This article examines the global forces that are responsible for the transformation of the meaning and practice of UNHCR’s humanitarianism, and asks whether a transformation that enables the organization to become more deeply involved in the internal affairs of states is welcome or worrisome. I open by reviewing the changing relationship between multilateralism, sovereignty, and humanitarianism, and link that conceptual discussion to the international refugee regime. I then argue that the combination of state pressures and the normative principle of popular sovereignty enabled a more political and pragmatic UNHCR to widen its activities under the humanitarian banner and to become more deeply involved in the circumstances in the refugee-producing country. This expanding humanitarian umbrella, I suggest, might be a stealth agent for a policy of containment and a threat to refugee rights. This possibility is suggested by recent debates over the category of internally displaced peoples; the decided preference for repatriation; and UNHCR’s involvement in reintegration activities. These developments generate the worrisome possibility that a more pragmatic UNHCR is potentially (though unwittingly) implicated in a system of containment. I conclude by reflecting on UNHCR’s role in global politics and the dangers of a sovereignty-led humanitarianism.

During the Cold War, UN organizations routinely presented themselves as “apolitical” and “humanitarian” as a signal to states that they understood their place and recognized sovereignty’s canon of noninterference. Beginning in the mid-1980s and accelerating after the end of the Cold War, however, UN organizations became more deeply involved in the domestic affairs of states. The United Nations has increased its activities in the areas of women’s rights and human rights. UN peacekeeping began trying to save “failed states” and help with the difficult transition from civil war to civil peace. And UNHCR became increasingly active in the area of refugee reintegration and erasing the “root causes” of refugee flight. UN organizations that once knew their place in the sovereign system of states and bundled their humanitarianism to the principle of noninterference were now venturing beyond the border’s edge.
and proclaiming that their standing as humanitarian organizations permitted them to tread on once sacred ground.

This development represents both a remarkable shift in the UN’s role in global and domestic politics and a transformation of “actually living humanitarianism” (de Wall, 1998). Since the beginning of the last century, states have constructed a spectacular skyline of multilateral organizations, most of which were intended to further their shared interests and some of which were designed to promote their shared values. States cautiously evoked the language of humanitarianism for fear that such transcendental concerns might swamp their core interests and undermine their sovereignty. As a consequence, when states did create humanitarian international organizations they made sure that they were highly circumscribed in scope and mindful of state sovereignty.

Yet a defining feature of world politics over the last two decades is the highly significant and reinforcing transformation in the character of sovereignty and the meaning of humanitarianism. Because of a confluence of developments, episodic events, and a view that domestic conflict undermined international security, the understanding that sovereignty is defined by its core principle of noninterference has yielded to the emerging legitimation principle of popular sovereignty – that sovereignty resides in peoples and not in states and that states should possess some attributes that are largely liberal in order to honor individual liberties and rights. One effect of this transformation in the meaning of sovereignty is that UN agencies are at greater liberty to intervene in the domestic affairs of states, nowhere more evident than in the practice of humanitarianism. Whereas once humanitarianism meant helping individuals after they had managed to crawl across an international border, now UN agencies can parade their humanitarian credentials in order to bring relief and protection to people regardless of their geographic circumstances. The changing character of sovereignty has transformed the meaning and practice of humanitarianism, allowing once shy UN agencies to strut into new domains.

Is this expanding humanitarianism a good thing? We almost instinctually applaud whenever state officials feel the need to behave decently and with civility toward their populations, and if the growing complex of humanitarian organizations is partially responsible for that outcome, terrific. But the demurs are growing. Humanitarian organizations are increasingly accused of becoming bureaucratized, acting like an industry, becoming overly pragmatic and forgetting their principles, protecting their own interests and sacrific-
ing their humanitarian ideals (see, e.g., Rieff, 1997; Barnett and Finnemore, 1999; Maren, 1997). Humanitarian organizations are not immune to the iron law of bureaucratization. As humanitarian organizations have become better established and more deeply involved in politics, they have become more deeply political.

Such developments are relevant to any discussion of UNHCR’s past, present, and future role in global and domestic politics. States established UNHCR to help them carry out their responsibilities to refugees, but they carefully limited their obligations and made sure that UNHCR’s working definition of humanitarianism included the principle of noninterference. Beginning in the late 1970s, however, UNHCR became more deeply involved in the affairs of refugee-producing countries because states wanted the refugees to go home as soon as possible, and the growing ethos of popular sovereignty made it possible and desirable to think about the prevention and the root causes of refugee flows. As a consequence, UNHCR’s humanitarianism no longer stops at the border’s edge. This is a positive development to the extent that the international community is now concerned with the causes and remedies of displaced peoples regardless of whether an individual has crossed an international border.

Yet the combination of state pressures and normative developments that have permitted UNHCR to become more involved in the domestic affairs of states contains its own dangers. Specifically, UNHCR is encouraged to look inward because states have tired of their obligations under refugee law and the principle of popular sovereignty. This has two dire implications. One is that the meaning and practice of humanitarianism is altered, not always for the better. As UNHCR’s humanitarianism has extended, its “pragmatism” has deepened. The challenge for UNHCR is to encourage a humanitarianism that does not widen the humanitarian space with one hand and constrict it with the other so that humanitarianism would become the enemy of refugee rights. The other related danger is that UNHCR might become complicit with a strategy of “containment.” This strategy is not bereft of ethical underpinnings or normative redemption, for if states are unreceptive to individuals seeking asylum and if the best prospect of long-term protection is “home,” then UNHCR can pragmatically make this devil’s compact. This strategy, moreover, is linked to the broader global project of “rebuilding” states and societies along a liberal model. The extent to which UNHCR wants to find itself attempting to save failed states is a matter of debate, but there is every reason to believe that an agency that is busily trying to construct new states
might not be very good at the equally strenuous task of protecting of the rights of the displaced.

This essay first reviews the changing relationship between multilateralism, sovereignty, and humanitarianism and links that conceptual discussion to the emergence of the international refugee regime. It then examines the combination of state pressures and the normative principle of popular sovereignty that enabled a more political and pragmatic UNHCR to widen its activities under the humanitarian banner and to concern itself with the circumstances in the refugee-producing country. Next the article suggests that the expanding humanitarian umbrella might be a stealth agent for a policy of containment and a threat to refugee rights. To illustrate this possibility, the article briefly examines the concern that the decided preference for repatriation is brushing up against the principle of voluntary repatriation, how UNHCR’s reintegration activities might unintentionally hinder flight, and the debate over the definition of category of internally displaced peoples and the concern that the concept makes it more likely that states will deny asylum. The totality of these developments generate the worrisome possibility that a more pragmatic UNHCR is potentially (though unwittingly) implicated in a system of containment. I conclude by reflecting on UNHCR’s role in global politics and the dangers of a sovereignty-led humanitarianism.

**SOVEREIGNTY AND HUMANITARIANISM**

States have had an increasingly intense, century-long romance with the idea of establishing institutional means to help them coordinate their relations in more cooperative and less conflictive ways. While the concepts and catchphrases that describe this development change with the times – international institutions, regimes, multilateralism, and global governance are often times used interchangeably – the basic goals remain largely the same: states construct multilateral institutions to capture gains from exchange, coordinate shared interests, manage various externalities associated with growing interdependence, and settle disputes in a conflict-free manner (Ruggie, 1993). States have been primarily responsible for the steady march of global bureaucratization, a campaign guided by a statist beat.

Sovereignty has never been far from the minds of states as they have created these global institutions. This is a testimony to the simple but primeval survival impulse. Hedley Bull (1977) famously observed that survival is a state’s primary goal, that survival is maintained by international order, that juridical sovereignty enables states to further their mutually reinforcing goals
of survival and international order, and that states establish various international institutions that are designed to regulate their relations in a more cooperative manner and protect their sovereignty. At base, sovereignty holds that there is no authority above the state and there exists mutual restraint, a “live and let live” policy, which is embodied in the principle of noninterference. Sovereignty, in this important respect, is a security institution, and security-sensitive states are unlikely to relinquish the normative shield that provides some measure of security, maintains their autonomy, and provides an obstacle to the ambitious and intrusive designs of more powerful and aggressive states.

Yet the meaning and practice of sovereignty is more complicated and multivocal than is suggested by the pat claim that sovereignty is defined by the principle of noninterference. At issue is not only who is sovereign but what practices are associated with sovereignty. While sovereignty might have begun as a Hobbesian compact among monarchs who were interested in avoiding a religious world war, it is increasingly assigned not to monarchs and heads of state but rather to peoples. Beginning with the French and American revolutions, continuing with the liberal revolutions of the nineteenth century, spreading with the principle of national and self-determination during the early twentieth century, and increasingly evident in the growing standing of human rights principles over the last half-century, states recognize the sovereignty of peoples and their representative institutions. This is “popular sovereignty.” Along with a change in the conceptual modifiers and location of sovereignty is a shift in the practices expected of modern, sovereign states. Whereas juridical sovereignty admonishes states to demonstrate self-restraint vis-a-vis one another and honor the principle of noninterference, popular sovereignty concerns the domestic practices of states, expecting them to adhere to certain domestic principles that we now define as the rule of law (liberalism) and representative institutions (democracy) (Reisman, 1990; Franck, 1992).

States have been reluctant to permit the principle of popular sovereignty to guide their foreign policy practices and shape the tenor of international politics for the obvious reason that it would challenge the principle of noninterference and, therefore, have potentially destabilizing effects. Later, this ordering principle was invested with greater legitimacy when it became attached to the principles of national self-determination and cultural autonomy. The result is that there are powerful security and normative forces behind the principle of noninterference and juridical sovereignty. For these
reasons, states have appealed to sovereignty’s noninterference principle to deter investigations and intrusions into domestic politics. That said, the discourse of popular sovereignty is an increasingly visible feature of international politics, imprinting diplomatic discourse, introducing “fundamentalist” international documents and treaties, and signaling which states are “legitimate” members of the international community and which ones have standing simply because they possess the rudimentary features of sovereignty.

The willingness by states to elevate the legitimation principle of popular sovereignty is strongly associated with the belief that there is a direct relationship between international order and domestic order. For instance, whether the internal character of the state is related to international order was debated during the drive for decolonization: would newly recognized sovereign states that lacked the attributes of stateness have a difficult time abiding by the norms of international society? This worry was rejected in favor of popular sovereignty defined as national self-determination (Jacobson, 1962; Jackson, 1993). But a defining feature of post-Cold War politics is the belief that domestic governance is an international governance issue. This connection is made not only on normative grounds but also because of “international peace and security.” An article of strategic faith during the Cold War was that international order was premised on balances of power and some regulative norms that revolved around the principle of noninterference. But this view has yielded to the claim that because international order is best secured through domestic order, and because domestic order is best secured through democratic practices, the rule of law at home provides for the foundation of the rule of law abroad (Barnett, 1995). Democracy is increasingly treated as a principle of international order (see, for instance, Boutros-Ghali, 1995 and Doyle, 1986).

These shifts in the character and practice of sovereignty have shaped the character of institution-building. Most of the international institutions established by states have been mindful of juridical sovereignty and have been intended to further their functional interests (Boli and Thomas, 1999). Yet because states have increasingly espoused humanitarian values, they have increasingly permitted old organizations to introduce concerns that were once considered to be “humanitarian” and part of domestic politics, and they have established new international agencies to further and protect the international community’s transcendental values. The growing willingness by states to discuss humanitarian concerns in multilateral forums was not driven by a sudden sentimentality. More important, states were now considering how to
shield and protect peoples and minorities from maltreatment because of a confluence of considerations, including the belief that: 1) humanitarian issues reflect “standards of civilization”; 2) humanitarian issues could threaten domestic and international order; 3) multilateral forums were the legitimate means to handle these issues; and 4) multilateral organizations provided burden-sharing mechanisms (see Jones, 1991).

Because states were sensitive to the possible danger that humanitarianism might violate the principle of noninterference and hijack core national security interests, they made sure that these multilateral mechanisms were limited in scope and honored the principle of noninterference. This had several implications. First, states refused to delegate broad powers and authorities to new international bodies. Second, states placed severe restrictions on their humanitarian obligations. In almost all cases, humanitarianism could insinuate open-ended commitments that could easily violate norms of noninterference. Third, while states wrapped the principle of burden-sharing in various moral claims, including that all states should have the privilege and duty of contributing to a less cruel world, states wanted to make sure that no state was saddled with the burden (see Suhrke, 1998 for a discussion of burden-sharing in refugee emergencies). Fourth, international organizations like the League of Nations could involve themselves in these domestic issues only if they were invited by the member state. The principles of consent, neutrality, and impartiality now become part of the grammar of action, clearly tied to principles of noninterference.

The practice of humanitarianism and the politics of humanitarian international organizations formed in direct relationship to the practice of sovereignty and the politics of a states system organized around sovereignty. The relationship between state sovereignty and humanitarianism reveals a logocentric quality, which Jacques Derrida observes is in play whenever “one privileged term (logos) provides the orientation for interpreting the meaning of the subordinate term” (Nyers, 1999:21). States and sovereign practices shape the discourse and practices of humanitarianism. States are understood to protect “national interests” while humanitarianism refers to transcendental values and the international community’s interests. States defend their citizens and have a territorial imperative, while humanitarianism involves the attempt to reduce human suffering regardless of spatial, political, or cultural boundaries. “Politics” concerns activities between states, whereas humanitarian action is apolitical and distinct from politics. “Politics” involves activities within and between states, whereas humanitarian assistance should be palliative and not
preventive. States are partial, biased, and presumptive, whereas humanitarian organizations operate on the principles of impartiality, neutrality, and consent. “Politics” is dirty and pejorative, whereas humanitarian activities are pure and noble (Nyers, 1999:21; Cutts, 1998:3; Malkki, 1995). A state-centric logic shaped the issues, organizations, and practices of humanitarianism.

**Humanitarianism and Refugee Issues**

How a sovereign state system shaped the meaning and practice of humanitarianism is evident in the genesis and development of the international refugee regime. Beginning slowly after World War I and continuing with a burst of energy after World War II, states cobbled together the elements of an international refugee regime that was purposefully designed to safeguard their sovereignty while modestly coordinating their new-found but highly defensive desire to protect refugees. The very fact that there was a post-World War I refugee problem that demanded their attention was a complex by-product of many factors. Only a world of sovereign states that had categories of peoples called “citizens” and were intent on regulating population flows could produce a legal category of “refugees.” The collapse of multinational empires and the creation of new, ethnically-defined states forced minorities to flee – but with few destinations available given the increasingly restrictive immigration laws. World War I and the Russian Revolution produced a huge movement of orphaned individuals, thousands of whom could neither go home nor gain legal entry into another country and thus needed a temporary haven. In response to this dramatic development and the persistent lobbying efforts of private philanthropic organizations, states established the High Commissioner for Refugees (HCR) in 1921. Reflective of their shallow humanitarianism, states gave HCR a very limited mandate and resource base and a definition of refugee that had severe geographical restrictions (Melander, 1987:7). Their less-than-charitable attitude toward refugees would be repeated in countless crises over the next two decades, most tragically in their response to the attempted Jewish flight from Nazism.

World War II provided the backdrop for the next effort to administer refugee flows. As the Allies marched toward Germany, they confronted the immediate necessity of reducing the suffering of refugees and displaced peoples, and so constructed a string of make-shift multilateral arrangements. This immediate experience and the prospect that refugees might be a permanent fixture of world politics caused member states to consider the desirability of a permanent international institution and accompanying legal norms. Thus
was born the refugee convention and the UNHCR. During their debates, however, they made sure that they did not let themselves get carried away by their noble thoughts.

The general view among states was that a convention was necessary in order to provide legal protection and rights for refugees, an act not only of charity but also of survival, because of their anomalous status in international law and their invisibility in national law (Holborn, 1975:158). Still, their humanitarianism carried them only so far, quickly halted by their desire to limit their obligations and defend their sovereignty. This halting humanitarianism and defensive sovereignty was clearly present in the accepted definitions of “refugee,” “protection” and “solution.” Member states recognized that while there are many displaced peoples, only those who have managed to fall on the other side of the territorial divide were legally entitled to be called refugees. This served to limit their obligations and honor their sovereignty, restricting the numbers that might ask for international assistance and prohibiting the international body from intruding on domestic affairs. Member states recognized that people flee their countries for a host of reasons, but only those who are “persecuted” by the national governments are entitled to refugee status. Once again, this capped their obligations, for it omitted large numbers who might flee because of economic hardship, political events such as international and internal wars, famines, and authoritarian practices by their government. In addition, the convention did not make a direct reference to the responsibilities of the refugee producing country (Chimni, 1998:360).

States did not let their humanitarian sentiments get the better of them when they established the UNHCR either, as sovereignty provided the sketchlines for the new organization. Statism and sovereignty shaped the concept of protection. To begin, states substituted the terms “legal and political protection” that had been part of the League of Nations and IRO language with “international protection.” Why? “Political” was viewed as too divisive and controversial, too closely associated with a prior meaning of “political” that implied relations between states and thus had a “partisan” and “factious” character given contemporary circumstances. Moreover, instead of “political” states began emphasizing the concept of “humanitarian.” As a humanitarian and apolitical organization, UNHCR was charged with helping to coordinate the operational activities of states and NGOs and to provide legal assistance for refugees. Stated negatively, UNHCR was not expected to be an operational agency or to address ways to eliminate refugee problems which, by definition, were political matters and potentially infringed on sovereignty
(Kennedy, 1986:14–15; Skran, 1992:25, 28; Holborn, 1975:89–90). Furthermore, “protection” became legal protection, that is, UNHCR was to assist refugees by “identifying them, issuing travel documents, assisting in obtaining recognition of their various legal statuses, and advocating ever more precise guidelines for handling recognized refugees” (Kennedy, 1986:5; see also Coles, 1989:79–80; Sztucki, 1989:290–92; Holborn, 1975:chap. 4). Reflecting on the meaning of international protection during the Cold War, Sadako Ogata (1996) said:

UNHCR essentially waited on the other side of an international border to receive and to protect refugees fleeing conflicts. This approach was determined by the very concept of international protection of refugees which would come into play if, and only if, victims of persecution or violent conflict fled their homeland. It was also dictated by the concept of state sovereignty and the consequent reluctance of intergovernmental organizations, such as UNHCR, to be seen as being too involved in the internal conditions of countries of origin that might give rise to refugee movements.

In general, UNHCR could present itself as apolitical and humanitarian by emphasizing legal protection and using the discourse of “international protection.”

States' concerns over sovereignty also shaped the discussion on the permanent solutions to refugee problems. States outlined three solutions – integration into the asylum country, resettlement to a third country, and voluntary repatriation – and the third was widely dismissed as a viable possibility. Although the central reason for its dismissal was because it was ideologically and politically unthinkable to promote refugee repatriation to communist states, another factor was the sense that repatriation could quickly involve UNHCR in political matters (Holborn, 1975:325–327). In general, state sovereignty shaped the character of the refugee law and the newly established refugee organization (Goodwin-Gill, 1996; Hathaway, 1991; Skran, 1992:15–16).

Although the most powerful states hoped to handcuff UNHCR, over the next two decades its humanitarian profile expanded considerably. There are many reasons why its protection mission expanded from legal assistance to include other forms of assistance and why it began to provide assistance to nonstatutory refugees, including the simple fact that states sanctioned an organizational expansion that was in their (momentary) interests. It is worth noting that UNHCR was not a passive beneficiary of this process but also strove to establish precedents at permissive moments, most famously when it invented new mechanisms such as the “good offices” (Khan, 1976:56).
good offices concept allowed UNHCR to extend protection and assistance to new groups and to transform what might have been a deeply politicized issue into a humanitarian and apolitical matter (Schnyder, 1965:7, 16–17). This depoliticization benefited not only refugees but also UNHCR, for the concept alerted governments that the agency was “not guided by any political intentions or considerations” (Schnyder, 1965:8). As a consequence, humanitarianism was not only part of UNHCR’s identity, it also proved to be instrumentally useful, a stealth weapon in the service of organizational expansion. States might have tagged UNHCR with a humanitarian mandate as a way of limiting its activities, but UNHCR also demonstrated the capacity to use that same label as a way to insinuate itself into new areas.

**ALL POLITICS IS LOCAL: STATE PRESSURES AND NORMATIVE INDUCEMENTS**

Beginning in the late 1970s and a defining feature of international politics since the late 1980s, slowly but impressively the fulcrum of the system shifted “from the protection of sovereigns to the protection of peoples” (Reisman, 1990:872; see also Barkin, 1998; Dacyl, 1996). Although still respectful of the principle of noninterference, the injection of human rights norms and popular sovereignty as a legitimating principle meant that governments could no longer behave monstrously to their populations without fear of sanction by the international community. As discussed earlier, this was a centuries-long development, though events surrounding the demise and end of the Cold War rejuvenated the claim that domestic governance is related to international governance and, therefore, the international community has a legitimate right to consider domestic issues. Specifically, the end of the Cold War shifted the security agenda and the ideological fault lines, and there was growing acceptance of the claim that most wars are internal wars, that internal wars almost exclusively occur within illiberal states, and that these internal wars can represent “threats to international peace and security.” This increasingly accepted causal logic and discourse gave international organizations opportunity and motive to become more thoroughly involved in domestic politics (Barnett, 1995; Mertus, 1998: 334).

UNHCR was not immune to these global developments as it quickly became more deeply involved in domestic affairs and increasingly noted that internal conflicts led to massive refugee flows and that refugee flows could trig-
ger regional instability and challenge “human security” (Ogata, 1999a, 1996b). But the factors driving UNHCR’s evident interest in the circumstances of the refugee-producing country was driven not only by charitable motives. Beginning in the late 1970s, states began demonstrating “refugee fatigue” and demanding that refugees go home as soon as possible. This strongly encouraged UNHCR to emphasize repatriation as the preferred durable solution, which triggered a growing interest in the factors that prohibited repatriation and were the root causes of refugee flows (see also, Mooney, 1999:204).

State Pressures

By the late 1970s, Western and Third World states were growing weary of the heavy burdens placed on them by the refugee regime and demanded a change. Western states were disturbed by the ever expanding number of asylum requests (Skran, 1992:8). Moreover, the profile of the typical refugee had changed. Whereas once he or she was from an Eastern bloc country attempting to escape to the West, now he or she was from the Third World and frequently attempting to gain entry to Western states for what these states viewed as illegitimate reasons. In response, they instituted their own brand of racial profiling and began denying asylum to more individuals and demanding a reform in asylum and refugee law in ways that restricted access (Hathaway, 1991:115). Third World states also were becoming increasingly intolerant of refugee flows and demands. In many respects, the reasons were highly understandable. After all, refugees impose tremendous financial, environmental and political costs, often times entangling the host country into an unwanted conflict with the refugees’ national government. As a consequence, many Third World governments were now rolling up the welcome mat, oftentimes stating that their ability to carry out their international legal obligations depended on assistance from UNHCR, wealthy states, and NGOs (“Note on International Protection,” August 27, 1990:6). There were an increasing number of refugees whose presence was barely tolerated, if at all, by states, and states were more actively engaged in what the High Commissioner referred to as a policy of “deterrence” (Executive Committee of the High Commissioner’s Programme, “Note on International Protection,” August 31, 1983:3).

Western and Third World governments now shifted decisively their preferences regarding the three durable solutions – away from resettlement and third country asylum and toward repatriation. And they expected an understanding UNHCR to play ball, which it did for a variety of reasons (Loesch-
cr, 1989:10). First, the growing number of refugees was creating a financial crisis for UNHCR who, in turn, became quite interested in reducing the increasingly expensive and numerous refugee camps (Pitterman, 1985:51–54; see also Gordeneker, 1981:78; Harrell-Bond, 1989:50–51; Stein, 1986: 279). Second, because fewer countries were willing to integrate and resettle the growing number of refugees, UNHCR had very little choice but to consider repatriation (see Hathaway, 1991:115; Harrell-Bond, 1989:45). To make matters worse, the reality was that states were refusing to honor asylum law and were forcibly repatriating refugees. UNHCR could sit on the sidelines with its principles, but a principle-bound UNHCR was no help to refugees who were in immediate danger. Only a thick-skinned or self-destructive organization would have been dismissive of powerful patrons and upon those whom it was dependent for resources and permission to act.

UNHCR officials admit that states were pushing them toward repatriation measures, but they also insist that there were desirable reasons for UNHCR to revise its “exilic” bias (interviews with UNHCR officials, Washington, DC and Geneva). Indeed, they assert that the “environment” of the Cold War and the circumstances of the refugees precluded them from considering repatriation, and, accordingly, when the environment and circumstances changed they rushed through the open door in order to do what refugees wanted. Moreover, UNHCR not only was influenced by state demands but also was persuaded by new developments in refugee law, refugee activities, and ethical understandings. The Cold War context had substantially shaped refugee law and the assumed desirability of asylum and resettlement. But now most refugees were from and in the Third World, who largely viewed their exile as temporary and who wanted to go home sooner rather than later. This development stimulated greater interest in new features of refugee law, including issues of repatriation, nonrefoulement and cessation clauses (Hathaway, 1991; Goodwin-Gill, 1996). Moreover, refugees were “spontaneously repatriating,” returning voluntarily to their home countries without the assistance of UNHCR or other relief organizations. As such, UNHCR began initiating activities to hasten and ease their reintegration and debating when it was safe for refugees to return (Cuny and Stein, 1989). Finally, whereas once it was believed that asylum was the most humane solution to the plight of the refugee, an increasingly popular view was that repatriation was the most desirable and humane alternative given that it helps the individual return “home” (Frelick, 1990; Warner, 1994). The legal, institutional and ethical climate was more oriented toward repatriation. The grow-
ing emphasis on repatriation led to considerable interest in the conditions in the refugee-producing country that represented an obstacle to repatriation and that caused refugee flight. UNHCR began slowly, simply escorting refugees back home to ensure that they had a “safe and dignified” return. Then it introduced “quick impact projects,” which were designed to make it economically attractive to return and desirable to stay. After that UNHCR began to insinuate itself into the political situation of the refugees, becoming a more forceful spokesperson for the rights of minorities and peoples. As one UNHCR official reflected, “We used to give them seeds and supplies and a handshake at the border, but now we are increasingly involved in the economic, political, and human rights situation of the home country” (interview with UNHCR official, January 28, 2000).

Furthermore, the newly formed conceptual marriage between repatriation as a durable solution and repatriation as a form of protection encouraged greater interest in preventing refugee flows, getting at their root causes, and lobbying for State responsibility (on prevention, see Chimni, 1993:444 and Frelick, 1993; on root causes, see Coles, 1989:203 and Executive Committee of the High Commissioner’s Programme, “Note on International Protection,” August 31, 1983:2; on State responsibility, see “Note on International Protection,” August 27, 1990:8). Although these concepts attended to different facets of refugee flows and solutions, they shared an interest in: 1) reducing the causes of refugee flows, which were frequently attributed to “violations of human rights and, increasingly, by military or armed activities” (Executive Committee of the High Commissioner’s Programme, “Note on International Protection,” August 31, 1983:2); and 2) making sure that those refugees that were repatriated stayed at home. In general, UNHCR began to supplement “activities related to traditional forms of protection...with increased activities within countries of origin. These have a dual purpose: to ensure the durability of the solution of voluntary repatriation through respect for fundamental human rights and the restoration of national protection for returnees; and to seek to prevent arising conditions which could leave people no choice but to flee” (“UNHCR’s Protection Role in Countries of Origin,” March 18, 1996, EC/46/SC/CRP.17, p. 1; see also Executive Committee of the High Commissioner’s Programme. “Annual Theme: The Pursuit and Implementation of Durable Solutions,” August 30, 1996, p. 2. A/AC.96/872).

By 1990, UNHCR began to legitimate its involvement in the circumstances of refugee-producing countries because of the apparent link between
refugee flight and threats to international peace and security (“Note on International Protection,” August 27, 1990:7). This was not mere conjecture. In an age where internal conflict was leading to massive refugee flows that caused regional instability, and where the displacement of populations was not simply a tragic by-product of war but rather was its intended effect, there were good reasons to see refugee flows as a cause and consequence of domestic and regional turmoil. Largely because there were more refugees fleeing due to civil wars and more individuals who were being denied the right of asylum, beginning with the 1991 Iraq War and then blossoming with Bosnia UNHCR began to bring relief to displaced peoples instead of waiting for displaced peoples to step over an international border.

One debate within UNHCR was whether it could maintain its humanitarian and apolitical standing given its growing involvement in the affairs of refugee-producing countries (Coles, 1989:211). UNHCR was long aware that measures might and should be taken to reduce the factors that caused refugee movements, but its humanitarian and nonpolitical character prohibited it from becoming too intrusive. Now there seemed no turning back. According to the High Commissioner, while some championed this activist role others feared that it would compromise its humanitarian work and enmesh it in political disputes. The High Commissioner preferred to find a middle ground, one that defined as humanitarian any action that increased the well being of the individual while avoiding those controversies that were highly political and best handled by states (Coles, 1989:244–45). As a consequence, humanitarian assistance could include prevention, which was always preferable to the cure, and the attempt to foster respect for human rights, for this would help reduce refugee flows.

This response might have caused a political uproar before the 1990s, but not afterwards. UNHCR suddenly found itself carrying out new humanitarian tasks in highly unstable domestic environments, forcing justificatory action to catch up with emerging practice. In 1991, UNHCR’s Working Group on International Protection considered whether it could maintain its apolitical credentials alongside its growing involvement in the refugee-producing country. It offered four observations and conclusions. First, “the evolution of UNHCR’s role over the last forty years has demonstrated that the mandate is resilient enough to allow, or indeed require, adaptation by UNHCR to new, unprecedented challenges through new approaches, including in the areas of prevention and in-country protection.” Refugee rights, the document noted, are part and parcel of human rights; thus, UNHCR’s role
as protector of refugee law legitimates its growing concern for the violations of human rights that lead to refugee flows. Second, UNHCR’s humanitarian expertise and experience has been recognized by the General Assembly as an appropriate basis for undertaking a range of activities not normally viewed as being within the Office’s mandate” (“Note on International Protection.” August 25, 1992:4). Third, “the High Commissioner’s non-political mandate requires neutrality;” but “neutrality must be coupled with a thorough understanding of prevailing political and other realities.” Fourth, whereas once humanitarianism meant avoiding the political circumstances within the home country and honoring the principle of noninterference, it soon began to include aspects of the state’s internal affairs. UNHCR properly noted that it was not violating state sovereignty because it was operating with the consent of the state (except in those circumstances where there was no state to give consent), but there was little doubt that what was permissible under the humanitarian label had significantly expanded (see also Gilbert, 1998:356).

**HUMANITARIANISM AS CONTAINMENT**

Because of pragmatic and principled forces by the early 1990s UNHCR was quickly becoming more deeply enmeshed in the internal affairs of states. Pragmatic forces were pushing UNHCR to consider repatriation as the durable solution if only because states were less willing to harbor refugees. Principled arguments were now more warmly received because of the emerging legitimation principle of popular sovereignty. But a humanitarianism that was imprinted by pragmatic and principled considerations could become a disfigured humanitarianism if it meant that states were willing to expand the humanitarian agenda because of their unwillingness to shoulder their traditional obligations under refugee law. The desire to get displaced peoples of all kinds, regardless of whether they were on one side or the other of an international border, could mean that states were willing to help the internally-displaced because they were not giving individuals the opportunity to flee across a border and seek asylum. The desire to eliminate the root causes of refugee flows, a noble sentiment without doubt, could mean that individuals would be discouraged from fleeing a country that was improving and safe. This expanding humanitarian agenda, in short, could erode the traditional protection guarantees and rights given to refugees and become part of a system of containment. If so, humanitarianism could become the foe of refugee rights.
Repatriation, Voluntary and Involuntary

A twenty year long debate in refugee protection concerns how to balance the impulse for repatriation with refugee rights. The Executive Committee (EXCOM) of the UNHCR increasingly espoused a positive view of repatriation, encouraged UNHCR to create the conditions that enabled repatriation, claimed that refugee rights had to be balanced against the rights of states and peacebuilding initiatives (Executive Committee of the UNHCR, Conclusion 18, XXXI, 1980), and then, in 1997, declared that “any increased incidence of voluntary repatriation is a positive development” (UN doc. A/AC.96/887, September 9, 1997). Although these discussions tried to balance the desire for repatriation with the principle of nonrefoulment and voluntary repatriation, these discussions incrementally but decisively led to a relaxation of the safeguards before repatriation and a changed meaning of voluntary repatriation (Goodwin-Gill, 1989: 263–65; Harrell-Bond, 1989:44–45; LCHR, 1991:61).

UNHCR also wrestled with how to reconcile its newfound preference for repatriation with its longstanding protection and assistance mission and how to ensure that repatriation did not undermine the principles of voluntary repatriation and nonrefoulment (LCHR, 1991: 3). This debate began in earnest in the 1980s, but became more pressing during the 1990s when UNHCR had to consider refugee repatriation to post-conflict situations that were far from the ideal conditions usually prescribed. The divisions over how to balance the pressure to repatriate with the principle of voluntary repatriation are typically portrayed as comprising of fundamentalist and pragmatist camps. Fundamentalists maintained a more legalistic approach that suggested a human rights orientation toward refugee rights and decried moderating moves toward repatriation as coming at the expense of the UNHCR’s unique role as the agent of the refugees and compromising its independence vis-a-vis governments. Pragmatists argued the case for allying with governments, held a more expedient, political and pragmatic view of refugee law if only because they feared that ignoring systemic trends and pressures might compromise UNHCR’s overall effectiveness, and believed that the organizational and doctrinal shift in favor of repatriation righted a defect in the system that tended to privilege protection officers who were legally oriented and lacked detailed knowledge of the region over those who had area expertise (LCHR, 1991:18, 117–119; Coles, 1989:399; Weiner, 1998:442–43).

Steadily and ultimately, UNHCR became much more favorably disposed toward repatriation, that return will and should happen under less than ideal circumstances, and that UNHCR must and should actively promote repatri-
Repatriation was no longer a permanent solution but was now the durable solution. Repatriation now became tantamount to protection. UNHCR’s organizational chart was restructured so that regional offices that held more pragmatic views no longer had to report directly to a Protection Division that saw itself as the “priest of principles.” UNHCR began to develop new norms and rules that made desirable and proper repatriating under less demanding conditions and to introduce new terminology and categories of safe return that clearly differentiated repatriation under ideal conditions from repatriation under less than ideal conditions.

Most important, what voluntary meant in voluntary repatriation began to alter. Voluntary repatriation demanded that the refugee consent to return to a country that in his or her view no longer represented a threat to his or her safety. But UNHCR officials began introducing new concepts like “voluntariness” that meant that refugee consent was no longer necessary and that the home situation need only have appreciably improved or held out the promise of improving. This development was partially driven by pressing circumstances as UNHCR officials increasingly found that it was nearly impossible to ascertain consent from thousands of people and that post-conflict situations provided the possibility for safe repatriation under less than ideal conditions.

However understandable, the emergence of voluntariness meant that refugee assessment of the situation or consent to repatriation was no longer necessary, leading to the possibility that UNHCR officials might violate traditional refugee rights in two important respects. First, there was no longer the requirement that the home situation had improved appreciably and no longer represented a threat to the safety of refugees. Less than ideal conditions can be a euphemism for the simple fact that refugees are being asked to return to a situation that remains highly volatile and the pathogens of threat remain in the environment. There are any number of reasons to justify return under less fortunate circumstances. In a world where ultimate protection is bound up with the preferred durable solution of repatriation, repatriation and protection become kissing cousins. Such discursive coupling is facilitated by the stark recognition that exile and camp life represents no safe haven. Camp life is almost always unstable and insecure and contains no hope for the future; repatriation is almost by definition a more desirable outcome assuming that the situation at home has marginally and steadily improved. Also, knowing
that other durable solutions are unavailable and that the only solution is return, UNHCR officials are poised to think about the minimal conditions that are required before repatriation can proceed and encouraged to create those conditions if they do not presently exist. The result is that repatriation can occur under less exacting standards, and refugees can be encouraged to return to a situation that resembles the one that triggered their flight.

Second, refugees are no longer required to provide informed consent before UNHCR authorizes a repatriation exercise. As UNHCR officials concede, its determination to promote repatriation is based not only on the refugees’ preference but more fundamentally on UNCHR’s objective assessment of whether life was better at home relative to life in the camps. Refugees, in this view, cannot objectively assess the situation, that is, take into account first the short and long-term prospects of the situation at home relative to the situation in the camps and second for how long UNHCR officials might be present and able to maintain some necessary safety features (Chimni, 1999). But where protection increasingly becomes tantamount to repatriation, UNHCR officials are increasingly of the view that getting refugees home, even to highly unstable situations, is preferred and legitimate. The moral benchmark is no longer whether the totality of rights available to refugees are defended and honored but rather whether one course of action is more likely to provide better protection to refugees – according to UNCHR’s assessment.

UNHCR might well be correct that refugees should repatriate under less than ideal conditions because their circumstances will become even less ideal if they remain in exile. But the issue at hand is whose voice counts and what calculations are used to determine the efficacy of repatriation. The shift away from absolute standards regarding the desire by refugees to repatriate given their assessment of the situation in the home country toward a comparative evaluation by agency officials regarding whether refugees would be more secure at home or in the camps has the direct implication of privileging the agency’s knowledge claims over those offered by refugees. A consequence of these changes is that the principle of voluntary repatriation has been stretched to its finite limits. As one high-ranking UNHCR official confessed, “Definition of voluntariness has been stretched to the point that it violated refugee rights and informed consent …. That is a statement of fact” (interview in Geneva, January 28, 2000).

While state pressures have certainly encouraged this development and might very well force UNHCR to choose between the “least bad” alternatives, UNHCR also bends principles even in the absence of compelling pressures.
This was clearly evident in the case of the Burmese Rohingyas in 1994–95, and it is noted in other instances over the years (see, e.g., Stein, 1986; Zieck, 1997:434; Cuny and Stein, 1989:306; Goodwin-Gill, 1989:274; Crisp, 1984; Human Rights Watch, 1997:5–12). UNHCR’s repatriation culture, in short, creates more permissive conditions for any single exercise. The result is that it is more likely that the principle of voluntary repatriation will be stretched to the point that it violates traditional refugee rights – yet retains an ethical and proper quality because it enables UNHCR to give refugees the ultimate form of protection, repatriation.1

In-Country Protection and Reintegration

UNHCR’s emerging concern with the causes of refugee flows and willingness to become more involved in the lives of the returnees is a positive development in many respects. But the growing involvement in in-country protection contains several dangers that revolve around whether individuals might be discouraged from fleeing and thus exercising their right to seek asylum (Frelick, 1993; Barutciski, 1996; Weiss and Pasic, 1996; Cunliffe and Pugh, 1999:191). Such a possibility was readily acknowledged by the High Commissioner, who observed, “In-country protection, e.g., through the establishment of internationally guaranteed safe zones, however, needs to be weighed against the rights of individuals to leave their own country, to seek and enjoy asylum or return on a voluntary basis, and not be compelled to remain in a territory where life, liberty, or physical integrity is threatened” (“Note on International Protection,” September 9, 1991:10). While this might be a legitimate fear, the High Commissioner reassured that “the object of prevention is not to obstruct escape from danger or from an intolerable situation, but to make flight unnecessary by removing or alleviating the conditions that force people to flee” (“Note on International Protection,” August 31, 1993:10). For many observers this danger is not simply latent, it also is manifest.

There is another danger that derives from UNHCR’s increasingly common situation where it stands on one side of the border advocating a repatriation under less than ideal circumstances and on the other side of the border determining whether the conditions at home are improving or safe. Simply

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1Further evidence of this repatriation culture is UNHCR claim that repatriation is in and of itself a “success,” and that repatriation is presumed to be the best way to protect refugees even though there have been few studies that have evaluated what has happened to those who have repatriated, see Chimni, 1998:364.; Bascom, 1994; Rogge, 1994.
put, UNHCR has a possible conflict of interest. UNHCR claims that repatriation represents a key way to protect refugees in the long run, is the most desirable solution to refugee problems, and can occur under less than ideal conditions. The result is that repatriation is highly dependent on a (marginally) improved situation in the refugee-producing country. Yet if the assessment given by refugees is no longer the most important factor, then whose voice counts? UNHCR increasingly claims that it can objectively survey the situation, a capacity that is enhanced by its presence on the other side of the border. The result is that UNHCR might be tempted to oversell its capacity to monitor the return and the overall political situation at home in order to encourage repatriation under less than ideal conditions.

This very development occurred in the case of the Rohingyas of Burma. In the early 1990s, nearly 250,000 Burmese Rohingyas fled for Bangladesh, who quickly demanded their immediate repatriation. UNHCR signed a Memorandum of Understanding (MoU) with Bangladesh that stipulated that the refugees could be repatriated under less than ideal conditions and as soon as possible and another MoU with Burma that allowed UNHCR to monitor the return and reintegration. UNHCR then proceeded to authorize a repatriation exercise on the grounds that Burma was better than it was and that because it now had a presence in Burma it had a rare opportunity to help reintegrate and protect the returnees.

UNHCR claimed that Burma was better. But was it, and who was to say? There were two disturbing features associated with its claim. First, UNHCR’s ability to judge accurately the situation was highly suspect given its limited knowledge. When in June 1994 it was asserting that the human rights situation had improved, UNHCR had few staff in the field, a difficult time monitoring all of the remote villages and towns, and was nearly always accompanied by SLORC on its rounds. In addition, UNHCR offered its appraisal of the situation in Arakan without a more comprehensive assessment of the situation in Burma or incorporating the damning reports by the UN Human Rights Commission (Petrasek, 1999:8; MSF/H, 1997:21). As a consequence, UNHCR potentially held a distorted picture of the human rights situation, a distortion that made the Burmese regime seem less brutal than it was because it based its evaluation on the limited observations of its field officers. Still, the mere presence of UNHCR put it in a very powerful position to judge whether the information regarding abuses was accurate or not (HRW, 1996:15). The moral of the story is that an agency that advocates repatriation under less favorable circumstances might not be the best judge of the human
rights situation in the refugee producing country (see also Cunliffe and Pugh, 1999:198, Goodwin-Gill, 1999:243).

Once the refugees returned, UNHCR is rumored not only to have encouraged them to stay but discouraged new flight, to the point that it potentially violated their right to seek asylum. This had several dimensions. UNHCR officials reportedly refused to give bona fide displaced peoples refugee status. Although UNHCR was on record as saying that life had improved in Burma, Rohingyas were continuing to flee, often times including those who had recently repatriated. UNHCR officials explained this continued flight by pointing to push and pull factors: these were very poor people who also tended to migrate during the dry season, and they were attracted to the welfare provisions provided by refugee camps. UNHCR officials were reluctant to classify these people as refugees because their desire to leave was primarily motivated by economic factors, and UNHCR feared that classifying them as refugees and giving them the assistance that comes with some classification would only encourage more flight (Petrasek, 1999; interviews with UNHCR officials; USCR, 1996:3, 7; Amnesty International, March 5, 1997). NGOs and local populations rebut this explanation on two grounds: while economic factors certainly played a role in the decision to flee, the Rohingyas’ deteriorating economic condition is connected to their standing as a persecuted minority and to human rights violations (USCR, 1996:7; MSF/H, 1997:10); moreover, UNHCR officials failed to actively seek out new asylum seekers, thus making it less likely that they would receive refugee status. In these and other ways, UNHCR reportedly encouraged individuals to stay at home by making it more likely that those who fled would not receive a fair asylum hearing or gain refugee standing.

The case of the Rohingyas is related to an increasingly common situation where UNHCR’s provision of in-country protection might inadvertently discourage individuals from exercising their right to seek asylum. There are now a host of concepts, including preventive protection and internal flight alternatives, that are essentially designed to discourage flight and to bring safety to people rather than people to safety. This logic operated in Bosnia in 1992 and with the Rohingyas in Burma 1994 (Barnett, 2000; Landgren, 1998:427). While these conceptual and operational innovations can be defended on the grounds that they represent pragmatic responses to an environment that increasingly forces UNHCR to choose between the “least bad” of alternatives, they also can have the (unintended?) effect of discouraging flight because they are intended to provide an alternative to exit (Mertus, 1998; Goodwin-Gill, 1999).
Such a possibility is more probable when UNHCR becomes involved in peacebuilding activities (Ogata, 1999b; see also Gilbert, 1998: 165; McRae, 1999). UNHCR is on record as believing that repatriation can occur under less than ideal conditions, and a logical extension of this claim is that the conditions that can reasonably justify the decision to flee have been tightened. A consequence is that UNHCR might be tempted to discourage individuals from seeking asylum if it, along with other agencies, is actively involved in trying to improve the domestic political situation – a tendency reinforced by the knowledge that relief can be provided to those still within their country. The result is that UNHCR might find itself compromising its protection role as it provides in-country assistance and delivers humanitarian aid; principles yield to pragmatism and political expediency (Gilbert, 1998:365–66). Although UNHCR might still be able to provide in-country protection without necessarily sacrificing refugee rights, even its defenders recognize this danger (Mooney, 1999:216).

Who is a Refugee?

Before the 1990s, displaced peoples would have to cross an international border before they could expect UNHCR assistance and protection. Many within the agency and various private aid agencies argued that this was an arbitrary distinction; after all, they should be in the business of helping displaced populations because of similar circumstances and not only those who somehow passed a territorial marker. UNHCR intermittently looked after IDPs during the pre-1990 period (though it refused to categorize them as refugees) because of exceptional circumstances and in those instances when refugees intermingled with IDPs. But any whisper that UNHCR should take on the mandate for IDPs was quickly and roundly muzzled by a supramajority of UNHCR officials who worried about becoming more entangled with domestic politics, diluting their protection mandate, and giving states another opportunity to backtrack from refugee rights, and of state officials who balked at sanctioning an open-ended commitment that threatened state sovereignty (Goodwin-Gill, 1996:11, 14; LCHR, 1991:55; see also Gilbert, 1998:362–64).

States began to soften their stance because of two factors (see Cohen and Deng, 1998:3–6, for a list of factors). One was a humanitarian ethos. Events surrounding the end of the Cold War, notably the end of empires and outbreak of civil wars, led to the mass movements of populations, some of whom crossed an international frontier and many of whom had not and could not.
In terms of gross numbers, nonconvention “refugees” were dwarfing conventional refugees after the 1980s, but they were not deemed as legally and administratively part of the international community’s protection mission. These displaced peoples were now making front page news, and the “CNN effect” was seemingly pulling the international community directly to their side (Cohen and Deng, 1998:3–6).

State interests were the other factor. Specifically, states were insisting on repatriation as the durable solution and on a more restrictive definition of refugee (back to the 1951 definition) at the very same moment that the end of the Cold War had triggered a dramatic increase in the numbers of displaced peoples. The question was: how were states going to reconcile their desire to narrow the doorway without completely turning their backs on their humanitarian commitments? Comparable to the self-interest singed by humanitarianism that led to the initial establishment of the category of refugee, many states decided to sanction IDPs because they wanted to be released from other obligations under international refugee law (Hathaway, 1991:115–16). The turning point came with the Gulf and Yugoslavian Wars. In the first instance, Turkey refused to give comfort to a Kurdish population that it viewed as a potential fifth column, and so UNHCR and other member states assisted the displaced in the mountains of northwestern Iraq. The wars in Yugoslavia created several waves of refugees, many of whom sought shelter from European countries. The European countries, however, limited the numbers. Denied the exit option, these victims of war were at immediate risk. Not wanting to appear completely heartless, the European states encouraged UNHCR to provide relief to these internally-displaced populations (Weiss and Pasic, 1996; Barutciski, 1996; Cohen and Deng, 1998:55). In short, states slowly approved the concept of IDPs not because of an abundance of humanitarianism but because of its very absence.

UNHCR officials have had mixed reactions to these developments. In stylized terms, pragmatists favored an expanded definition and wanted to help the displaced based upon their circumstances and not their locations, and fundamentalists feared that an expanded definition would make it easier for states to avoid their obligations under refugee law and would dilute UNHCR’s core mission. The debate within UNHCR continues today, most recently triggered by U.S. Ambassador Richard Holbrooke’s off-the-cuff remark that UNHCR should be given the mandate for all displaced peoples and the response by UNHCR that it would continue to help IDPs on a case-by-case basis but had little interest in expanding its bureaucratic reach.
The debate over the development of the category of the IDP and its implications for UNHCR highlights that such developments precipitate reconsideration of the meaning of sovereignty and raise potentially troubling concerns for traditional refugee rights. Many have observed that it is impossible to consider IDPs without taking up the question of sovereignty. For instance, in their report from a recent workshop on IDPs in Africa, Crisp and Mooney (1999:474) write that the conference “agreed on the need to reconceptualize the traditional notion of sovereignty. Rather than being used as a means of resisting internal or external scrutiny, sovereignty should be perceived in terms of the duties of all states to protect and respect the rights of their citizens and promote international peace and security.”

Although UNHCR might be encouraging states to take more responsibility for their citizens as it becomes more deeply involved in tending to the internally-displaced, UNHCR also is in danger of hollowing out refugee rights. This is possible in at least two related respects. Now that there is an internationally recognized category of IDPs, the expectation by many states is that individuals seeking safety have alternatives to exodus and should be encouraged to stay at home. UNHCR is rumored to oblige state desires. Moreover, when UNHCR tends to IDPs it typically provides assistance — and not protection. The result is that it is accused of failing to speak out on protection matters for fear of jeopardizing its assistance capacity (Cohen and Deng, 1998:165, 256–57). In this way, the concept of IDP joins with other categories that are essentially designed to limit the possibility for flight, to build a general system of containment. For instance, at the 1993 Excom meeting, Ogata stated that the UNHCR should become involved in internally-displaced only when specifically requested by the UN, when IDPs are intertwined with refugees, and when involvement might help to prevent a refugee flow (Cohen and Deng, 1998:130, 170). While the former claim links up to a humanitarian ethos, the latter links to a system of containment.

In general, UNHCR’s shifting humanitarian mandate is potentially checkered with advances and setbacks for refugees and their rights. UNHCR’s developing involvement in the internal affairs of states, the desire to eliminate the root causes of refugee flows, the desire to give refugees an alternative to fleeing their homes, and the interest in getting them home as quickly as possible can all be seen as progressive shifts in the humanitarian agenda. But these developments also join up with a sovereignty-driven humanitarianism that can curtail the rights and numbers of refugees. The result is that humanitarianism can become implicated in a system of deterrence and containment.
The Future

The circumstances surrounding UNHCR’s birth and the environment in which it developed have clearly influenced its personality and practices. States schooled UNHCR so that it would know its place in the sovereign system of states and the limits of states’ humanitarian sentiments. But environmental changes, including the increasing legitimation principle of popular sovereignty, have expanded considerably UNHCR’s humanitarian space. This represents both good news and bad news. The good news is that UNHCR’s field of humanitarian vision has widened to the extent that it can now extend protection inside the border’s edge, bring safety to people, and consider how to eliminate the root causes of displacement. The bad news is that UNHCR has been given this license to look inward because states are less willing to give asylum to and harbor refugees. “Actual living humanitarian” can be Janus-faced, and UNHCR is discovering that sometimes being a humanitarian agency means selling short protection principles (see also Goodwin-Gill, 1999:242–43).

UNHCR and other international organizations are shaped by their environment. Global governance, to the extent that we are interested in governance, is always about power backed (ideally) by legitimacy, and Northern states retain the economic, political and cultural power in world politics. In this formulation, UNHCR’s role is bound up with a global governance that is designed to maintain and reproduce an international order defined by a states system (sovereignty), whose principal beneficiaries are Western states (contain the refugees), and that contains a cultural hegemony (liberalism and individual rights). Within reason, UNHCR’s activities (and the activities of any international organizations, for that matter) can be traced to these global features. UNHCR’s practices have always been mindful of sovereignty, though the prevailing understanding of sovereignty has shifted over the years. UNHCR has been understandably sensitive to the needs of the powerful states, and such matters have duly shaped its “pragmatic” character. The global, secular religion is liberalism, and as UNHCR seeks ways to eliminate the root causes of refugee flows it nearly always reaches for a liberal solvent. We should not be surprised, therefore, that UNHCR’s pragmatism and principles have led it develop a profile of humanitarianism laced with containment.

The claim that UNHCR’s activities reflect its environment does not mean that UNHCR has no autonomy, for it does. It has autonomy deriving in part from the fact that there is always slack between the agent and the principals, from its role as protector of refugee law and individuals who fall
between the protection of national states, and from its standing as a bureaucratic organization that is increasingly viewed as an authority and lead agency over refugee matters (Chimni, 1998; Barnett and Finnemore, 1999). The new humanitarianism, moreover, has concentrated more power and authority into the hands of humanitarian agencies in general and the UNHCR in particular. As the lead agency in refugee matters and as the world’s foremost expert on refugees and displaced peoples, UNHCR is conferred authority. As an agency that is increasingly involved on both sides of the border, UNHCR is serving as the executor of repatriation programs, the \textit{de facto} human rights monitor, and as a humanitarian trustee. This implies the centralization of power and authority in the hands of UNHCR. This can all be for the good. After all, UNHCR has repeatedly demonstrated a willingness to stand up to powerful states when, in its view, they violate refugee law and endanger refugee lives. It takes seriously its role as the guardian of refugee law and the displaced.

Yet over the last decade we have become more savvy (and some would say cynical) about the practices and effects of humanitarianism. We are now disabused of the grand conceit that humanitarianism is apolitical, and we recognize that it is deeply political and therefore can be associated with good and bad (Cutts, 1998:5). Humanitarian international organizations are increasingly aware that their noble actions can be exploited by local actors for ulterior and malevolent purposes, that principles like neutrality and impartiality which justify passivity and in action are forms of intervention can contribute to unwanted outcomes, and how the very process of choosing between moral dilemmas is a political act that privileges one set of values and outcomes over another.

But the unsavory features of the new humanitarianism go beyond these observations to include a consideration of the various roles played by these organizations in global politics, how they are containers of centralized power and authority, and whose “pragmatism” can be disturbingly disconnected from those in whose name it acts. Whereas once we likened humanitarian agencies to white knights on muscled steeds charging to rescue the powerless and weak, we are more aware that these knights also are interested in mundane activities such as career advancement, protecting the agency’s reputation and cultivating the largess of patrons, and are likely to use political and pragmatic considerations to navigate the moral dilemmas that populate complex emergencies. We are less willing to take the rhetoric of and presentation of self by humanitarian international organizations at face value and more likely to
wonder whose interests are being served by any set of policies. We now recognize that states can be humanitarians and that humanitarians can be cunning politicians. None of this means that we need to be saved from our saviors. But it does suggest that asking more about the activities of those who are expected to carry out our principles is not only good politics, it also is sound humanitarianism.

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