded the mandate of UNAMIR to include protection of the refugees and other displaced, or at risk civilians in Rwanda, the creation of 'secure humanitarian areas,' and the protection of humanitarian relief operations. It also expanded the size of UNAMIR to 5,500, although these troops were not deployed until much later.<sup>94</sup> Resolution 925 of June 8 again noted that 'the internal displacement of some 1.5 million Rwandans facing starvation and disease and the massive exodus of refugees to neighbouring countries constitute a humanitarian crisis of enormous proportions . . .'

Resolution 929 of June 22, which noted that 'the magnitude of the humanitarian crisis in Rwanda constitutes a threat to peace and security in the region,' represented a partial turning point in international reaction to the genocide. France had offered to intervene to protect those at risk and to provide security for humanitarian convoys, and the Security Council authorized this action under Chapter VII. France deployed approximately 2,500 troops in what was known as 'Opération Turquoise,' which also included 500 Senegalese troops.<sup>95</sup> As Bruce Jones notes, 'the "humanitarian" motivation of the French action is highly suspect.'<sup>96</sup> France had close ties to the Habyarimana regime. The area France chose to protect – the southwestern part of the country – was essentially devoid of Tutsi, who had either been killed or had fled, although there were still Hutu there, in particular retreating Rwandan government forces who had participated in the genocide. Further, French troops received orders from Paris to prevent the advance of RPF soldiers into the area they controlled.<sup>97</sup> Jones argues that

while the humanitarian element was not absent in French thinking, the primary objectives were threefold: *to secure the northern region of Zaire, which would have been destabilized by refugee flows*; to demonstrate to an otherwise inactive Security Council that the French were capable of effectively projecting power on the African continent; and, most importantly, to secure French political objectives by engaging in what could be shown to be a humanitarian exercise, and thereby downplay the negative publicity of France's support for the Habyarimana regime. Thus, humanitarian motivations cannot be seen to have 'wholly or primarily' guided French action.<sup>98</sup>

Nevertheless, Opération Turquoise had significant humanitarian outcomes. Humanitarian relief efforts were assisted, and 13,000–14,000 people were protected who otherwise might have been killed.<sup>99</sup>

To the extent that refugees were an impetus for intervention, then, the French were focused primarily on security threats rather than on people in desperate humanitarian straits.<sup>100</sup> Other pronouncements coming out the Security Council continued to put refugees in the larger context of regional stability. A statement by the President of the Security Council on July 14 noted that:

The Security Council is alarmed by the continuation of fighting in Rwanda, which is causing massive exodus of the population. This situation may lead very quickly to a further humanitarian disaster and endanger the stability of the region, since the flow of these refugees is seriously affecting the neighbouring countries.<sup>101</sup>

Another statement by the President of the Security Council stressed the need to prevent further population movements, 'which might exacerbate the situation in neighbouring countries.'<sup>102</sup> The President also stated that: 'The Security Council remains extremely concerned at the plight of the millions of refugees and displaced persons in Rwanda and the countries of the region. It reiterates its view that their return to their homes is essential for the normalization of the situation in Rwanda and for the stabilization of the region.'<sup>103</sup>

The Security Council might have authorized two kinds of activities to deal with the refugee crisis – to stop genocide in the first place and to provide security for humanitarian activities in months following the genocide. Certainly, the UN failed to respond to the Rwanda genocide. Instead of pulling out troops, it could have beefed up their number in an attempt to physically stop the killing. The success by small numbers of UNAMIR troops left in Rwanda suggest that many more lives could have been saved by a larger UNAMIR. Once the genocide was over, however, and Hutus began flowing out of Rwanda, the issue became how to deal with displaced, both within Rwanda and the bordering countries, who were fleeing the new Tutsi-led government. One core issue was insecurity in the refugee camps. Hutu militia members attempted to exert control over the refugees and threatened violence. The situation was

so bad in some camps that most relief workers left during darkness, and humanitarian efforts were generally impeded. The same can be said of relief efforts more generally. NGOs had an easier time in areas controlled by the Rwandese Patriotic Front (RPF), which eventually became the new government, than in those areas controlled by the Hutu militia. There were some attempts to disarm militia members in some of the camps and in the French controlled zone, but this was sporadic.<sup>104</sup>

There was a significant foreign military presence in Rwanda and neighboring countries in response to the crisis. But, such a presence came very late and did not address all elements of the crisis, most notably the security dimension, focusing instead on humanitarian logistical support. Opération Turquoise has already been discussed. Although its success may have been mixed, it did have capabilities that UNAMIR lacked. In fact, General Dallaire of UNAMIR remarked that 'Turquoise was everything I wanted it [UNAMIR] to be.'<sup>105</sup>

The US military, further, provided significant logistical support to relief efforts. However, American support came late and also excluded security activities in the camps and elsewhere. In light of the experience in Somalia, as well as Presidential Decision Directive 25 (PDD 25) of May 1994 which set out US policy on peacekeeping operations (and which had been informed by the Somalia experience), the US did not initially perceive a vital national interest in Rwanda sufficient to warrant intervention.<sup>106</sup> The US partially reversed itself at the end of July 1994 as a result of a confluence of factors, but still would not commit forces for military/security related activities:

The scale of the influx into Goma, the subsequent cholera epidemic and the intense TV coverage, combined with the ending of the open conflict between the RPF and FAR, resulted in a policy flip such that it now became in the US national interest to deploy its military. However, to overcome reluctance to the foreign deployment of US forces among the US public and politicians, Operation Support Hope was presented as a strictly humanitarian operation with no peacekeeping role and, in line with the new PDD 25, maintaining a clear separation of its command structure from third parties, including UNAMIR.<sup>107</sup>

In a number of instances the Security Council saw that the flow of Rwandan refugees constituted a 'threat to international peace and security' in the region. Certainly, an increased number of refugees in Burundi could have inflamed an already tense situation.<sup>108</sup> Eventually, the genocide was recognized as an international threat.<sup>109</sup> Notwithstanding expressions of concern, however, almost nothing was done to mitigate the situation. UNAMIR peacekeepers were initially *pulled out* rather than reinforced. A small, yet significant, intervention was eventually undertaken by France two and a half months into the genocide. While a part of the French motivation had to do with the security aspects of refugee flows, the major reasons behind the intervention

were domestic political concerns and a desire to protect its former allies, the Hutu.

Except for France, permanent members of the Security Council had no direct stake in Rwanda. This must be placed in the context of disengagement from Africa after the Cold War. With no strategic or other interests in the region, it was relatively easy for Western governments to allow genocide to continue and millions of people to become displaced. Given the relatively quick time frame in which the *coup*, genocide, and eventual takeover by the Rwandese Patriotic Front (members of the former Tutsi government) occurred, the public pressure which built up in the case of Somalia over time did not occur concerning Rwanda.<sup>110</sup> In addition, there was little danger of significant numbers of Rwandan refugees showing up on the shores of the US, UK or other Western countries. In general, they stayed in the immediate region, mostly Zaire, Tanzania, Burundi, and Uganda.

As opposed to Haiti or Bosnia, there was little intersection between Rwandan refugees and ongoing debates about immigration, and thus no impetus to undertake an intervention to prevent refugees from coming ashore or, as with the former Yugoslavia, to pursue other policies which emphasized the 'right to remain.' Even the displacement of 3 million people in and from Rwanda did not have a significant effect on Western countries, and thus was largely ignored until a new balance of power emerged that halted the killing.

### **Intervention in refugee situations**

Civil wars, communal conflicts, genocides, and other humanitarian emergencies in the emerging global order all generate large numbers of refugees and other displaced persons. Such large displacements can have significant international repercussions as well as immediate humanitarian implications for those in flight. While this global problem is recognized, the United Nations – the single global body with responsibilities for responding to both threats to international stability and humanitarian emergencies – has been reluctant to address these problems. The UN has not addressed these issues in a forthright, coherent, and principled manner, and has many instances of humanitarian crises.

The civil war in the Sudan constitutes a dramatic humanitarian emergency. Between the start the most recent civil war in 1983 through 1993, approximately 1.3 million people in southern Sudan died as a result of war, government policies, and war-related famine and disease.<sup>111</sup> At the end of 1994, 510,000 Sudanese were refugees, primarily in Zaire and Uganda and other neighboring countries, and 4 million Sudanese were displaced within the country.<sup>112</sup> This vast humanitarian disaster also had security implications for other states in the region, particularly as fighting from the civil war spills over into other countries as combatants blend with larger refugee migrations.<sup>113</sup> However, the Sudan largely has been ignored by world media; beyond some partially

successful attempts to relieve some of the suffering,<sup>114</sup> the UN has done little to stop fighting and address security issues.

Only in a few instances has the Security Council deemed mass displacement worthy of its sustained attention, and even then, involvement has been haphazard, incoherent, and ambiguous. Can we discern any common threads among these cases? Also, what are the implications for further discourse about, and instances of, humanitarian intervention? That is, have international actions created precedents for an emerging global order?

Each case involved different interests and actors, each had their own (il)logic, and refugees affected each crisis in different ways. In Iraq, the presence of refugees on the border with Turkey, combined with a NATO ally with an interest in further punishing Iraq, plus significant media coverage of the plight of the Kurds, led to one of the few instances of intervention with a significantly positive humanitarian outcome. It was also a very clear case where a country's sovereignty was violated for humanitarian purposes. Whether the motivations were actually humanitarian is much less clear, and thus it remains to be seen whether it can actually be called a *humanitarian* intervention, since humanitarian motives must play some role in the intervention. Refugees *did* play the most significant role in the eventual intervention. Yet, their construction as a 'threat to international peace and security' seemed at the forefront in resolution 688 and other debates rather than displaced persons in dire need of assistance. Further, without the particular US strategic interests and involvement, it is questionable whether or not the intervention would have happened as quickly, or at all.

Somalia illustrates what happens when those interests are absent. There were refugee flows and other humanitarian problems in Somalia. However, refugees were never mentioned in the Security Council resolutions. While there were aid agencies operating in Somalia, they had a very difficult time gaining access to affected populations. It took the UN many months to provide the enforcement mandate needed to ensure unimpeded movement of humanitarian convoys. This only came after an American offer to intervene which, resulted from significant public pressure spurred by media attention – the CNN effect. This seems to indicate that US or Western interest, absent any compelling strategic interests, can occur only through almost random media focus which *may* yield public pressure to address the situation. This bodes poorly for coherent responses to humanitarian disasters. Yet, the power of media does suggest an interesting mechanism for global public pressure to act in humanitarian crises.

Refugees, per se, did not seem to be a significant factor leading to intervention. Kenya and Ethiopia, to which most Somali fled, were victims of the end of the Cold War; Western attention moved from the 'Third World' as a venue for superpower competition towards other parts of the world where economic interests predominate. Unlike Turkey which had NATO allies, countries in the region had no powerful allies on which to call to ensure that real security issues associated with refugee flows were prominent on the UN

agenda. Rather, when the intervention came, it was put in general terms of humanitarianism, of which refugees were but one part.

Haiti is the clearest case to date where refugee flows became a significant security issue for a permanent member of the UN Security Council, leading to large scale, if belated, intervention. Part of the US reaction to the Haiti crisis was related to the domestic political context, where a backlash against immigration created pressure to tighten US borders and exclude people, including refugees.

The former Yugoslavia is the most complex case, involving secession, ethnic conflict, genocide and other human rights abuses, any one of which could produce refugees. Added to this is an indecisive international community, including the Security Council, which passed 91 resolutions related to the former Yugoslavia in five years with little effect. However, hundreds of thousands of refugees fleeing to Western Europe, and the potential for many more as during the Haitian crisis, demanded politicians' attention. Such refugee flows when combined with domestic debates over immigration and the larger context of the European Union development and immigration harmonization, led to an interest in preventing more refugees from fleeing. Thus, the UN moved toward ensuring the right to remain by declaring 'safe areas' – rhetorically, if not in fact. That Security Council resolutions rarely mentioned refugees does not mean that they were not a consideration. Fear of many more new refugees, indeed, led to the creation of so-called 'safe areas.'

Finally, in Rwanda, the Security Council definitely saw refugees in the context of regional stability. Yet, because the Rwandan people and surrounding countries had no powerful allies, no forceful action was undertaken to stop the genocide and prevent regional destabilization which could result from refugee flows. When the French did finally act, it had more to do with its ties to the Habyarimana regime than humanitarianism or a concern with the effects of refugee flows.

## **Conclusion**

Action to stop refugee flows, this analysis suggests, will only occur when a great power has an interest in the situation and sees refugees as a security threat. Even then, forceful action through the Security Council probably will not occur right away.

However, other questions and implications arise. First, to what extent can security issues, refugees, and human rights abuses be disentangled from each other? Clearly, these different elements are related. Human rights abuses can cause refugee flows which create burdens and even significant security threats in other countries. Insecurity and widespread violence can lead to displacement which spreads insecurity across state boundaries. Insecurity can also lead to governmental oppression as they try to shore up their hold on power, which can bring targeted individuals or groups to flee, spreading further

insecurity. Even when the displaced do not cross borders, grave humanitarian conditions in one country can contribute to regional stress.

Little improvement in the potential for mass refugee migration can be gained by addressing one of the three principal factors. All must be addressed simultaneously. For example, states may see the need to address a human rights situation to achieve their ultimate goal of preventing a refugee influx which they see as a security threat. In northern Iraq, Turkey saw a significant security threat from 400,000 Kurds. In order to combat this perceived danger, some of its allies engaged in protection activities which temporarily stopped human rights threats to Kurds from Baghdad.<sup>115</sup> In Haiti, the US perceived a security threat from the tens of thousands of Haitians attempting to flee to the US. After intercepting them at sea, it finally intervened and reinstated the democratically elected leader who it had earlier found distasteful; security issues (and domestic politics) finally overrode objections to intervention. Or, as in the case of the former Yugoslavia, countries may give lip service to addressing human rights abuses while doing little more than giving rhetorical support for 'safe areas.'

Finally, it may be that humanitarian concerns are paramount and refugees are seen as part of an overall humanitarian disaster. This was so in Somalia, where those who intervened had little interest in the security issues of the region, but, faced public pressure to address the humanitarian dimension. But, not addressing issues of security *within* the country – for example, disarming all sides in the conflict in a sustained and comprehensive manner – the likelihood remains for further humanitarian degradation and more displacement.

The cases of Iraqi Kurdistan, Haiti, and the former Yugoslavia all point to the crisis of asylum and 'the breakdown of the consensus on which the international refugee system was built.'<sup>116</sup> The implications for this are profound. If, as seems likely, the domestic political trends with regard to immigration continue, governments will be looking for new ways to keep victims of persecution and generalized violence from becoming refugees – that is, reaching and crossing their borders. Besides just attempting to close borders and returning refugees without asylum hearings, they will probably also resort to so-called in-country 'protection' and 'safe areas,' although these schemes frequently have little protective value. When these strategies fail, states may resort to interventions which, to varying degrees, address humanitarian crises and the root causes of situations that lead people to become refugees. Such interventions will probably continue to be haphazard and, for the foreseeable future, will not contribute to a more coherent regime of humanitarian intervention.

Recent instances of intervention have set precedents for action by the Security Council. In four of the five cases (all but Somalia), refugees were mentioned by Security Council resolutions, although they were substantially less prominent in resolutions related to the former Yugoslavia than for other countries. The most explicit link between refugee flows and security was

resolution 688, which referred to the 'massive flow of refugees towards and across international frontiers and to cross-border incursions, which threaten international peace and security.' This link was not made in the case of the former Yugoslavia. In the other cases, the connection between displacement and security was made with varying degrees of explicitness. Refugees conceptualized as those in need of assistance and the wider humanitarian context were also prominent in many of these resolutions. For example, resolution 794 which legitimated the US intervention in Somalia set forth international security as a context for the action in the preamble, but went on to focus on the general humanitarian situation and the necessity of providing humanitarian assistance; refugees were never mentioned in this or in any resolution leading up to it.

Thus, in the recent instances where the Security Council has called for forceful intervention, the presence of refugees and potential has played varying, but important, roles. This includes being both direct threats to international peace and security, as well as part of a larger, perilous humanitarian situation, that can become a security threat. Because the phrase 'threat to international peace and security' is used in the UN Charter, it is reasonable that it would appear in Security Council resolutions. However, this language is now being applied in a wider variety of situations and suggests changing perceptions regarding what constitute security threats. The more frequent use of such a phrase by the Security Council also indicates that evolving perspectives on human rights and humanitarian issues are impacting security discourses, as well as being forced within the narrow confines of the UN Charter. While concrete transboundary effects of humanitarian crises increasingly are being recognized, normative dimensions of changing notions of human rights and sovereignty are not being recognized. Interests and motives of those who intervene and those who support intervention run the gamut from national security and domestic politics to humanitarianism. But, while humanitarianism became a permanent feature of Security Council resolutions, these cases demonstrate that intervention is still not 'justified' solely on humanitarian grounds.

The discourse over humanitarian intervention has expanded dramatically, as the end of the Cold War made more things possible in the international arena and as more emphasis was placed on humanitarian crises.<sup>117</sup> Fundamental questions thus require our attention, to which this essay has sought preliminary answers: Can humanitarian intervention truly be humanitarian? Can UN action be severed from the national interest of the US and other great powers? What do these interventions say about the will of the international community to fundamentally address the causes and consequences of humanitarian crises? This investigation suggests that questions of security, national interest, and humanitarianism are inextricably linked. All humanitarian emergencies have transboundary implications, particularly in the form of refugees. They are thus constructed as security threats which may incite or inflame conflict directly, or may strain local resources to the extent that instability is gener-

ated. Refugees themselves – as a particular group in need of aid or an amorphous humanitarian crisis which can draw the world's attention – can be catalysts for intervention. Generally, the plight of refugees or a humanitarian disaster per se have not triggered intervention outside broader contexts of security and national interest. National interest can, as a result of public outcry, include humanitarianism – but such sentiment is fickle and is not a reliable catalyst for humanitarian action.

The international response to refugee crises has thus been incoherent. In an era when the landscape of global politics is changing, new possibilities are opening up, and interests are being reconstructed, blatant power politics and pure self-interest on the part of powerful countries remain evident. Yet, the international effects of communal conflict and human rights abuses, including the refugee situations they create, are now recognized and are prominent in international debate. The Security Council – the ultimate arbiter of what counts as the most globally relevant – has placed these issues on its permanent agenda and has started to create precedents for dealing with them.

The results are uneven and contradictory, and the issues have not been framed in the most direct way. But, the precedents are there. Whether or not these precedents will be applied in an even and coherent manner, given recent practice, is a matter for considerable skepticism.

### Acknowledgments

The initial draft of this paper was written while I was a Post Doctoral Fellow at the Centre for Refugee Studies, York University during the 1995–96 academic year and appeared in the Centre's Working Paper series. I would like to thank Nazare Albuquerque-Abell and Susanne Schmeidl for their helpful comments.

### Notes

1. Gil Loescher, *Refugee Movements and International Security* (London: Brassey's for the International Institute for Strategic Studies, 1992), p. 9; UN High Commissioner for Refugees, *The State of the World's Refugees: The Challenge of Protection* (New York: Penguin Books, 1993), pp. 1–2; UN High Commissioner for Refugees, *The State of the World's Refugees: In Search of Solutions* (New York: Oxford University Press, 1995), pp. 40, 248; UNHCR, REFWORLD [Online], Available: <http://www.unhcr.ch/refworld/refbib/refstat/1996/table01.htm>. Figures are for January 1 of the stated year.
2. However, if one needs to leave one's home just to survive, it hard to see how this is 'voluntary'.
3. UNHCR, *The State of the World's Refugees: The Challenge of Protection* (New York: Penguin Books, 1993), p. 10.
4. As Weiner notes, the increased movement of people across borders is forcing a reconceptualization of what security entails. See Myron Weiner, 'Security, Stability and International Migration', in Myron Weiner (ed.), *International Migration and Security*

- (Boulder, CO: Westview Press, 1993), pp. 1–35. On the relationship between refugees and security see Loescher, and Reg Whitaker, 'Refugees: The Security Dimension', prepared for the conference *Organizing Diversity – Migration Policy and Practice: Canada and Europe* (Berg en Dal, Netherlands, November 8–12, 1995).
5. That is, humanitarian intervention is generally seen as a direct violation of state sovereignty. Humanitarian access, on the other hand, may be negotiated such that in a strict sense a state's sovereignty is not violated, or it may be carried out or portrayed in such a manner that is more ambiguous or does not directly point to such a violation. For further discussion of these two concepts see Kurt Mills, *Human Rights in the Emerging Global Order: A New Sovereignty?* (London: Macmillan, 1998).
  6. UN High Commissioner for Refugees, *The State of the World's Refugees: The Challenge of Protection*, op. cit., p. 84.
  7. French representative to the UN Security Council, quoted in Payam Akhavan, 'Lessons from Iraqi Kurdistan: Self-Determination and Humanitarian Intervention Against Genocide', *Netherlands Quarterly of Human Rights*, Vol. 11, No. 1 (1993), p. 44.
  8. Article 2(7) of the Charter states:
 

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.
  9. Akhavan, op. cit., p. 44. The preamble to resolution 688 made reference to 'the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated areas, which led to a massive flow of refugees towards and across international frontiers and to cross-border incursions, which threaten international peace and security in the region. . . .'
  10. Quoted in Jane E. Stromseth, 'Iraq's Repression of Its Civilian Population: Collective Responses and Continuing Challenges', in Lori Fisler Damrosch, ed., *Enforcing Restraint: Collective Intervention in Internal Conflicts* (New York: Council on Foreign Relations Press, 1993), p. 87.
  11. Quoted in *ibid.*, p. 88.
  12. Stromseth, in Damrosch, ed., op. cit., p. 88.
  13. *Ibid.*, p. 84.
  14. On the ambiguous relationship between media coverage and international action in humanitarian crises, see Robert I. Rotberg and Thomas G. Weiss, eds., *From Massacres to Genocide: The Media, Public Policy, and Humanitarian Crises* (Washington, DC: The Brookings Institution, 1996).
  15. James Mayall, 'Non-Intervention, Self-Determination and the "New World Order"', *International Affairs*, Vol. 67 (July 1991), p. 426.
  16. President Bush initially maintained that the plight of the Kurds, who he had encouraged to rise up against Saddam Hussein, was an internal matter. Stromseth, in Damrosch, ed., op. cit., p. 78.
  17. Kemal Kirişçi, 'Security for States vs. Refugees: Operation Provide Comfort and the April 1991 Mass Influx of Refugees from Northern Iraq into Turkey', *Refugee: Canada's Periodical on Refugees* (May/June 1996), p. 19.
  18. Stromseth, in Damrosch, ed., op. cit., p. 85.
  19. Quoted in Stromseth, in Damrosch, ed., op. cit., p. 109.
  20. David Keen, *The Kurds in Iraq: How Safe is Their Haven Now?* (London: Save the Children, 1993), p. 8.
  21. Stromseth, in Damrosch, ed., op. cit., p. 85; Kirişçi; Keen, op. cit., pp. 8–9.
  22. Bill Frelick, 'Troubled Waters in the Middle East', in US Committee for Refugees, *World Refugee Survey – 1991* (Washington, DC: US Committee for Refugees, 1991), p. 93.

23. Howard Adelman, 'Humanitarian Intervention: The Case of the Kurds', *International Journal of Refugee Law*, Vol. 4, No. 1 (1992), pp. 19–21; Akhavan, op. cit., pp. 44–45.
24. See Adelman, op. cit., p. 19; Akhavan, op. cit., p. 45.
25. Kirişçi, op. cit., p. 19.
26. Interview with UNHCR official, October 1993.
27. Stromseth, in Damrosch, ed., op. cit., pp. 91–92.
28. Adelman, op. cit., p. 4.
29. Of course, given the rhetorical (and, one could argue, military) excesses which the United States, especially, directed at the Iraqi regime, and given the initial reluctance to be involved in the humanitarian mission, one could also argue that this was just a situation where the US was just taking advantage of an opportunity to undermine its sworn enemy.
30. Stromseth, in Damrosch, ed., op. cit., p. 79.
31. Samuel M. Makinda, *Seeking Peace from Chaos: Humanitarian Intervention in Somalia* (Boulder, CO: Lynne Rienner Publishers, 1993), p. 43.
32. United Nations, 'United Nations Operation in Somalia II', in *Background Note: United Nations Peacekeeping Operations* [Online], (December 1994), Available: World Wide Web Path: [http://ralph.gmu.edu/cfpa/peace/unosom\\_ii.html](http://ralph.gmu.edu/cfpa/peace/unosom_ii.html).
33. Makinda, op. cit., p. 43.
34. United Nations High Commissioner for Refugees, 'A New Approach in the Horn of Africa: The Preventive Zone Concept', (July, 1992), p. 3.
35. US Committee for Refugees, *World Refugee Survey – 1993* (Washington, DC: US Committee for Refugees, 1993), p. 52.
36. Makinda, op. cit., p. 43.
37. In fact, the US had a significant military presence in Somalia during the waning decade of the cold war, including using a former Soviet base for the Rapid Deployment Joint Task Force and supplying weapons, like the Soviets before them. Makinda notes that: 'Independent observers believe that if the United States and the EC had directed some efforts toward mediation in 1989–90, the crisis might have been averted. However, revolutions in Eastern Europe and the end of communism turned the attention of major powers to opportunities in Eastern Europe, to the neglect of Africa. Once a beneficiary of Cold War tensions between the superpowers, Somalia eventually became a victim of the general indifference of Western nations to the plight of developing countries in the new world order' (Makinda, op. cit., p. 57).
38. United Nations, 'United Nations Operation in Somalia II', op. cit.
39. Makinda, op. cit., p. 67.
40. United Nations, 'United Nations Operation in Somalia II', op. cit.
41. Makinda, op. cit., pp. 74–75.
42. 'Notes on the Preventive Zone Concept', UNHCR Memorandum (October 1, 1992); 'A New Approach in the Horn of Africa: The Preventive Zone Concept.'
43. The security concerns were certainly different and less severe than in the case of Turkey, but they were still present.
44. World Refugee Survey 1993, pp. 63–64. In fact, in January 1994, Kenyan President Daniel arap Moi declared that refugees had 'engaged in acts of lawlessness' and were a threat to the country's security, and he called for some of them to be moved to other countries. 'Moi Tells UN to Move Refugees in Kenya to Other Countries', *Agence France Presse* [Online], (January 19, 1994), Available: Nexis.
45. Makinda, op. cit., p. 68.
46. *Ibid.*, p. 69.
47. Caleb Carr, 'The Consequences of Somalia', *World Policy Journal*, Vol. 10 (Fall 1993), p. 1.
48. Rony Brauman, 'When Suffering Makes a Good Story', in François Jean, ed., *Life, Death and Aid: The Médecins Sans Frontières Report on World Crisis Intervention* (London: Routledge, 1993), p. 158.

49. François Jean, ed., *Life, Death and Aid: The Médecins Sans Frontières Report on World Crisis Intervention* (London: Routledge, 1993), pp. 103–104.
50. Brauman, in Jean, ed., op. cit., p. 158.
51. Domingo E. Acevedo, 'The Haitian Crisis and the OAS Response: A Test of Effectiveness in Protecting Democracy', in Damrosch, ed., op. cit., pp. 132–134.
52. Ibid., pp. 134–135.
53. Juan P. Osuna and Christine M. Hanson, 'US Refugee Policy: Where We've Been, Where We're Going', *World Refugee Survey 1993*, op. cit., p. 42; *World Refugee Survey 1993*, op. cit., p. 53.
54. 'New Haitian Refugee Initiative Continues Long-Term Double Standard, said Amnesty International USA' [Online], press release posted by Hilary Naylor (July 6, 1994), Available: USENET News group:soc.rights.human. During the same period, over 61,000 refugees were admitted from the former Soviet Union and more than 44,000 from Vietnam.
55. Osuna and Hanson, 'US Refugee Policy', op. cit., p. 43.
56. US Committee for Refugees, *World Refugee Survey 1994* (Washington, DC: US Committee for Refugees, 1994), p. 163.
57. Thomas David Jones, 'A Human Rights Tragedy: The Cuban and Haitian Refugee Crises Revisited', *Georgetown Immigration Law Journal*, Vol. 9 (Summer 1995), p. 489.
58. US Committee for Refugees, *World Refugee Survey 1995* (Washington, DC: US Committee for Refugees, 1995), p. 180.
59. Ibid., p. 188; Jones, 'A Human Rights Tragedy', p. 488; 'Haitians Interviewed at Sea', *The Associated Press* [Online], (June 16, 1994), Available USENET Newsgroup: clari.news.immigration; 'USA Has Haiti Refugee Facility', *The Associated Press* [Online], (June 18, 1994), Available: USENET Newsgroup: clari.news.immigration; 'Honduras Would Take Haitian Refugees in Return for Aid', *Reuters* [Online], (July 27, 1994), Available: USENET Newsgroup: clari.news.immigration.
60. *World Refugee Survey 1995*, op. cit., p. 180.
61. Jones, 'A Human Rights Tragedy', op. cit., p. 490; Douglas Jehl, 'Troops in Today', *The New York Times* (September 19, 1994), pp. 1, 8.
62. 'UN Welcomes Aristide, Lifts Trade Embargo', *Reuters* [Online], (October 15, 1994), Available: USENET Newsgroup: clari.world.organizations.
63. Michael J. Glennon, 'Sovereignty and Community after Haiti: Rethinking the Collective Use of Force', *American Journal of International Law*, Vol. 89 (1995), p. 72.
64. *World Refugee Survey 1995*, op. cit., p. 180.
65. Further, several states, including Florida, California, and Texas used the federal government for reimbursement of costs such as medical care and incarceration they claim were incurred as a result of illegal immigration. 'Florida Fears Haitian Boat Exodus, Leaders Say', *Reuters* [Online] (May 9, 1994), Available: USENET Newsgroup: clari.news.immigration; 'Illegal Immigration Becomes Hot Political Issue', *Reuters* [Online] (July 25, 1994), Available: USENET Newsgroup: clari.news.immigration; 'Immigration becomes Vote Issue', *The Associated Press* [Online] (September 18, 1994), Available: USENET Newsgroup: clari.news.immigration; 'Poll Finds Anti-Immigrant Bias', *The Associated Press* [Online] (May 23, 1994), Available: USENET Newsgroup: clari.news.immigration; 'Backlash Fuels Support for Anti-Immigrant Measure', *Reuters* [Online], (September 29, 1994), Available: USENET Newsgroup: clari.news.immigration; 'Campaigns Eye Immigration', *The Associated Press* [Online] (October 8, 1994), Available: USENET Newsgroup: clari.news.immigration.
66. *World Refugee Survey 1995*, op. cit., pp. 176–177.
67. It seems likely that if the US had wanted to get UN approval sooner it could have done so. One reason that it did not intervene sooner seems to be that the US government did not want Aristide to return to power, seeing him as a revolutionary who might not keep US interests at the top of his agenda. He was accused of being undemocratic and the CIA launched a smear campaign against him. 'Aristide – Haiti's First Freely Elected

- Leader', *Reuters* [Online] (September 18, 1994), Available: USENET Newsgroup: clari.world.organizations.
68. 'Caribbean: Caricom Countries Pledge Support for Invasion of Haiti', *Inter Press Service* [Online] (August 30, 1994), Available: Nexis; 'Rio Group: Presidents Call for Haitian Regime to Step Down', *Inter Press Service* [Online] (September 10, 1994), available: Nexis; 'Haiti Accord Greeted with Relief in Latin America', *Reuters North America Wire Service* [Online] (September 19, 1994), Available: Nexis; 'Haiti: Latin America Leaders Breathe Sigh of Relief', *Inter Press Service* [Online] (September 19, 1994), Available: Nexis.
  69. Gwynne Dyer, 'Beyond Haiti; Armies in the Western Hemisphere Take Note: Coups Will Not Be Tolerated', *The Gazette (Montreal)* [Online] (September 20, 1994): B3, available: Nexis. In fact, just recently an amendment to the OAS charter took effect which allows for the suspension of member countries whose governments have been taken over in coups. Thomas W. Lippman, 'OAS Amends Charter to Shun Coup-Based Governments', *The Washington Post* (September 26, 1997), p. 21.
  70. Glennon, op. cit., p. 74.
  71. For an in-depth overview of UNPROFOR, see United Nations, 'United Nations Protection Force', *Background Note: United Nations Peacekeeping Operations* [Online] (December 1994) Available: World Wide Web Path: [http://ralph.gmu.edu/cfpa/peace/unprofor\\_un.html](http://ralph.gmu.edu/cfpa/peace/unprofor_un.html). For links to information on the follow-on force from NATO, the Implementation Force (IFOR), see 'NATO and the United Nations in Yugoslavia', Program on Peacekeeping Policy, George Mason University [Online], Available: World Wide Web Path: <http://ralph.gmu.edu/cfpa/peace/ifor.html>, and BosniaLINK, United States Department of Defense [Online], Available: World Wide Web Path: <http://www.dtic.dla.mil/bosnia/index.html>.
  72. For an overview of the development of the conflict and the international response through the first part of 1993, see James B. Steinberg, 'International Involvement in the Yugoslavia Conflict', in Damrosch, ed., pp. 27-75.
  73. *World Refugee Survey 1995*, op. cit., pp. 42, 44.
  74. See 'Bosnia, the Soft Option', in Jean, ed. pp. 89-96. Thomas G. Weiss provides a searing analysis of the international reaction to the former Yugoslavia:
 

Instead of taking a firm stand, the West chose to emphasize conciliation mixed with humanitarianism. Inadequate military and humanitarian action, combined with sanctions and a negotiating charade, thus constituted a powerful diversion – or a 'palliative, an alibi, an excuse' according to the first head of UNHCR operations in the former Yugoslavia, José-Maria Mendiluce. They collectively served as a substitute for, and may actually have impeded, more creative Western diplomatic pressure, more vigorous military action, and a lifting of the arms embargo for Muslims to help level the killing fields. Clearly the sum of ad hoc operational decisions can add up to a moral conclusion of significance: 'Western policies do amount to intervention – on the side of the aggressor.'
- Thomas G. Weiss, AUN Responses in the Former Yugoslavia: Moral and Operational Choices', *Ethics & International Affairs*, Vol. 8 (1994), p.20.
75. 'US Bombs Bosnian Serbs', *The Associated Press* [Online] (April 10, 1994), Available: USENET Newsgroup: clari.news.fighting.
  76. 'NATO Strikes At Serb Base', *The Associated Press* [Online] (May 26, 1995), Available: USENET Newsgroup: clari.world.organizations; 'Chronology of Conflict in Former Yugoslavia', *Reuters* [Online] (October 5, 1995), available: USENET Newsgroup: clari.world.organizations.
  77. Steinberg, in Damrosch, ed., op. cit., pp. 52-55.
  78. The number of asylum seekers arriving in Europe rose from 70,000 in 1983 to more than 600,000 in 1993. Elizabeth G. Ferris, 'The Politics of Containment: Asylum in Europe and its Global Implications', *World Refugee Survey 1994*, op. cit., p. 20.

79. Ibid., p. 21.
80. 'German Gov. And Church At War', *The Associated Press* [Online] (May 14, 1994), Available: USENET Newsgroup: clari.news.conflict. During 1993 about 40,000 people were deported, compared to 12,000 in the previous year. See also Stefan Telöken, 'The Domino Effect', *Refugees* (December 1993), pp. 38–40; *World Refugee Survey 1994*, op. cit., pp. 135–136.
81. 'New Law Gives German Border Force More Power', *The Reuter European Community Report* [Online] (June 24, 1994), available: Nexis.
82. Michael Barutciski, 'EU States and the Refugee Crisis in the Former Yugoslavia', *Refuge: Canada's Periodical on Refugees*, Vol. 14 (June–July 1994), p. 33.
83. During 15 interviews with individuals at UNHCR in Geneva in the fall of 1993, the biggest concern expressed was the increasing threat to asylum. On the undermining of asylum, see UNHCR, *The State of the World's Refugees: The Challenge of Protection*, op. cit., pp. 31–50.
84. UNHCR, *The State of the World's Refugees: Challenge of Protection*, op. cit., p. 79; Barutciski, op. cit., p. 33.
85. UNHCR *The State of the World's Refugees: The Challenge of Protection*, op. cit., p. 80.
86. Bill Frelick, 'Preventing Refugee Flows: Protection or Peril?', *World Refugee Survey 1993*, op. cit., p. 9 (italics in original).
87. Further, Frelick argues that by the end of 1992 '[t]he apparent *quid pro quo* reached with Serb militias was that the UN would only be permitted to deliver humanitarian assistance [to Sarajevo] if it agreed not to allow any would be refugees to escape.' Ibid., p. 10. In 1994, the former head of UNHCR's operation on Bosnia noted that 'these areas are becoming more and more like detention centres, administered by the UN and assisted by UNHCR', quoted in UNHCR, *The State of the World's Refugees: In Search of Solutions*, op. cit., p. 129.
88. Barutciski, op. cit., p. 34.
89. *World Refugee Survey 1995*, op. cit., p. 69.
90. The initial refugee flows were Tutsi escaping the genocide, but by the end of April, Hutu were fleeing the advancing Tutsi-dominated Rwandese Patriotic Front which eventually took power in Rwanda. See John Borton, Emily Brusset, and Alistair Hallam, 'Humanitarian Aid and Effects', Study 3 of the Joint Evaluation of Emergency Assistance to Rwanda, *International Response to Conflict and Genocide: Lessons from the Rwanda Experience*, in the *Journal of Humanitarian Assistance* [Online] (March 1996), Available: <http://www-jha.sps.cam.ac.uk/policy/pb022.htm>.
91. 'UN was warned of Rwanda genocide, newspaper says', *Reuters* [Online] (November 25, 1995), Available: USENET Newsgroup: clari.world.africa; Cable from Gen. Romeo Dallaire, UNAMIR\Kigali to Baril\DPKO\UNations, New York, regarding 'Request for Protection for Informant', January 11, 1994.
92. In fact, senior officials questioned the credibility of the informant. Howard Adelman and Astri Suhrke, 'Early Warning and Conflict Management: Genocide in Rwanda', *Study II of the Evaluation of Emergency Assistance to Rwanda* (December 1995) footnote 64, p. 31.
93. Ibid., pp. 33–34, 36–38; Jones, '“Intervention without Borders”: Humanitarian Intervention in Rwanda, 1990–94', *Millennium: Journal of International Studies*, Vol. 24, No. 2 (1995), p. 230; United Nations, 'United Nations Assistance Mission for Rwanda', in *Background Note: United Nations Peacekeeping Operations* [Online] (December 1994), Available: World Wide Web Path: <http://ralph.gmu.edu/cfpa/peace/unamir.html>.
94. Adelman and Suhrke, op. cit., pp. 42–47.
95. Jones, 'Intervention without Borders', op. cit., pp. 230–231. On Operation Turquoise, see Adelman and Suhrke, pp. 47–51 and Gérard Prunier, *The Rwanda Crisis: History of a Genocide* (New York: Columbia University Press, 1995).
96. Jones, 'Intervention without Borders', op. cit., p. 231.
97. Adelman and Suhrke, op. cit., p. 49.

98. Jones, 'Intervention without Borders', op. cit., p. 231 (italics added). On the final objective of atonement, see Adelman and Suhrke, op. cit., pp. 48–49.
99. Jones, 'Intervention without Borders', op. cit., pp. 231–232; Gérard Prunier, "Opération Turquoise": A Humanitarian Escape from a Political Dead End', workshop on *Genocide in Rwanda: International Responsibilities and Responses*, Washington, DC, December 8–9, 1995.
100. A letter from the French Ambassador to the UN noted that a significant number of people in the southwest part of the country were in danger of fleeing and 'seek[ing] refuge in neighbouring countries, particularly Burundi, aggravating a situation whose precariousness you are already well aware of.' S/1994/798, July 6, 1994.
101. S/PRST/1994/34, July 14, 1994.
102. S/PRST/1994/42, August 10, 1994.
103. S/PRST/1994/59, October 14, 1994.
104. See Borton, Brusset, and Hallam, op. cit.
105. Quoted in *ibid.*
106. Borton, Brusset, and Hallam, op. cit.
107. *Ibid.*
108. In 1993, approximately 100,000 were killed in communal conflict between Hutu and Tutsi. As of March 1994, approximately 400,000 Burundians were internally displaced, and another 300,000 were refugees in surrounding countries. 'Ethnic Violence Wracks Burundi', *The Associated Press* [Online] (March 29, 1995), Available: USENET Newsgroup: clari.world.africa. The UN Special Rapporteur for Burundi, Paulo Sergio Pinheiro, described the situation in Burundi as 'genocide by drip-feed. To be precise, there is a chain of deliberate genocidal acts.' 'UN Rights Investigator Warns of Burundi Genocide', *Reuters* [Online] (January 18, 1996), Available: USENET Newsgroup: clari.world.organizations.
109. On May 16, France became the only one of the five permanent members of the Security Council to characterize what was going on in Rwanda as genocide. The Secretary-General did not do so until May 31. The US, Great Britain, and other countries were careful not to use the term genocide (as they have been reluctant to do in Bosnia) to forestall any claims that the international community had obligations under the 1948 Genocide Convention to address the situation. Adelman and Suhrke, op. cit., pp. 43–44.
110. At least not until after most of the killing had occurred. It is interesting to note, however, that in a July 1995 poll in the US, 90% of respondents would have approved of US intervention. Steven Livingston, at the workshop on *Genocide in Rwanda: International Responsibilities and Responses*, Washington, DC, December 8–9, 1995.
111. *World Refugee Survey 1995*, op. cit., p. 76.
112. *Ibid.*, pp. 42, 44.
113. These include so-called refugee warriors – refugees who are also participants in an armed conflict in the sending state. See Loescher, op. cit., p. 50.
114. See Larry Minear, *Humanitarianism Under Siege: A Critical Review of Operation Lifeline Sudan* (Trenton, NJ: Red Sea Press, 1991).
115. In the process a *de facto* Kurdish state was created, which Turkey must also see as a security threat of sorts since such a state could support Kurdish separatists/irredentists in Turkey and elsewhere in the region. Indeed, Turkey has undertaken several raids inside northern Iraq against what it says are Kurdish rebels which are operating within Turkey. Thus, rather than eliminating the security threat, Turkey has been able to 'move' the threat or 'push out' its border. 'Turkish Jets Bomb Kurdish Rebel Targets in Northern Iraq', *United Press International* [Online] (November 30, 1993), Available: USENET Newsgroup: clari.news.gov.international; 'UN Concerned About Refugees In Northern Iraq', *Reuters* [Online] (March 22, 1995), Available: USENET Newsgroup: clari.world.organizations; 'Turkish Troops Slowly Leaving North Iraq', *Reuters* [Online] (July 10, 1995), Available: USENET Newsgroup: clari.news.immigration.

Two science fiction authors have recently envisioned an even more extreme form of moving the threat of refugees. They foresee enclaves of refugees, floating on the high

seas, where they are not a threat to territorially demarcated entities which, in typical science fiction fashion, are not necessarily states in the traditional sense anymore (one of them postulates that states will be broken up into enclaves of transnational 'franchises'). Nonetheless, in one novel, when the floating city of refugees comes close to shore as they follow the North Pacific currents, the residents (in this case of the West coast on North America) erect fences and deploy other measures to protect themselves from the onslaught. See Neal Stephenson, *Snow Crash* (New York: Bantam Books, 1992) and David Brin, *Earth* (New York, Bantam Books, 1990).

116. Ferris, op. cit., p. 25.

117. For an overview of the evolving discussion about the legitimacy of humanitarian intervention, see Kurt Mills, 'Eclipsing Sovereignty: The Legitimacy of Humanitarian Intervention', *Working Paper*, Center for International and Strategic Studies, York University, February 1996; and Mills, *Human Rights in the Emerging Global Order*. A few other recent contributions to the humanitarian intervention debate include: Jarat Chopra and Thomas G. Weiss, 'Sovereignty Is no Longer Sacrosanct: Codifying Humanitarian Intervention', *Ethics & International Affairs*, Vol. 6 (1992), pp. 95–117; Ian Forbes and Mark Hoffman, eds., *Political Theory, International Relations, and the Ethics of Intervention* (New York: St. Martin's Press, 1993); 'Intervention and North-South Politics in the '90s', *Middle East Report*, No. 187/188 (Special double issue on humanitarian intervention) 24 (2–3 1994); Gene M. Lyons and Michael Mastunduno, eds., *Beyond Westphalia? State Sovereignty and International Intervention* (Baltimore: The Johns Hopkins University Press, 1995); Nigel Rodley, ed., *To Loose the Bands of Wickedness: International Intervention in Defense of Human Rights* (London: Brassey's Defense Publishers, 1992); Thomas G. Weiss, 'Triage: Humanitarian Interventions in a New Era', *World Policy Journal*, Vol. 11 (Spring 1994): 59–68. See also Kurt Mills, 'Humanitarian Access and Intervention: A Bibliography', [Online] Available: World Wide Web Path: <http://web.aucegypt.edu/kmills/Hi-Bib.html>.

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