UNHCR and the politics of refugee repatriation.

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UNHCR and the Politics of Refugee Repatriation

By

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A Thesis
Submitted to the Faculty of Graduate Studies and Research
Through the Department of Sociology & Anthropology
In Partial Fulfillment of the Requirements for
The Degree of Master of Arts at the
University of Windsor

Windsor, Ontario, CANADA
2003

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ABSTRACT

This thesis critically examines the politics of refugee repatriation. Informed by a conceptual framework that draws on the concepts of "risk" (Beck 1992) and "governance" Rose (1999), the thesis investigates the United Nations High Commissioner for Refugees (UNHCR's) risk and governing discourses. It problematizes and rejects UNHCR's treatment of refugees "as a security risk" as well as its governing discourses and practices of "repatriation" and "containment". It advances a new perspective for understanding the politics of refugee repatriation and the governing dimensions associated with such politics.
DEDICATION

I dedicate this work to all those refugees who have been victimized by aggressor states and by the "morally" questionable and socially unjust involuntary repatriation practices of the UNHCR and its global partners. Especially remembered are those repatriates, known to have 'disappeared'.
ACKNOWLEDGEMENTS

I am heavily indebted to the invaluable support provided me by many people for making this thesis a reality. First and foremost, my heartfelt gratitude to the thesis committee members and my teachers, Drs. Suzan Ilcan, Barry Adam, and Valerie Scatamburlo-D’Annibale, for being there for me from start to finish. I am particularly indebted to my supervisor – Dr. Ilcan, for her selfless and generous support in every way possible, including a provision of research assistantship to make campus life less stressful. The academic input that she provided has been very helpful to this work. Dr Adam and Dr Scatamburlo-D’Annibale’s critical feedbacks have been extremely helpful and I thank them for this. I thank Dr. Tom Najem for temporarily filling in as an outside reader during my thesis proposal defense in November 2002, Drs. Bob Arnold and Anita Lacey for reading a draft of my thesis and providing valuable feedbacks.

Other people I would extend my thanks to and without whose emotional support this thesis would not have been possible include my longtime friend and sweetheart Beza G/S, my best friends: Y. Lambe, her husband T. Tapper, and B. Prinzevski (Bill). Special thanks also goes to dearest friends from the Ethiopian Community in Toronto and elsewhere, especially to Mesfin M. and Mersha Y., and the rest, you know who you are, who have provided me with first hand information about refugee life from their own and others’ experiences in the Sudan and elsewhere.

Finally, it would be unjust if I fail to thank two departments at the University of Windsor: the Financial Aid office for understanding my health problems and supporting me financially; and the staff at the department of Sociology and Anthropology, for making the study environment as painless as possible through their true support. Their involvement in social justice issues is especially inspiring.

M.T.A
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ABBREVIATIONS

AI: Amnesty International

CAD: Countries of Asylum and Donors States

CO: Countries of Origin (for refugees)

CST: Critical Systems Thinking

DPs: Displaced Persons

EPRDF: Ethiopian Peoples’ Revolutionary Democratic Front (See also: TPLF)

EPLF: Eritrean Peoples’ Liberation Front

EPRP: Ethiopian Peoples’ Revolutionary Party

EPZs: Export-Processing Zones

EU: European Union

ExCom: Executive Committee of the UNHCR

HCR: High Commissioner for Refugees

ICRC: International Committee of the Red Cross

IDPs: Internally Displaced Peoples

IMF: International Monetary Fund

IOM: International Organization for Migration

IPE: International Political Economy

IRO: International Refugee Organization

MAI: Multilateral Agreements on Investment
**NATO**: North Atlantic Treaty Organization

**OLF**: Oromo Liberation Front

**QIPs**: Quick Impact Projects.

**SAPs**: Structural Adjustment Policies

**SPLA**: Sudanese People’s Liberation Army

**TPLF**: Tigrean Peoples’ Liberation Front (See also: EPRDF)

**TRIPs**: Trade-Related Intellectual Property Rights

**UN**: United Nations

**UNDP**: United Nations Development Project

**UNESCO**: United Nations Educational, Scientific & Cultural Organization

**UNHCR**: United Nations High Commissioner for Refugees

**UNHCHR**: United Nations High Commissioner for Human Rights

**UNRRA**: United Nations Relief and Rehabilitation Agency

**UNSC**: United Nations Security Council

**VRP**: Voluntary Repatriation Program

**WAP**: War Affected People

**Warsaw Pact**: Alliance of the Socialist Camp in Europe

**WFP**: World Food Program

**WTO**: World Trade Organization
Chapter -1

INTRODUCTION

In the speculations and pragmatics of political and scientific realism of liberal modernity, three central themes have occupied contested terrains of risk and governing. First, the "manufacture" and "embrace" of risk (political, military, economic, ecological, psychological, physical, etc.,) through risk analyses and regulation regimes of politics, economics, science, and the sociologies of governance (Beck 1998; Hood, Rothstein, and Baldwin 2001; Simon 2002). Second, the social construction of difference (racial, gendered, ethnic, economic, social, cultural and political) of marginalized others as "deviants" or as "the enemies that irritate, mark others off, insult, prepare for violence and generate angst until what they speak of actually happens" (Beck 1998: 143-45). And finally, the production of exclusionary claims of interests and "regimes of truth" rationalized and legitimated through a single set of "morals" and "norms" (Rose 1999); from which "difference has been derived, has happened, is to be mastered and governed" (Derrida 2000: 91). These problematic features of governing largely pertain to the Western liberal political and economic thought in general. The UN and its specialized agencies like the United Nations High Commissioner for Refugees (hereinafter – UNHCR), as products of the post-Second World War liberal utopia of peace and cooperation, have not been spared of implication with such problematic practices. Refugee issues, beside others in international relations, have served as the loci of such implications as variously argued by authors, such as Dacyl (1996), Sassen (1998), Goodwin-Gill (2001), Barnett (2001), Loescher (2001) and Keely (2001).

Deep-seated within the three problematic discourses of governing, one finds that there are three vital interests: the states' sovereign, big business' economic, and the political elites' governing. As would be shown later, claims to such interests have and continue to interfere with the human and political rights
of refugees. It was mainly through such discourses and rationalization of interests that the UNHCR decided to make the fatal shift in the 1990s to the nation-states' security discourses of "repatriation" and "containment" of refugees by abandoning its Conventional and principled, yet contradictory, mandates of "protection" and "assistance/aid". What events were responsible for this deadly shift and its impacts on the lives of the 12 million or so refugees involuntarily returned to their countries of origin? Whatever happened to the 'protection' principles of the 1951 refugee Convention and the 1967 Geneva Protocol? Are the contradictions resident within the refugee Convention itself, for example, between "protection" and "aid", partly responsible for UNHCR's 1990s political behavior, or was it really the end of the Cold War and regional security issues, as often claimed by the organization, which became the terminus for such a decision?

The provision of 'aid' to refugees, argues Bakewell (2002: 229), may undermine "protection and even result in threats to it arising from UNHCR itself. Measures required to facilitate the provision of 'protection' can diminish the quality of the aid provision, particularly from a developmental perspective".¹ The security discourses, on the other hand, appear to be straightforward. They do not carry dubious meanings, as are well within the scope of the three problematic discourses of governing. They are reflective of issues of power, domination and authority, which came to dominate global politics during the chaotic post-Cold War era.

Issues of "power, dominance, and authority", writes Beck (2001), "have always been central to the problems of governing". Today, they come, not from one, but from two sources: the state, as the instrumental or enabling power, and

¹ Note that UNHCR's Quick Impact Projects (QIPs) fall within this category. Such projects did not go beyond the provision of a one-three month ration and the building of cheap slums in places that are alien to the returnees, example in the Eritrean case, which created tensions and impasses between the Eritrean government and the UNHCR. The main problems with QIPs is the UNHCR's disregard of the largely constructive role of international organizations like UNDP, ICRC and the like, and its dealings with the problematic IGOs like World Bank. Therefore, this effort
big businesses, as the structural power. As the new global economic power, TNCs "have conquered the world through the principle of extraterritoriality or trans-nationality; investment capital is the equivalent of firepower—with the big difference that the threat of not firing enlarges this power" (Beck 2001: 83). This suggested that the 40,000 or so TNCs around the world now carry a more lethal weapon than the military arsenal of the two hundred eighty or so states. Largely responsible for TNC domination is neo-liberalism's embellished economic globalization with its deadly impacts mostly on the South. The effects of economic globalization and TNC domination are not limited to the South only, as many in the North have became more marginalized as their livelihoods became precarious. The very principle of state sovereignty is also much questioned.

Such a critical appraisal of the world political economy, as Beck's, has, and remains to be, central to some of the main arguments advanced by critics of globalization such as Sassen (1998), Appadurai (1996), and Baxi (2001). In the introduction to her influential work, *Globalization and its Discontents*, for instance, Sassen writes that:

The global economy materializes in a worldwide grid of strategic places, from export-processing zones to major international business and financial sectors. We can think of this global grid as constituting a new economic geography of centrality, one that cuts across national boundaries and across the old North-South divide. (Sassen 1998: XXV)

The global grid, which Sassen is referring to above, is that which emphasizes two major issues of *centrality* and *marginality*. The first denotes the process for the slow transfer of power from states to TNCs and financial institutions that digitally operate from *centralized* locations in big cities in the North (e.g., New York, London, Paris, Amsterdam, Frankfurt, Tokyo). The second is the new geography of *marginality* in the South, in export-processing zones (EPZs), which are: digitally, politically and legally linked to the North through the different regulation regimes of inter-governmental organizations (IGOs) such as, WTO, IMF, and

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was largely a failure. See, Black and Koser (1999: 69-84) and Loescher (2001: 221-23) for more discussion.
World Bank. The net result of the above two processes is, on the one hand, the increasing enrichment of the few in the North as well as in the South; and, on the other, the worsening of poverty of the many in both. It is within these three main problematic discourses of governing risk, life, and difference within liberal modernity that this thesis examines the UNHCR and its politics of refugee repatriation.

The thesis investigates the discourses and practices of UNHCR's 1990s politics of refugee repatriation focusing on two main issues. First, it challenges the validity of UNHCR's underlying principles used as a rationale for involuntary refugee repatriation. Second, it attempts to find out the negative political and social consequences to refugees and their 'communities'. Further, it briefly looks at alternatives to refugee repatriation: asylum, local integration, and voluntary repatriation, without further explication. Three problems are emphasized throughout this thesis: the refugee regime's problematic principles of "protection" and "aid", major concerns associated with the 1990s security discourses and practices of "repatriation" and "containment", and the social and political implications to refugees and their respective communities resulting from the two, but mainly from the second.

In an attempt to comprehend and reflect upon the politics of refugee repatriation, the thesis develops a conceptual framework in chapter two. It is theoretically informed by the works of Ulrich Beck's (1992) "Risk Society" and Nikolas Rose's (1999) "Powers of Freedom: Reframing Political Thought", especially their concepts of "risk" and "governance", respectively. Political economy analyses of the Marxian tradition, as advanced by Cox (1995), Strange (1996), Sassen (1998), and Klein (2002), pick-up other issues that are directly or indirectly related to the refugee problem. Beck and Rose provide the general and crucial tools of analysis for addressing the central problems of "risk" and "governing" in the UNHCR's politics of refugee repatriation.

Through a rigorous use of the central concepts, the thesis critically examines the changing political discourses and practices of the refugee regime
(1921-1989) and (1990-2003) within the presence and/or absence of major political influences, such as the Cold War. It also examines the direct or indirect influences of science, expert knowledge, rational theories, and the sociologies of governance as problematic interventions. They serve to rationalize and legitimatize the already problematic global technologies of government.

"Technologies of government", writes Rose, is:

An assemblage of forms of practical knowledge, with mode of perception, practices of calculation, vocabularies, types of authority, forms of judgment, human capacities, non-human objects and devices, inscription techniques and so forth, traversed and transected by aspirations to achieve certain outcomes in terms of the conduct of the governed. (Rose 1999: 52)

The refugee regime's problematic politico-legal assemblages: the 1946 constitution, the 1951 Convention, the High Commissioner's 1990s speeches and press communiqués and the actual refugee repatriation practices, one can argue, represent what Rose insightfully refers to above as the "technologies of government". Through the exclusive use of such technologies, the UNHCR has been able to influence "desired" outcomes. The containing of the internally displaced people (IDPs) in their own countries of origin (e.g., Kurds in Northern Iraq) and in the involuntary repatriation of over 12 million refugees, worldwide, are two big examples.

As an integral part of the problematically re-constructed nation-states' system dominated by the liberal utopia of the post-World War II era, the UN and its specialized agencies, like the UNHCR, have occupied a problematic space in world politics during the Cold War era (1945-1989) and this continued into the 1990s with greater intensity. Manifestly, they were operating as "apolitical" and "humanitarian" organizations while they were, at the same time, latently aligned and allied with the dominant liberal-West. Once UNHCR embraced the concepts of regional security and started governing refugees through its global technologies and programs of "repatriation" and "containment", however, this too took a turn for the worse after the end of the Cold War. It simply became another responsibilized and autonomized risk manager within the problematic
technologies of government of the post-Cold War era. What factors are responsible for this political shift? Can one explain this through the concepts of risk and governing within the new global grids and geographies of centrality and marginality?

The UNHCR’s 1990s discourses and practices, particularly its accessions to the state security discourses of “repatriation” and “containment”, serves as one major proof that this organization was no longer to be “apolitical” and “humanitarian”. Ogata’s speech to the informal meeting of the Executive Committee of the UNHCR lays the ground for UNHCR’s eventual embracing of the new security discourses and practices that were to follow soon. She stated:

After the unprecedented challenges of last year, I had looked forward to addressing the Executive Committee in more normal times. Having dubbed this year the beginning of the decade of voluntary repatriation, I had anticipated reporting to you on solutions rather than new emergencies. (UNHCR 2003b)

Note that Ogata has not clearly said why she needed to conduct “voluntary” repatriation as the final ‘solution’ for refugee problems. Further, it is not clear why it would be a solution, to begin with, when she admits in the same speech that there were approximately 10,000 refugees forced to leave their countries while another 10,000 were returning “voluntarily” everyday. Such a talk defies logic largely because it makes little sense. Why would 10,000 refugees be returning “home” voluntarily while an equal number are leaving largely because of new conflicts in their countries of origin? In the same speech, by stressing her own problems in “protection” principle and shading doubts on her audience’s minds, Ogata tells the Committee stating: “the complexity of the situation confronted by my office in recent months has raised not only a number of demanding operational issues but also complex protection concerns that go to the crux of UNHCR’s mandate”. It appears, and her speech reflected this, that she was no longer satisfied with the Convention’s provisions in place. So, she wanted it changed so that repatriation, not protection, could become possible without the need for her office to worry about asylum and second country integration of refugees. She attempts to ground her position deeper by talking
about security issues involving refugees in flight giving a sharp new turn to what she calls the "debate on refugee issues and, at times," putting, "first asylum in jeopardy. They [the refugees that is] pose, in ever more acute form, the question of how the international community as a whole can better equip itself to respond in a coherent manner to the new outflows of massive displacement" (UNHCR/Ogata 2003b: 2). Note that it was mostly this speech and an earlier one delivered to the World Economic Forum (UNHCR 2003a), which served this thesis as the backdrop for generating Ogata's treatment of refugees as the "security threat", and her final 'solution' for this problem by subjecting refugees to the two security discourses of "repatriation" and "containment".

Emphasizing the impacts of the heightened risk analysis of the 1980s and 1990s, to which UNHCR may have fallen victim, Beck (1992:186) has argued that, in today's high-risk society "the invisible becomes visible, the visible invisible" and "the political nonpolitical, and the nonpolitical political". This suggested that risk is now being manufactured in the new political spaces, such as business, science, and the "responsibilized" and "autonomized" agencies like the UNHCR whereby responsibilities are shifted towards the invisible (the victims) by sanitizing and sanctifying the visible perpetrators, the political and economic elites. It is no question a clear manifestation of one of the many problematic contradictions resident within the exclusionary spaces of naïve scientific realism and political rationalism. It is similar to the concept of the non-materialist discipline of history, which Marx and Engels once criticized as "history written according to extraneous standards" by embellishing the power, honor and riches of the ruling classes, where "the real production of life seems to be primateal" (Marx and Engels 1970: 59).

Sassen (1998) provides similar arguments to Beck's (2001) earlier analysis of power, domination and authority. In describing the processes through which TNCs and big cities transformed into the new centers of power, she identifies two significant aspects of this process. The first is "the relocation of various components of state authority to supranational organizations" such as the EU,
WTO, and "International Human Rights Codes", and the second is "the emergence of a new privatized transnational legal regime for cross-border business transactions which now includes certain components of cross-border labor mobility, notably service workers" (Sassen 1998: 5). Such analysis has major implications for understanding why states and non-state actors in global governance would be interested in refugee issues, why people move across international boundaries, and what responses are in place to address such issues and how such responses change overtime.

Beck and Sassen's above discussions advance a number of issues that are relevant for understanding UNHCR behaviour. As supranational organization, the UNHCR, alongside TNCs and IGOs, may have become one of the centers of the manufacturing of risks, where there are none, and of governing through security discourses of those same people, refugees, it was supposed to protect. UNHCR's operations of the early 1990s and beyond have increasingly resembled the various technologies of government employed by the retreating 'welfare' states (mainly the U.S. and U.K.). Such technologies emphasized 'advanced' liberalism's exclusionary policies of "responsibilization" and "autonomization" (Rose 1999), which became the new archetype of risk analysis, its embracing and governing from a distance. This means that, as part of this problematic construction of the risk regulation and governing regimes of modernity, the ideologies, or the "ideoscpes or fluid perspectival constructs" (Appadurai 1996) of the UNHCR would necessarily be shaped by the dominant neo-liberal ideologies and that

\[2\] _Responsibilization_ and _autonomization_, as technologies of government, are strategies used in the subjectification of the individual through use of autonomized agencies (e.g., schools, hospitals, firms, employment agents, polling stations, etc). They have the responsibility of governing (e.g., knowledge, health, wealth, skill, etc) and employ numbers, calculations, enumerations and statistical analyses, through which the individual is turned into a calculating machine self-endowed with a range of ways of thinking, calculating, predicting and judging their own activities and those of others. These are the dominant features of neo-liberal governments. See Rose (1999), pp. 63-64, 154-55 & 214. For similar definition and discussions, see: Barry, Osborne & Rose (Eds. 1996), p.73
alternative world views would have no weight whatsoever in its construction/s of reality.

As it became increasingly clear in the early 1990s, the UN and its specialized agencies’ priorities, policies, and programs were held captive by states’ security, big business’ economic, and the political elites’ pragmatic interests rather than by the human security needs refugees. As “repatriation” and “containment” became the new security discourses justified out of previous discourses, which treated refugees as a “threat” to regional security, refugees, then, became the “problem to be solved” (Bakewell 2002: 229). One must raise the question, hence: what factors are primarily responsible for the emergence and persistence of such political discourses and practices within such institutions, as the UNHCR, following the end of Cold War?

As presented earlier in Beck’s (2001) discussion of the concepts of power, domination, and authority, his thesis argued that national governments have mostly become instrumental powers for TNCs’ interests. This implied that if states have not already, they are losing their structural power to the latter and that they can only now serve as instrumental powers at home and globally as protectors of TNCs and IGOs interests. The latter closely collaborate with the former in effecting “rules and regulations” of global significance such as Multilateral Agreements on Investment (MAI) or Trade-Related Intellectual Property Rights (TRIPs) and in the diffusion of the neo-liberal ideas of “democracy” and “free-market” economy through their various projects of governance (e.g., SAPs). Although there is a mountain of truth in such an assertion, especially for countries in export processing zones (EPZs) in the South, there is also a danger in the assumption that nation-states may no longer be relevant as structural powers. They “effecting rules” and coerce others (politically, economically, and militarily) as to bring about their desired outcomes. Hence, to avoid such potential conflicts, the thesis treats the concept of government, UNHCR included, as those institutions and agencies endowed with both instrumental and structural
powers. From this perspective, TNCs form part of the global technologies of government and, that, their influences on reactive migration as well as on the UNHCR behavior is direct, structural, and instrumental.

Other influences that have had direct or indirect influences on reactive migration include: ethnic cleansings, generalized violence, civil wars, political repressions, and fundamentalisms (religious or otherwise), mainly within the South. One can further argue, however, that many of these problems are not necessarily homegrown. Most can be linked to the diffused problems of liberal modernity and capitalism over many decades through the various political, cultural, ideological, military, and economic discourses and practices of colonialism, developmentalism, the Cold War, and globalization, as argued by authors like Appadurai (1996), Sassen (1998), Baxi (2001), Castells (2000), Escobar (1995), Said (1993), Beck (1992, 1998, 2001) and Rose (1999). The thesis addresses some of these issues through the works of these authors in chapters two, three, and four as they are relevant for understanding some of the background problems to the refugee issue.

As Barnett (2001), Goodwin-Gill (2001), and Loescher (2001) have argued, the post-Cold War era has caught the United Nations and its specialized agency, the UNHCR, at the crossroads. Beginning around the mid-1980s and accelerating after the end of the Cold War, “UN organizations became more deeply involved in the domestic affairs of states” (Barnett 2001: 244). This set the stage for the UNHCR to either stay its ground of charade as an “apolitical” and “humanitarian” organization and continue ‘protecting’ refugees, or come out of its shells of pretense and make its position known as the promoter of the interests of dominant state actors and TNCs. As a dynamic regime “replete with inherent, potentially creative and potentially destructive, tensions – many of

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3 The operational definition of structural and instrumental power, as used here, is provided by Singh (2002: 7-11) who argued that both deal with capabilities; whereas the former is about the ability to “effect rules and institutions” that govern, the latter emphasizes the ability to “effect outcomes”. I would argue that the post-Cold War era UNHCR has been endowed with both.
which are especially apparent today"", writes Goodwin-Gill (2001: 132), "UNHCR, as the product of international law and international relations," did not find it hard to live up to the promises and premises of neo-liberalism.

The end of the Cold War and the absence of one major ideological and political challenge – the Soviet Union, would also mean that the UNHCR could choose to be politically astute and pragmatic, without any firm state-level opposition on the horizon. Under its exclusionary political and military-style program of the so-called “voluntary” repatriation, a concept that is closely informed by neo-liberalism’s central doctrines of “responsibilization”, “autonomization”, and governing from a distance, UNHCR had no qualms about involuntarily returning more than 12 million refugees. This process, achieved in a space of five years (1992-97) repatriating refugees to their yet unsafe countries of origin, 4 raises a number of other issues. Who authorized that power? What happened to the “returnees? What social and political consequences have they suffered? The thesis explores these issues further in chapter four.

The concepts of ‘security’ and ‘risk’, products of the problematic ethos of the school of political realism, rationalism, and utilitarianism, are replete with contradictions and contestations. They occupy exclusionary spaces in politics where rights and interests are hierarchically situated. By bringing Beck’s (1992) concept of “risk” and Rose’s (1999) concept of “governance” into the heart of the discussion of the refugee problem, this thesis can explain what “risk” means, for instance, to what extent, if any, it has been developed dialogically or dialectically. Furthermore, whose interests does it reflect and protect and at what cost and to whom, and how is it governed through various technologies? IPE, human rights/social justice, feminist and ecological perspectives provide additional

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4 Note that the use of the word “country of origin” is consistent with its use and definition in refugee law. It can be the same as or different from the refugee’s country of “nationality”. For purposes of clarity, I will use the term “country of origin” throughout this thesis to denote the last country the refugee had resided in before he/she moved into the refugee camp.
analyses in areas not particularly and directly covered by the two central concepts.

In the introduction to Beck (1992: 5), Lash and Scott write that “the dominant discourses of risk, for all they have taken on the trappings of liberal pluralism, remain firmly instrumentalist and reductionist”. This suggested that, as an instrumental power in the diffusion of the ideas of neo-liberalism, the new risk managers, such as the UNHCR, are no longer outside of this problematic ensemble. It is also a structural power, as argued elsewhere, and that the UNHCR can “effect rules and institutions” (Singh 2002: 11), as in the repatriation program and the actors in it, and as an instrumental power, it “affects the outcomes”, or the actual repatriation and containment of refugees. It is mainly because of these reasons that the UNHCR and its then High Commissioner, Ogata, have been irrefutably placed at the forefront of such problems within the ongoing debate among human rights groups, sociologists, and experts in the fields of refugee law.

In contradistinction to the UNHCR’s position, which constructed refugees as a ‘security risk’ and as a “problem to be solved”, the thesis would argue that they are instead people at risk placed in securitized political and social spaces near border regions between the overreaching powers of two or more states and a number of TNCs, which threaten their existence. It would add that UNHCR’s problematic positioning has not only masked the truth but complicated it by making the “invisible visible, and the visible invisible” (Beck 1992) at the cost of condemning refugees (the invisible) to the new technologies of government by tacitly removing responsibilities away from the visible (the problematic states and TNCs). These and similar issues are explored much more detail in the chapters that follow.

This introductory chapter has provided a general analysis of the problems within liberal forms of governing and international relations, linking the UN and its specialized agencies to the former. After it introduced the problems, which this thesis intends to investigate, and the conceptual framework it plans to use, the
thesis emphasized of the highlights in the UNHCR's 1990s discourses and practices.

There are four additional chapters in this thesis. Chapter-2 addresses the conceptual framework and methodology. Chapter-3 briefly examines UNHCR's history. Chapter-4 problematizes and rejects the UNHCR's purported "causes" and "scientific" justifications for repatriation. Further, a sample case involving a group representing the pre-1991 Ethiopian refugees, in the Sudan, is analyzed in this chapter to illustrate how one of the power discourses of the UNHCR, the invocation of the "ceased circumstances" clause, was implemented and how that affected the lives of these refugees. This chapter offers alternative explanations for the refugee repatriation discourses and practices of the UNHCR and options to the involuntary repatriation scheme itself. The last chapter summarizes the main arguments as well as offering a brief look and critical updates into the last ten years, ending with an overture into the future of the refugee regime.
Chapter 2

CONCEPTUAL FRAMEWORK

As mentioned in the introductory chapter, the key research question this thesis intends to examine is: what were the justifications for the “voluntary” repatriation of refugees and the consequences to refugees in the UNHCR’s 1990s political discourses and practices? This chapter develops the conceptual framework used for the critical examination of these problems and is treated here as a unified theme centrally informed by the concepts of “risk” and “governance” of Beck (1992) and Rose (1999), respectively.

The concepts of “risk” and “governance”, as propounded and developed by these two authors, are not only relevant but also indispensable as critical tools for understanding the inner workings of the politics of refugee repatriation. Risk analysis and regulation, as persistent themes of the technologies of liberal governing, one can argue, have been and remain central in the UNHCR’s 1990s discourses and practices. Beck’s “risk” and Rose’s “governance” perspectives, as alternatives to positivism and as branches of critical theory, fall within the paradigmatic analytical boxes of Guba and Linclon (2000: 163-165). Such analysis emphasizes historical realism as its ontology, takes a transactional and value-mediated approach in its knowledge pursuits or epistemology, and that its methods of inquiry into the social world are dialogical and dialectical. From this, one can argue, then, that risk and governance, as the two critical tools of analysis into the problematic construction of truth in the liberal, and then the neo-liberal governing, after the mid-1970s, are thus vital for this thesis for three main reasons: pertinence (validity), transactional/value-mediated approach to truth, and transformative or emancipatory in nature.

In regards to the first point, pertinence or validity, the two critical concepts of “risk” and “governance, the thesis maintains, have a direct relevance to the subject under investigation. This is because the UNHCR’s shift of priorities
from "protection" and "assistance" to the state security discourses of involuntary "repatriation" and "containment" of refugees, emphasize issues of risk and governing. The new security risk discourses in the High Commissioner’s speeches and communiqués, which constructed refugees as regional "security risk", and the follow-up practices of governing through "repatriation" and "containment"; remain central issues of governing. The background problems for both reside in the refugee regime’s 1951 Convention, in Ogata’s "end of the Cold War" (or Fukuyama’s "end of history") thesis, in globalization, and in the welfare state’s 1980s and 1990s retreat to the political right. As can be seen from such arguments, then, Beck and Rose are pertinent and have a direct relevance and validity to the subject/s discussed here. Their temporal (heavy focus on 1980s and 1990s) and spatial (neo-liberal West) validity is again relevant as their works provide the tools of analyses for the central problems of risk and governance in UNHCR’s discourses and practices.

The second point is the question of transactionality/value-mediatedness. Through their intra-subjective and valued-mediated positions of epistemology, such perspectives, as risk and governance, value other truths and multiple realities. In other words, they do not consider themselves as universal grand narratives good for all times and situations. There is a value inherent in taking such an approach, and this is one major problem for many social theories and inquiries.

The third and final point is about transformation or emancipation, which risk and governance (Beck and Rose’s), seem to advocate by offering alternative ways of thinking human freedom and justice. Through their critical analyses of science/positivism, politics and the ontological problems of naïve realism, its essentialist stance of epistemology (one knowledge, one truth) and its reductionist methodological inquires, Beck and Rose have displayed depth.

See some of the many speeches Ms Ogata made from January-June 1992. Two of these include: Ogata’s speech to UNHCR’s Executive Committee (Ogata 1992b), and to the Global Economic
UNHCR is largely part of this problematic construct of liberal modernity. Hence, such a conceptual orientation is essential for this thesis as it does emphasize and acknowledge the presence of such realities (e.g., refugees') and of knowledges (of different human rights groups, sociologists, etc.,).

Whenever political discourses and practices, such as involuntary repatriation of refugees are thought and acted upon, it can be argued that there is an element of power (instrumental and structural) and domination (local and global) which go into their conceptualization, calculation, and execution. Domination is "a mode of acting upon individuals or groups of individuals directly counter to their aspirations or demands" (Miller 1987: 1-3). The 1990s hierarchical relationships between refugees (the powerless/the acted upon), and the UNHCR and states (the powerful) is also about domination intended in attaining desired outcomes of programs at the cost of controlling the aspirations of the targeted population. Risk and governance perspectives provide the clues for both of the above. Such perspectives, particularly Beck’s and Rose’s, have been used not only to adequately address issues of social marginality, such as gender, culture, ethnicity, environment, migration, sexual orientation, etc., but issues of class, status, and power, even though the latter are eerily marginal. This is where political economy perspectives provide fundamental additives, as gap fillers, for this work. There is no question that the majority of these problems of social marginality were involved in the UNHCR’s politics of refugee repatriation, as this work would show later in chapter four.

Moreover, risk and governance literatures help not only to analyze but bridge the links in the refugee problem between the original sources – the manufacturers and perpetuators of the problem: businesses and sciences, on the one hand; and the political elite, on the other, from broad historical and critical angles. Hood, Rothstein and Baldwin (2001: 112) who have selected and investigated nine areas of risk domains illustrate this. In their summation, the

Forum (Ogata 1992a). Her various internal directives and memos to her staff in Geneva were also instrumental (Loescher 2001: 283-85).
authors report that: “organized business interests sought to shape regularity regime contents”, suggesting that Beck’s and Sassen’s earlier comments about power, domination, and authority as well as issues of centrality and marginality are on their marks. After critically analyzing the observations of other sociologists and anthropologists in whose works issues of trust and credibility were not emphasized enough, Beck argued that:

Reflexivity is excluded from the social and political interactions between experts and social groups over modern risks, because of the systemic assumption of realism in science. This reflexive learning process would have necessarily meant negotiation between different epistemologies and sub-cultural forms, amongst different discourses; and as such, it would have entailed the development of the social or moral identities of the actors involved (Beck 1992: 5-6).

There are two issues, in the above excerpt, that have direct relevance for this thesis. They are, first Beck’s analysis regarding the “absence of reflexivity in political and social interactions”, and second, his arguments about the development of the “social and moral identities of the actors” involved in such interactions. UNHCR’s governing practices, its thinking of and acting upon repatriation, one can argue, represent non-reflexivity and exclusionary practices of risk analyses and governing such risks in which the assumptions of scientific realism may have played an important role. In the so-called “voluntary” repatriation scheme, for instance, for the program to be truly voluntary reflexivity would have involved inter-subjective social and political interactions, which would include UNHCR (and the states), on the one hand; and refugees, their human rights’ advocates, sociologists, and legal theorists, on the other. UNHCR’s grand schemes of thinking and governing risk excluded such a process ab initio.

In regards to the moral and social identities of the actors, given its exclusionary practices, which did not consider the voices of other players, one can argue that UNHCR only managed to define deviancy down to those under its sovereign “protection” and control, refugees, by constructing them as the new regional security “risk” and as the “problem” to be solved. The reverse of this argument would be: the construction of new “regimes of truth” through its
knowledge workers in Geneva, refugee sending and receiving countries, and repatriation fund providers (Northern states, World Bank, and private TNCs) as the morally pure and the socially, politically, and legally justified 'victims' of refugee threats, or as those who deserved international protection. This was the process, through which the "protection" principle's targets shifted from its traditional locus of the invisible (refugees) to the "new" political space of the visible (states and TNCs).

Rose's (1999) concept of "governance" is not only vital to my conceptual framework but is a good fit with Beck's "risk" analysis itself. His concept of governance, in particular, is qualitatively different, broader, and much deeper compared to all past and present theories of government or governance, including Foucault's, both in its meaning and scope. Contrary to the state-centric 'pluralist' or liberal model of government or that of the functionalist school's sociologies of governance, "governing" for Rose (1999: 1) is nothing but "a genuinely heterogeneous dimension of "thought" and "action". This means that Rose's approach removes governing from its traditional meaning and space of political power and re-locates (spreads) it at all levels of political and social interaction (locally and globally) beyond the concept of nation-state; hence, treating the political elite (of advanced liberal/neo-liberal governments) as one of many in the web of "the technologies of government".

One of the consequences of such a political thought, which attempts to reconfigure the age-old distinction (at least from Hegel and Marx's times) between civil society and political power, is its influence on our thinking to make us question the normalized knowledge of what constituted civil society and what constituted political power. As a result, our concepts of civil society (e.g., schools, employment agencies, mainstream refugee groups, some NGOs, etc.) may no longer hold as such institutions increasingly become swallowed within the new technologies of government through responsibilization and autonomization. Because of these transfers and/or sharing of power, these institutions become governments unto themselves.
Similar arguments have been made earlier by writers like Latour (1987), whose work is acknowledged by Rose (1999). When it comes to demarcating the lines of governing between macro (state) and micro (non-state) actors (e.g., private employment agencies), Latour argues that there is no line to demarcate. This is because the former is “merely one who has a longer and more reliable ‘chain of command’ – that is to say, assembled into longer and more dispersed networks of persons, things, and techniques” (1987: 215-58). Such discussions suggest that governing may no longer be the sole province of the political elite and that its constituencies have changed, or are changing, for better or worse, as other actors (once considered “civil” and “micro”), have increasingly become absorbed into the new technologies of government. UNHCR’s ‘new-found’ goals and operations are integral part of such technologies and the governmentality literatures, particularly that of Rose, provide the theoretical framework for understanding such technologies.

Following the above discussions, then, one can argue that the difficulties of the 1990s discourses and practices of refugee repatriation can be understood from a critical conceptual framework which is centrally informed by the works of these two authors. Other authors, who write on issues of risk, governance, power, globalization, human rights/social justice and international political economy (IPE), also play a significant role not only in enriching the framework but filling the conceptual voids and picking up other issues relevant in international relations. To this effect, the works of authors such as Dean (1999), Miller (1987), Simon (2002), J. Oliga (1995), Latour (1987), Strange (1996), Singh (2002), Sassen (1998), Cox (1995), Sklair (2001), Abbot and Worth (2002) etc., are consulted and referenced.

The thesis takes the position that no single theoretical perspective is ever enough to address all the social problems we have today across the globe. This is especially true for such issues as the refugee problem, which is transnational in

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nature further complicated by extraterritorial interests of science, business, and politics. This means that while risk and governance perspectives provide me with the general theoretical guidance and the vital tools for understanding, critiquing, and rejecting UNHCR’s politics of refugee repatriation, I would also use other perspectives, particularly the political economy perspectives, to pick-up related areas of interest not specifically addressed by the two authors.\footnote{Issues of international relations, is one area, which Beck and Rose do not talk about in any detail. The first may be because of his emphasis on liberal modernity’s risks in general; and the second, because of his emphasis of liberal governing and modernity beyond the nation-state. Given their very detailed and strong discussions on issues of social marginality and the transfer and centrality of power in their respective works, such positions are understandable. Besides, like all other theories in the past or the present, grand and small, which have had shortcomings of some kind or another, risk and governance perspectives of Beck and Rose are no exception to the “rule”.}

In this era of “globalization”, which Beck (1998: 131) refers to as “a complex process that generates conflicts and new boundaries”, social issues transcend political boundaries and make the refugee issue extremely relevant. With the emergence of critical perspectives, such as the ones used here, much of the discipline of sociology has transcended itself and the national totalities (industrial societies) it once represented, and is now widely addressing global issues.\footnote{One good example is the “Social Justice Research Project” established here at the University of Windsor beginning about two years ago. A number of journal articles involving international organizations and global issues have either already been published or are in the process. I was also involved in this project as a research assistant to one of the leading researchers, Dr. Suzan Ilcan.} Ilcan and Phillips (2003), for instance, critically assess the practices of the UN Food and Agricultural Organization (FAO) by developing a conceptual framework informed by Rose’s (1999) concept of “governance” and by critical perspectives about globalization, as advanced by writers like Appadurai (2001). In their article, these authors suggest that:

Specific forms of knowledge and expertise remained integral in those processes of globalization that not only governed human capacities and acted upon them by technical means, but that mapped the different sites that could be governed in the name of progress and development. International agencies such as the United Nations and its specialized agencies have been able to intervene upon and shape the conduct of persons, activities, and spaces on a global scale through a range of diverse authorities, development programs, and complex technologies enlisted to solve certain problems. (Ilcan and Phillips 2003)
The two authors’ work, as briefly discussed above, informs this thesis’ analysis of the UNHCR and other global actors both in the areas of common interest (UN Organization) and in the technologies of government employed by such organizations. This is just one illustration of this thesis’ earlier arguments about the increasing interests of contemporary sociology in the areas of global issues involving such organizations. They are no longer off limits of social critique.

While such efforts at making sociology relevant in global politics are encouraging, one cannot, however, deny the fact that some perspectives within sociology (e.g., the functionalist school), and subjects for sociology (e.g., ethnic cleansing, refugees), as some critics like Beck (1998) and Oliga (1996) have argued, are still bound by territorial concepts of national (industrial) societies and local problems. Following the traditions of Marx and Weber who argued that capitalism is a class society, and in his criticism of Talcott Parsons’ functionalist sociology which categorized capitalism as a ‘nuclear family society’, Beck (1998:21) critically reflects that thinking “capitalism without classes is not just a betrayal, it is tantamount to jumping out of the window”. This meant that such sociologies of governance, like science and the rational schools, tend to legitimate and perpetuate social inequalities not only globally, but within the industrial societies themselves, as Parsons’ “nuclear” family concept, followed by P. Moynihan’s and O. Lewis’ problematic concepts of “deviancy” and the “culture of poverty”, respectively, would later show in the 1960s. It helps to mention that such things were taking place in the middle of the twentieth, the era of liberal utopia’s great society, where tradition was supposed to be questioned and past injustices rectified, but were not. Where are such sociologies now at the turn of the twenty-first century? Emphasizing the persistent problems that are still existent within such sociologies of governance, that have yet to make themselves relevant to world politics, Oliga writes that:

As we enter the twenty first century, we have made little progress, if not actually regressed, in areas where we interact in social-political terms as fellow human
beings. Today, there are a number of social conflicts and violent fissions, some ethnic, others relating to religions, race, gender, minority, age, underprivileged, and disabled, and still others to politico-economic dissensions and confrontations (Oliga 1996: IX).

In addition to the issue at hand, the limitations of sociology and other social sciences, Oliga raises a number of important issues that have added material significance for this thesis. His discussion about the new kind of “theory” (I would prefer to use a “crossed” and “unified” perspective) is based on what Oliga refers to as: “Flood’s critical systems thinking (CST)” (Oliga 1996: X). This approach is nevertheless very instructive in that it provided this work the rudimentary thinking for the eventual development of the conceptual framework that crossed disciplines – risk and governance. As will be shown shortly, the concepts of “risk” and “governance”, call it CST or hybrid, appear to complement each other in their common critique of what Wagner (1994) has called the end of “organized modernity”, or the end of liberal utopia. A utopia where networks of power, barriers to job entry and normalization of consumption have become the rule - finally realizing history’s two great sociologists, Weber’s and Marx’s, enduring concepts of the “iron cage” and “alienation”, respectively.  

Beck’s concept of “risk” and Rose’s concept of “governance”, one can argue, complement each other in at least two areas. First, Beck’s analysis provides the conceptual background for risk analysis, while Rose’s concept of governance takes on such analysis as one of the main problematic features of modernity and provides a theoretical perspective on the workings of governance and how it is put into action through various technologies. Beck (1992) defines risk variously based on its contextual uses and the subjects of concern. Two of his definitions are considered. First, risk defined as “the social, economic and political consequences of reflexive modernity” (p. 22-24). This permits

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9 See Wagner, P. (1994: 73-88); and Zeitlin, I.M. (2000: 169-73); respectively, for further discussion of these terms.

10 Note that the term “reflexivity”, used here, refers to the unintended consequences of modernity brought against its own. This contrasts with the concept of reflexivity Beck uses in other contexts.
evaluation of the effects of ecological devaluations and expropriations, which produce not only smog, radio activity, toxins and pollutants in the air, the water and foodstuffs, which everybody shares; but also in "international inequalities" between the North and the South, which, in turn, produce migration to the North.\footnote{See: Sassen (1998), Chapter 1, for a detailed discussion on how capital mobility and changes in domestic economic policies of Northern states, namely the U.S., Europe, and Japan, have resulted in the impoverishment of the South impacting migration to the North.} Second, risk defined as "moral statements made in a less open form through quantitative, theoretical and causal implicit morality" (p. 176). This permits to see how "responsibilities are activated and zones of illegitimate systemic conditions are created, which cry out for change in the interest of the general public", in the case of local politics; or in the interest of regional security, in the case of global politics by the likes of the UNHCR. As alternative critical advocacy perspectives, this means that Beck’s "risk" and Rose’s "governing" concepts challenge the techno-scientific regimes of truth, irrespective of national totalities or sovereignties; until the normalized and transnationalized "science forces itself to run its own gauntlet" (Beck 1992: 226) suggesting that science's de-monopolization has been underway.

Rose (1999), even if he appears to locate governing at all levels of social interaction, nevertheless, takes similar approaches to Beck both in the diagnosis and critique of modernity and in its forms of governance. Like Beck, who criticizes the sociology of governance for its theoretical limitations, Rose has also argued that such social theories, as the sociologies of governance, heavily rely on scientific realism and "do not study the actual organization and operation of systems of rule, and ignore the relations that obtain amongst political and other actors and organizations", at all levels. "Studies of governmentality", adds Rose, "are not sociologies of rule. They are studies of a particular 'stratum' of knowing and acting." They are of particular 'regimes of truth' concerning the conduct of conduct: "ways of speaking truth, or persons authorized to speak truths, ways of
enacting truths and the costs of so doing” (1999: 19). Note the resemblance between this last statement and Beck’s analysis of the insiders (the included) and the outsiders (the excluded) knowledges in the making of the techno-scientific regimes of truth.

The second important area that validates the complementarity of the risk and governance perspectives is located in the areas of common concern these two authors echo and appear to advocate voicing the concerns of the socially marginalized groups in society. Their advocacies interface in the substantive areas of the deprivation of human freedom, democracy, and justice, on the one hand; and in their discussions on the ability of society to organize and empower itself for the realization and maintenance of such freedoms, on the other. Hence, they appear to acknowledge the power of social movements for substantive justice and freedom.

In risk society, technological innovations have both negative and positive effects. The waves of large-scale technological innovations have had their successes as well as their failures. The past and present hazards of modernization are substantial; yet, the extent of future damages to the next generation, defy any kind of assessment. Bearing in mind the incalculability of such difficulties, which affect all forms, and aspects of life and hinting at the crises of legitimation facing science and politics, Beck (1992: 185-86) has argued that:

On the one hand, established and utilized rights limit freedom of action within the political system and bring about new demands for political participation outside the political system in the form of new political culture. On the other hand, techno-economic development loses its character as non-politics in parallel to the increase in scope of its potentials for change and engagement. (Beck 1992: 185-186)

Resulting from such role reversals which Beck refers to as precarious, then “the political becomes non-political and the non-political political”. That is, politics slowly loses its relative autonomy and surrenders peoples’ power to big business, science, IGOs and, as Sassen (1998: 5-6) has also suggested, to “supranational
institutions and human rights codes”, such as the UN, UNHCR, the EU, NATO, and the like. This was indeed the truth largely after the emergence and prominence of the neo-liberal ideas in the sociological, ideological and economic writings of K. Popper, F. Hayek and M. Friedman.

The new pedagogy of governance of neo-liberalism, first put to test in the early 1970s in Chile under the Pinochet dictatorship,\textsuperscript{12} reached its apex in the 1980s when Britain and the United States embraced the idea and implemented it. Under such a system, in which the “new citizen is required to engage in a ceaseless work of training and retraining, skilling and re-skilling,” writes Rose, “enhancement of credentials and preparation for a life of incessant job seeking: life is to be a continuous economic capitalization of the self.” The ‘active citizen’ who was to be counter-posed to the ‘passive citizen’ (or consumer – paper’s insert) is, thus expected “to conduct his or her life, and that of her/his family, as a kind of enterprise, seeking to enhance and capitalize on existence itself through calculated acts and investments” (Rose 199: 160-65). Hence, “citizenship,” according to Rose, is “no longer” primarily realized in a relation to the state, or in a single ‘public sphere’, but “in a variety of private, corporate and quasi-public practices from working to shopping” (p.166). This is where Rose’s concept of governing, at all levels, becomes very relevant and it is this concept where many critical writers such as Bauman (2000); Urry (2000); Miller (1987); and Haggerty and Ericson (2000) also appear to emphasize.

The above discussions amply suggest that the concepts of “risk” and “governance”, two central themes in the refugee repatriation discourses and practices, have and continue to occupy vital contested spaces or terrains in the thinking and political pragmatics of dominant states in the West. This problem, it must be noted, has also diffused to the South by way of the so-called neo-liberal

\textsuperscript{12} Hetne (1995: 122-24) provides a detailed discussion of how World Bank and other significant players in American politics, (e.g., Rockefeller of Chase Manhattan, P. Volcker, Treasury Secretary and later World Bank president, S. Berlusconi, now the leader of Italy, R. Pearl, Asst. Sec. of Defense and now a War Hawk on the Gulf issue, Heritage Foundation, among others), had been
democracy concepts and by its frequent fatal carriers: TNCs and IGOs, which Baxi (2001: 97) has called as agents of modernity who produce “a veritable encyclopedia of human deprivation and suffering”, matched only by the vicious mercantilism of the colonial era. Science, statistics, insurance, psychology, medicine and rational/utilitarian calculations (mainly in economics and political game-theories) have produced social exclusionary policies and practices for many years (Beck 1992 and 1998; Rose 1999; Dean 1999; Byrne 1999; Latour 1987). The science of eugenics, psychological and political theories of race, the discourses on colonialism/neo-colonialism, developmentism, Orientalism, globalization, and the like, have all been largely linked to the problems of the project of modernity (Escobar 1995; Appadurai 1996; Richmond 1994; Baxi 2001; Said 1993; Sassen 1998; Klein 2002; Abbott and Worth 2002). In the process, government’s roles and its ideologies have shifted from the provider of discipline to a central agent of control, or governing from a distance by other means of legitimation (Foucault 1980; Miller 1987; Rose 1999; Dean 1999), at least from the end of the Second World War onwards. The 1970s provided the crucial backdrop for this shift.

As part of the international regimes of rule, norms, and governance the UNHCR occupies a space in world politics as a power broker of the nation-states system, but more specifically as the promoter of the neo-liberal ideas of dominant states in the West, in advancing its changed mandates and in governing the conduct of refugees. Heavily drawing upon the works of Colin Gordon and Michel Foucault, Dean has made this abundantly clear when he wrote that:

Government, which is a 'conduct of conduct', is more or less calculated rational activity undertaken by a multiplicity of authorities and agencies, employing a variety of techniques and forms of knowledge, that seeks to shape conduct by working through our desires, aspirations, interests and beliefs for definite but shifting ends and with a diverse set of relatively unpredictable consequences, effects and outcomes. (Dean 1999: 10-11)

instrumental in the introduction and implementation of this reactionary economic and political theory. Was Allende's killing related to this?
According to Dean (1999), government is more concerned with the means of calculation, both qualitative and quantitative, and thus has two implications. First, government becomes interesting from this perspective, not simply because to govern means to order people about or move things around, but to deliberately direct human conduct. The second implication is government’s links to “moral” questions, justified to be “true” through scientific calculations. With the intervention of science and issues of “morality”, sanctioned through political, legal and religious deliberations, governing and the shaping of conduct is facilitated through various intermediaries/agencies with ‘less’ and ‘less’ opposition.

Now that the conceptual framework is developed, it is time to test its direct application to the actual refugee repatriation discourses and practices to show its relevance as a critical conceptual framework. I would argue that the following two political discourses are central issues that occupy a vital problematic and contested space in the UNHCR practices of the 1990s: the end of the Cold War and the regional security thesis; and UNHCR’s shift from refugee “protection” and “assistance” (humanitarian principles) to “repatriation” and “containment” (states’ security discourses).

Regarding the first point, as argued in the introductory chapter, the end of the Cold War and the emergence of the regional security thesis, as advanced by the various speeches and communiqués of Ms Sadako Ogata, appeared to create an environment for the ‘end’ of all problems for forced migration. Ogata used this in her attempt to discontinue international ‘protection’ of refugees. Underlying the concepts of the end of the Cold War and the regional “security” or “risk” thesis, one finds clear contestations both in the meanings and the truth-values of such representations. This is especially the case for the post-Cold War era, or the era of “manufactured uncertainty” (Beck 1998: 132), where the production of

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13 Ogata succeeded in many of her attempts (e.g., Afghans in Pakistan, Ethiopians in the Sudan, Somalis, etc.,). As the last chapter would show, her decision involving the pre-1991 Ethiopian
risks has often been the consequence of the heightened scientific and political interventions of the new risk and control society. During the post-Cold War era, refugees’ problems have multiplied resulting from the multiple interventions from state and non-state actors. Once the UNHCR, the one time reluctant defender of refugees’ rights hopped on the wagon as one of their tormentors, then refugees’ problems became even more complicated.

In the languages of risk and governance, it is now customary to construct minorities and marginal groups in society, like refugees, as "deviants", irritants, as a threat to regional security, even if they are not practically. Such constructions justify and promote their subjection to the policy programs, or technologies of government, such as the UNHCR’s discourses of repatriation and containment. As agents of modernization, writes Beck:

Scientists insist on the ‘quality’ of their work and keep their theoretical and methodological standards high in order to assure their careers and material success. From that very fact, a peculiar non-logic results in their dealings with risks. The insistence that connections are established may look good for a scientist and be praiseworthy in general. When dealing with risks, however, the contrary is the case for the victims; they multiply their risks (Italics added). (Beck (1992: 62-63)

The above excerpt underscores two issues, which, by conjecture, speak to the UNHCR’s 1990s political and security (military) discourses: the embracing of science in the manufacturing of imagined and real risks or insecurities,¹⁴ and the consequences of UNHCR’s less reflective practices of repatriation to refugees and their communities. UNHCR’s use of expert knowledge in its head office in Geneva or its accession to the rational, or the game-theoretic analysis of knowledge workers and risk ‘managers’, in Geneva and/or New York, are two good examples of this, as I will address further in chapter four.

refugees has been revisited, if not also reversed. See, “Note on International Protection” GE-01-02643 (UN and UNHCR 2001), for a critical appraisal of the mistakes done in the 1990s.

¹⁴I use the term “imagined” risks for those risks such as UNHCR’s use of the term “security risk” to construct refugees, or what Beck calls as “manufactured” risks; and “real” risks to refer to those risks that injure (physically, emotionally, mentally), as nuclear waste, for instance. Both sets of risk are produced by science and businesses and are legitimated by governments and their agencies.
Simon (2002), in his analysis of the "embracing of risk", or what Rose (1999) has called "responsibleization" and "autonomization", has added a new dimension to Beck’s theory of risk. According to Simon (2002: 209-37), the "embracing of risk" transcends its spreading (risk's) for the former is premised on the transfer of responsibilities on to the victims, refugees in this case, who are responsibilized for the problems they are not necessarily responsible for (as regional security threat), and hence have to seek their own "autonomous" or "independent" solutions ("voluntary" repatriation).

The second problematic feature that becomes vulnerable to social critique is UNHCR’s shift from the ‘principled’ mandates of ‘protection’ and ‘assistance/aid’ for refugees to the “repatriation” and “containment” discourses of pragmatic politics, the security discourses. As explained in the introduction through the works of various authors in the fields of refugee law, international relations, and sociology, UNHCR’s shift became analogous to simply as trampling on the “sacred” ground the organization once occupied as “apolitical” and “humanitarian”. How do the risk and governance literatures treat such a political regression in the ‘universal’ principles of justice? Do they share in the concept of other writers such as Goodwin-Gill (2001), Barnett (2001), and Loescher (2001) who have similarly argued that the UNHCR once occupied a “sacred” ground to begin with? Alternatively, does this matter at all as long as both groups agree that there were serious problems?

It is possible to explain UNHCR’s shift from the “protection” principle to the “repatriation” and “containment” security discourses and practices by way of Beck’s (1992) four theses on the political transformations within modernity. These four theses, paraphrased for the sake of simplicity, are as follows. First, with the globalization of the industrial society, two contrary processes have interpenetrated one another: the establishment of parliamentary democracy and the establishment of an un-political, non-democratic social change under the legitimating umbrella of ‘progress’ and ‘rationalization’. Second, in the course of
reflexive modernization,\textsuperscript{15} the welfare state has sacrificed its utopian energies of social equalities and change through 'progress. Hectic changes, in the techno-economic system, put human imagination to a test of courage affecting systemic transformation of work, the fragility of status-based gender orders, the loss of class traditions, the intensification of social inequalities, and the emergence of new technologies balancing on the verge of catastrophe. Third, as techno-economic development loses its character and the welfare state wanes, the unbinding of politics takes place where the contours of an alternative society are no longer seen in the debates of parliament or the decisions of the executive, but rather in the application of micro-electronics, reactor technology and human genetics; which themselves start to break up. As business and techno-scientific actions acquire a new political and moral dimension, they culminate into the fourth consequence: a precarious reversal of politics and non-politics, where the political becomes non-political and the non-political political. (Beck 1992: 183-84)

In a similar light, Rose’s (1999) response to such shifts can be covered under the following three themes. First, over the closing two decades of the twentieth century, beyond the politics of the right, a new way of thinking about the objects, targets, mechanisms and limits of government has taken shape which shares many of the premises of neo-liberalism. From this, a “new diagram of government”, which entails a new conception of rationality of the different domains – the market, the family, the community, the individual – and new ways of allocating the tasks of government between the political apparatus, ‘intermediate associations’, professionals, etc., emerges. Second, social government is restructured in the name of an economic logic, and economic government must create and sustain the central elements of economic well being, such as the enterprise form and competition. All aspects of social behavior are now re-conceptualized along economic lines – though the universal human faculty of choice. This leads to the final point, the coming into existence of

\textsuperscript{15} Beck clarifies this term, which has been misunderstood and, therefore, a subject of debate as in Lash’s and Giddens’ writings, in his latter work: Democracy Without Enemies (1998).
programs, strategies and technologies of modernity, arising from complex fields of contestation and their inherent problems - languages, judgments, and strategies (discourses - paper's insert) accumulated from practical rationalities already developed in particular sites (Rose 1999: 138-40, 274-275).

Beck (1992) and Rose (1999) have shown how the definitions and meanings of risk and governing have changed over time and how modernity and the liberal and neo-liberal forms of government transformed themselves within the last 20-30 years, slowly but surely, surrendering the sphere of politics to the sphere of business. They speak to the big picture of liberalism and neo-liberalism within which UNHCR political behavior and its shift to the political right is, and must be, analyzed. As they treat the behavior of international organizations (although they do not talk about them) by conjecture within the liberal/neo-liberal governing. For this reason, they do not see any sacredness in UNHCR or any of the other supranational organizations. Yet, it does not matter as both groups address the issues one way or another. As general critical theories of risk and governance within modernity, Beck's "risk" and Rose's "governance" perspectives, I would argue, are premised upon the provision of alternative ways of thinking and acting to the existing obsolescent, yet dominant, ideas of the liberal/neo-liberal Western political thought. It is the critical, inter-subjective, and dialogic approach they take that makes "risk" and "governance" literatures (especially that of Beck and Rose) wanting in this thesis.

As severally illustrated in this chapter, Beck's "risk" and Rose's "governance" perspectives have displayed strength as good tools of analysis. The works of writers such as Cox (1995), Strange (1996), Sassen (1998), Appadurai (1996, 2000), Klein (2002) and others are also relevant for this thesis for providing analyses on other more specific areas of concern, which affect refugees one way or another. So, through a similar approach, I further examine these and other problems of the refugee repatriation discourses and practices in much more detail in the chapters that follow, after a brief discussion of my research method, in the following few pages.
Research Method

Discourse analysis is the method of research used in this thesis. This method permits examination of UNHCR’s documents and its politics of refugee repatriation from the perspectives of the different terrains of marginality and contest (e.g., class, race, culture, gender, rights versus state security). Policy and secondary analysis of various literatures on the refugee regime add more evidence to this work. This writer is aware of that discourse analysis may not fit the normative description given to the two widely recognized methods in conventional sociology, quantitative and qualitative methods of inquiry. He is also aware that contemporary sociology of the critical school has made a big dent in what looked like our “fixed” thinking (e.g., Popper’s problematic falsification theory) when it comes to selecting our methods of inquiry into the social world. This work is not the first to challenge this tradition and will not be the last.

Unlike most other methods in sociology, discourse analysis is an interdisciplinary project, which helps to examine “the relationship of social practice to power, and hegemonic projects at the societal level” (Fairclough 1992) and addresses the concerns of various social sciences. It is a language that is no longer the objective and neutral conduit to the ‘real world’. In its form as discursive practices, or as “a set of tacit rules that regulate what can and cannot be said, who can speak with the blessings of authority and who must listen, whose social constructions are valid and whose are erroneous” (Kincheloe and McLaren 2000: 284), discourse then becomes the exclusive and discreet province of its makers. This was how, for instance, the English language became the hegemon and lingua franca of civil aviation, trade, and diplomacy beginning in the 1920s. This is how American cultural hegemony is operating now, besides others, through tourism and hotels industries in places like Bangalor (India), where Indian youth are trained to be “Americans” in their accents so that they can operate the 1-800 lines called from the U.S. without being identified as
Indians by the callers. The bottom line for the industries may be cost-saving practices, but the discourses and practices of such processes carry narratives of cultural centrality and marginality.\textsuperscript{16}

Discourse analysis, as a multidisciplinary approach, is now within the confines of \textit{critical theory} \textsuperscript{17} of the last twenty to thirty years. International organizations, such as the UNHCR, which were once outside the reach of traditional sociologies, are now under the microscope of social critique. Many of the writers used in this thesis (e.g., Richmond 1993, 1994; Sassen 1998; Baxi 2001; Appadurai 1996; Said 1993; Ilcan and Phillips 2003) epitomize this. Further, one can mention two additional advantages that accrue to the researcher in using discourse analysis. First, it allows for a critical examination of any given politics of governance both from the perspective of its discursive use of language, structure, and meaning (Torfing 1999; Denzin & Lincoln 2000), and from the cultural and ideological contexts (the rules, the norms) in which such a language is socially constructed. Second, it enables the researcher to examine material evidence (speeches, conversations, rules, norms, procedures, etc.,) from an "inter-disciplinary perspective" (Fairclough 1992) and still arrive at meaningful and "trustworthy" outcome (Krefting 1991). Through similar approaches, the thesis is able to unpack the tensions between the political and the social, and the problematic links between the local and the global, in connection to the refugee issues.

\textsuperscript{16} From own personal notes from a speech delivered by a prominent American author, Susan Sontag, at York University aired on TV-Ontario on September 14, 2003.

\textsuperscript{17} The generic use of the term critical theory is understood here to refer to "risk" and "governance", not the "cultural theories" of the Frankfurt School; See Denzin & Lincoln (2000: 287)
Chapter 3

UNHCR: FROM INCEPTION TO REPATRIATION

A brief history of the refugee regime, in general, and that of the United Nations High Commissioner for Refugees’ (hereinafter - UNHCR), in particular, is discussed here for many reasons that are relevant for this thesis. Two are vital: What happened, and when; and who were on the driver’s seat? To fully grasp the complexities of the 1990s discourses and practices of refugee repatriation, it is necessary to address the refugee regime’s background history to see if there were any foundational and enduring problems, which may help explain some of the problems.

The UNHCR is a specialized agency of the United Nations system founded through the 1951 Geneva Convention with two ‘principled’ mandates, “protection” and “assistance” of refugees fleeing their own oppressive regimes.\(^{18}\) On the surface, this appears to be a worthwhile collective effort by the victors of the Second ‘World’ War in their attempt to put an “end” to the nation-state’s aggression against the human rights of its and others’ citizens, as under Nazism and Fascism. Conveniently hidden within the walls of this regime of rules and norms, however, were at least three severe limitations: definitional, temporal, and spatial, as Fortin (2001), Barnett (2001), Loescher (2001), Hathaway (1997), and Macrae (1999) have critically assessed.

A “refugee”, according to the Geneva Convention, was selectively defined as anyone who has left ‘his’ country of origin (within Europe) before this Convention came into force, in 1951, as the consequences of communism or the Second World War. This meant that all other refugees and refugee-producing conflicts outside of Europe (e.g., wars of liberation from colonialism) and those

\(^{18}\) Goodwin-Gill (2001:134) has argued that the protection of refugee is ultimately a matter of "principle", reflecting the "conviction" of the international community that certain values inhere in the individual human being transcending the indices of citizenship or origins.
running from these conflicts (after or before 1951 and outside of Europe) were excluded *ab-initio*. The founding Convention of the refugee regime was mainly the collective effort of Western governments, some of which (e.g., United Kingdom and France) had their own conflicts of interest. ¹⁹ Despite their sworn animosity towards Nazism and Fascism and their newfound ‘love’ for peace and tranquility under the liberal progressive utopia, when it came to protecting the rights of other refugees outside of Europe, they were as intransigent as the Nazis and Fascists themselves. This may partly explain why there was so much fuss about the exclusionary definition and geography of refugees to begin with. Recognizing refugees from the South, by such countries, would mean working against their own colonial ‘sovereign’ interests in their colonies.

Nevertheless, forced by fierce and determined liberation movements in the South, which had found powerful allies in the East (the Communist Camp), and afraid of the potential diffusion of the refugee crises from Algeria, Vietnam, and the Congo, Europe and North America finally ‘agreed’ to remove the geographical and temporal limitations of the refugee Convention through the 1967 Geneva Protocol. This meant that, at least in principle, refugees from the South would be ‘recognized’ and legal “protection” and “assistance” accorded to them. The term “refugee” and the conditions, under which a displaced person might be treated Conventional refugee, remained undefined. This practically meant that a large number of the new categories of refugees were not going to enjoy protection. Further, such a legal gap in the 1951 Convention and the 1967 Protocol meant that states would have the discretionary power to determine who qualifies to be a Conventional refugee.

In the problematic construction of the refugee regime, which continues to be informed by the liberal political and legal thought, one can argue that many of the limitations identified in the foregoing discussion may have resulted from deliberate, but non-deliberative; and calculated, but less precise, human action

¹⁹ Note that both were colonizers who were not willing to give-up their colonies without a fight, as latter events would show.
(in the person of government) to create spaces of contest. How would the UNHCR, as the governing body of refugees, benefit from the creation of such spaces of governing? Liberal governing, from this perspective, must ensure that such political spaces exist because this is where “critical reflections on the actions of the state [or of any “responsibilized” and “autonomized” agency like the UNHCR - paper’s insert] are possible thus ensuring that such actions are themselves subject to critical observations” (Barry, Osborne and Rose 1996: 10). From this perspective, then, one can conclude that the 1951 refugee Convention and the 1967 Geneva Protocol were constructed with these things in mind. This became more apparent in the dominant states’ practices of the era following the Second World War, which has gotten worse in the 1990s. How did states address refugee issues before the end of the Second World War?

Displaced persons (DPs) in Europe, or those escaping repression from the failing multinational states such as the Ottoman Empire or the Revolution in Russia, were then looked after by the first High Commissioner for Refugees (HCR), “established in 1921 at the behest of non-governmental organizations represented by the International Committee of the Red Cross (ICRC)” (Keely 2001: 304). The Nazi and Fascist wars in Europe later invalidated this organization when, the League of Nations, the same organization partly responsible for its creation, was nullified largely because of its own makings. It failed to enforce the provisions of the 1919 Treaty of Versailles and the aggression of states by other states (e.g., Italy’s invasion of Ethiopia, and Japan’s invasion of Manchuria - China).

Latter day efforts to create like-minded organizations resulted in the patching up of an International Refugee Organization (IRO), after the approval of its constitution by the UN General Assembly (GA) on December 15, 1946. The IRO constitution, writes Fortin (2001), “introduced an additional element: persecution or fear of”, to the existing problematic refugee definition, which “later became the central feature of the refugee definition”, as in the 1951 Convention. The refugee definition and principle of “protection”, have been
problematic from the start for “refugees have always been treated as de-facto stateless” (Fortin 2001: 549-50). He compares and contrasts the legal statuses of the de-facto stateless refugees, who have no clearly defined protection in place, to the de jure stateless people, such as diplomats, protected by treaty and customary law. This is one of the foundational problematic legal discourses of the refugee regime, which has endured and outlived criticisms and the IRO itself. Chapter 4 critically assesses this and related problems. The IRO constitution, nevertheless, set the ground for the 1951 Convention and for the creation of the UNHCR in its present (at least until the early 1990s) form. As the Cold War was already beginning with the 1947 Truman Doctrine (the “containment” of communism), agreeing on a refugee organization that was truly global and inclusive, one can infer, was neither desired nor possible.

One can argue that UNHCR was the creation of the self-professed Western liberal ‘democracies’ (former colonizers as well as others like the U.S. with new ambitions on the horizon), hence, explaining the presence of some major conceptual conflicts (e.g., refugee, protection, etc.,) in the 1951 Convention. Even though the 1967 Geneva Protocol brought some cosmetic changes to the Convention, the “root-cause-approach” to forced migration “remained to be European” (Thorburn 1996). This suggested that the causes of reactive migration, the definition of refugees, and the protection accorded to refugees remained European thereby leaving various other categories of refugees out of the reach of international legal “protection”.

UNHCR’s history shows that its programs were the result of politico-legalistic rationalizations, discursive meanings and practices (as in the concepts of “refugee”, “protection”, “de-facto”, “de jure”, “repatriation”, etc). Such discourses always strive to create “new regimes of truth” (Rose 1999: 19) by “manufacturing uncertainties or insecurities” (Beck 1998: 132) in political and social spaces, where such insecurities do not normally reside or are not the only ones. These and other problems proliferate throughout the UNHCR history, to which this thesis now returns.
There is no question that the millions of displaced peoples between the First and the Second World Wars brought to the surface severe challenges for Europeans calling the need for the formation of an institution to manage 'order' and handle resettlements. This resulted in the creation of the first inter-war international refugee regime (HCR), endowed with limited mandate for Russian and later for Greek, Turkish, Bulgarian and Armenian refugees (Loescher & Loescher 1994; Fortin 2001). In the 1930s, the major European countries reached international agreements to protect refugees fleeing from the disintegrating Russian and Ottoman Empires. In latter years, these governments extended the agreements to include those fleeing Germany and Austria. In 1943, the Big Four (UK, USA, USSR and China) set up an intergovernmental body, the United Nations Relief and Rehabilitation Agency (UNRRA) with the principal function of promoting and overseeing the repatriation of millions of displaced people that were under Allied control. The UNRRA was, however, “in no sense a refugee organization for it only incidentally did aid those refugees with fears of political persecution” (Loescher & Loescher 1994), which meant that it was not empowered to arrange for resettlement (asylums) of refugees and displaced persons to third countries. As to the origin of the IRO itself, the authors add that: “despite the opposition of the Soviet Union, Western governments undertook new initiatives to resettle East European refugees by forming in 1946 the International Refugee Organization (IRO) to look after the remaining displaced persons.” This shows that it was mostly the political needs of governments in the West (their self-professed enmity towards communism), not the immediate needs of displaced peoples, which determined such policy outcomes.

It helps to note that the above situations were taking place amid what Cox (1995) might refer to as a “structural transformation” of the global political economy, the defeat of fascism, and the impending defeats of Nazism and Japanese militarism. 20 Rose (1999) would characterize this situation as the

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20 Note that Cox is arguing in the tradition of Gramsci and Polanyi, great thinkers of the early to mid twentieth century who did not consider the inter-war period to have developed a distinct IPE
"reconfiguration of the liberal political power", through the new networks of governance including IRO, IMF/World Bank, and later, NATO to address and combat the "manufactured uncertainties or risks" (Beck 1998), as in Truman’s concept of the ‘menace’ of communism. The principal architect of the IRO, writes Loescher (2001), was the United States, "the emergent power of the Western hemisphere, which committed itself by underwriting two-thirds of its costs, thereby exercising control over its leadership", and possibly extending such control by way of the "Marshall Plan" to other areas of interest such as NATO only six years later.21 Because of its limited mandate which favored repatriation over resettlements and because it channeled aid money to Eastern Europe, the United States was determined to terminate UNRRA as was the Soviet bloc, later called the Warsaw Pact, to keep it. Even though the Soviet bloc was embittered by the American resolve to deny Eastern Europe with economic aid, adds Loescher, the “United States prevailed by underwriting two-thirds of IRO’s costs, controlled its leadership, and played the key role in investing the organization’s refugee protection with specific ideological content” (Loescher 2001: 338-339)

UNHCR’s organizational expansion took place during the 20-year period, from the late 1950s to the late 1970s following de-colonization and pressures from the “Third” World and from the non-colonialist socialist camp. Recognizing the political ‘embarrassment’ that refugee problems might cause, Loescher (2001) and Goodwin-Gill (2001) similarly argue, Western colonial and non-colonial powers began turning increasingly to the UNHCR to address refugee situations while at the same time some of the key players, like France and the United Kingdom, were sticking to their own interests in their “former” colonies. The UN and UNHCR- suggested solution for the African refugee crises, argues Loescher (2001: 106-107), “was repatriation, not resettlement”. This was

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unto itself but treated it as a transitory point from the IPE once dominated by Britain to another to be dominated (by America) after 1945. See Hettne (1995) for more discussion and for credits accorded to Polanyi.
apparent in the UN General Assembly’s decision of late 1961, which directed the then High Commissioner, Schnyder, to emphasize “repatriation as the only feasible operation” for over 181,000 Algerian refugees. Their repatriation from Tunisia and Morocco took place after the Peace Agreements of March 1962.

The fight for de-colonization, which was later boosted by the civil rights movement around the world, no doubt, contributed greatly for the transformation of the global political economy, for reforming the international refugee law, through the 1967 Geneva Protocol, and for the emergence of the 1969 OAU Convention. The liberation struggles in Africa, writes Goodwin-Gill (2001: 131-32), “exposed the limitations of the Convention regime largely oriented around social and economic rights, while the time and place restrictions had to be abolished by the 1967 Protocol”. However, resident within such transformations, to which the de-colonization process in the South largely contributed, was the emergence of latent interests such as neo-colonialisms that brought new masters, specifically the U.S.A., as the new dominant power, to Africa and elsewhere.

With the advent of the arrival of these new masters, such as the United States, new refugee producing problems such as the war in the Congo, Angola, Mozambique, Vietnam, etc., would take a sharp turn severely challenging global peace and politics, which called for the new international order: the bipolar system. In all of these, UN’s and its specialized agencies’ manifest positions, at least on the surface, attempted to reflect the “apolitical” and “humanitarian” stance, whereas they were latently aligned with the West, all the way. Increasing references made to liberalism, individual rights, free market economy, free trade, etc., in the various UN and UNHCR documents and the various discourses strongly attest to this.22 Consequential to the continued UN/UNHCR’s suppressed marriage of convenience with the dominant liberal West, the refugee problem

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21 Note that the “Marshall Plan” or the post War reconstruction package for Europe (Western Europe, that is), one can argue, was instrumental in rallying those beneficiaries behind the United States in its Cold War strategies against the Soviet Union.
remained unchanged (leaving the new proxy war and colonialism’s refugees on the margins). Countries of asylum had the say to define a refugee as they saw fit (Castels 2000; Fortin 2001; Suhrke 2001). Peter Koehn’s (1989: 67-88) critical discourse analysis of the restrictive definition of a refugee in the U.S. immigration law also shows how arbitrary the refugee definition has been in international law and in the practices of such states.

The 1951 Convention and the 1967 Protocol have been, and remain, essentially problematic because of the various contradictions that inhere in them. Specifically problematic have been four major issues that are endemic with the presence of the hierarchies of power, of rights (states vs. refugees), and of problematic social constructions. They are: first, the concept of voluntary repatriation. What conditions determine voluntariness, and what happens if they fail to materialize because of other difficulties? The second is the concept of the “cessation of hostilities” or, in short, the "cessation clause". Who determines the end of hostilities to have taken place in the country of origin, UNHCR experts in Geneva with access and ‘knowledge’ (those who ‘know’ and ‘act’); or refugees (who are kept in the dark), and, yet, whose own lives are at stake? What conditions determine the cessation of hostilities especially when the political power is corrupt? Are all the causes of migration the same and is UNHCR’s prima-facie group determination the right way to go? The third, and even more controversial, issue is the principle of nonrefoulement (or the non-return of refugees, who might be persecuted or physically harmed, to their countries of origin), or of nondiscrimination and the treatment of refugees in accordance with basic human rights standards. According to Goodwin-Gill (2001: 134-35), the relevant protection principle “derives its authority from both customary

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22 See, Appendices: A-C for similar problematic references, such as Intellectual Property Rights.
23 The problem with UNHCR’s prima-facie group determination in repatriating refugees is that everyone would be lumped together irrespective of whether a certain individual or group of people, face persecution at "home" upon return. Chapter addresses this issue further in connection with Ethiopian refugees in the Sudan, to illustrate the problems.
24 For an elaborate legal discussion and definition of this and other terms, see: Hathaway's (1997) "Re-conceiving International refugee Law".
international law and treaty". Yet, such a principle did not officially extend
protection to refugees in any of the refugee regime’s various international
instruments, as shown earlier through Fortin’s (2001) arguments. The 1948
Universal Declaration of Human Rights, however, does extend such protections
through the rights of the individual, even though this too is vague. Hence, what
happens if states re-foul refugees and, as a result, they face persecution or
"disappearances", known to have occurred in many instances? Example:
Ethiopian refugees refouled from the Sudan in 1992. The last one is the concept
of return with "safety" and "dignity". To begin with, these concepts have not
been defined well in refugee law and that the latter concept, "dignity", did not
even appear until the 1980s. "Safety," as a principle of asylum is familiar and
used in all refugee contexts, writes Preston (1999), refers to "physical security
and the entitlements to human rights" whereas "dignity", which did not appear in
refugee terminology until the 1980s, is about "the quality of life on return."
(Preston 1999: 27-28). What is the worth of having such principles in place,
anyways, when the protection principle itself is flawed and repatriations are not
voluntary to begin with?25

Many of the problems of the UNHCR thus far addressed, have been
reflections of the multiple flaws in the fundamentals of the refugee regime’s 1946
Constitution, the 1951 Convention, and the 1967 Protocol. Definitional
contestations within these various instruments, one can argue, may have been
the result of one or the other, or both of the following: lip service to freedom and
justice, on the one hand; and the impasse between the principles of human
rights "protection" and state "sovereignty", on the other. This is largely this
thesis’ own analyses of the political, legal, and economic discourses in the written
languages of the UN Charter and UNHCR refugee Convention. This position is
consistent with the criticisms advanced by risk, governance, human rights, and
IPE literatures, as will be shown later.

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25 See, appendices A-C for detailed dubious discussions of these four concepts and others.
In regards to the first point, the thesis sees two things, which appear to support the first argument that this may, after all, have been a lip service to justice. First, because refugees were not running from the West, one can argue that the refugee regime's makers saw no need for liberal legalistic deliberation. Second, the lawmakers at the time were probably thinking of "refugees" only in terms of those displaced persons by the Second World War and those fleeing "communism" from within Europe, as Thorburn (1996) has also criticized. This implies that they (the makers of the Convention) neither thought nor considered the possibility that the refugee problem would be a "permanent" issue transgressing European borders.

The second is the impasse between the "protection" and "sovereignty" principles. Protection is a humanitarian principle, which "transgresses" the state's political sovereignty, even though the reverse is always the case. As the UNHCR history shows, not too many countries were signatories to the original convention at the time. This may be because of the existence of this major tension between refugees' rights, on the one hand, and the non-intervention principle of state sovereignty, on the other. The concept of sovereignty and non-intervention 'principles' remain the core problems especially when both the UN Charter and the UNHCR Refugee Convention clearly and forcefully state that they respect states' sovereign rights. When it comes to deciding who has the power over entry, there is no question that the sovereignty of the state is supreme. Various treaty laws and the UN Charter have established this firmly and unequivocally. "The Convention of the Hague of 1930 asserted the right of the state to grant citizenship; the 1951 Convention of Refugees which asserted that the right to leave is a universal right", however, "remained silent on the right to entry – better silence than evident contradiction" (Sassen 1998: 7). Given this reality, one can declare that this is by far one of the biggest contradictions in international law and in UN documents in modern history. In the final analysis, however, one should settle somewhere, on finding out the intents of the makers of such regimes. There is no secret as to what the intents of their, the UN
organizations, makers might be for this is similar to Rose’s (1999) critique of the idea of liberal governing through “engendering problematizations and the strategies, tactics and programs of government” (Rose 1999:31).

There are various other human rights declarations and conventions that urge states to grant asylum on humanitarian grounds. Yet, all of these “recognize the absolute discretion of states in this matter” (Sassen 1998:7).26 The 1969 OAU Convention attempted to broaden the definition of refugees, at least for Africans, by including those fleeing civil wars and generalized violence, as did the 1984 Cartagena Declaration for South Americans, which the so-called international instruments failed to do so. On the wider global perspective, the statutory definition of a “refugee” has remained one ‘agreed’ upon more than fifty years ago under the de-facto rule and other problems of governance would surface with the new global technologies of government during the post Cold War era.

The End of the Cold War and the UNHCR

The 1990s ushered a new era in which humanitarian issues played historically unprecedented role in international relations. As discussed in the introduction, the UNHCR policy shift during this period had been extremely volatile. The institution’s history, one can argue, may have compelled it to adjust to changes in the global politics following the end of the Cold War. While Beck (1992) and Rose (1999) would tend to see these changed circumstances during this period as a heightened transformation within the problematic project of liberal modernity, other thinkers such as Strange (1996), Cox (1995), Sassen (1998), Sklair (2001) or Klein (2002) might suggest that there was indeed a structural transformation of the international political economy (IPE). The conceptual difference between the two, the thesis suggests, is not minute, but takes comfort in that both groups tend to share in ideas of the threats to social

26 Sassen argues (See foot note 5) that excepted is the 1969 OAU Convention on refugee problems in Africa, which includes the right to entry.
justice, human dignity, and the emergences of new claims and rights as the direct result of the post-Cold War era’s world politics and economy dominated by the neo-liberal ideas. 27 This thesis gets what it needs from both sources, as long as they maintain such positions, and is not in a position to assert any moral authority by passing judgments on who is right and who is wrong. One thing it dares say is this: there are many uncertainties and unexplained social, economic, and political phenomena out there, particularly in the areas of international relations, which call for further analysis.

The retreat of some dominant welfare states, such as the U.K. and the U.S., beginning in the mid 1970s to 1980s and reaching their apex in the 1990s meant that international institutions such as the UN/UNHCR, which mostly depended on these and other states’ donations, and political and ideological guidance, left them with two choices or two dilemmas. They could stay their shaky grounds of ‘neutrality’ by remaining “apolitical” and “humanitarian”, or choose to snap out of such pretenses and become part of the new political assemblage (of TNCs, rationalist schools, governments and IGOs), which governs its subjected populations by deception, surveillance, and coercion through laws and other practices. When, in 1992, UNHCR decided to choose pragmatism and political expediency over human rights principles and social justice issues, it became apparent that it chose to adopt the latter. As a result, involuntary repatriation, dubbed “voluntary” by the then High Commissioner, Sadako Ogata, became the new locus of UNHCR’s spaces of governance.

By designing, constructing, and discreetly interpreting its new exclusionary policies and programs of “voluntary” repatriation, the UNHCR had simply become in the 1990s another structural and instrumental power, no less significant in

27 Note that the thesis does not see any measurable conceptual difference between liberalism and neo-liberalism, except in the context of the Keynesian Welfare Economics, which gave the former its human face. Outside of that, both emphasize “responsibilization”, “autonomization”, and governing from a distance. The concepts of “individual” rights, “freedom” of choice, private property, etc, remain central. To be consistent and not to confuse my readers, I use “liberalism” for the period before the mid 1970s; and “neo-liberalism”, after that. For further interest, and different meanings, see: Rose (1999); Barry, Osborne and Rose (1996); and Cox (1995).
world politics. This gave the organization all the excuse to manufacture risks (regional security risks) out of the ‘people at risk’ (refugees) and to rationalize its security discourses (repatriation and containment). These new inscription techniques used in governing the governable political, social, and cultural spaces in its domains (refugee camps) then became UNHCR’s exclusive province only accessible to the interests of science, businesses, and politics. Hinting on such problematic links between the UNHCR and these three structural and instrumental powers in the West, Barnett (2001: 245-48) has written that UNHCR’s policy shift “underscored the new priorities of the UNHCR for the first time, generating the worrisome possibility that a more pragmatic UNHCR is potentially (though unwittingly) implicated in a system of containment”. In other words, as repatriation became a central part of UNHCR’s global strategy of ‘preventive protection’ (Loescher 2001:280), the focus shifted in the containing refugees close to their countries of origin thereby subjecting them to “imposed aid” (Harrell-Bond 1989), beginning around the mid 1980s. How did this come about and what explanations can one provide from “risk” and “governance” as well as other perspectives?

The UNHCR’s political and legal justifications for its divergence from the principles of protection to: the embracing of risk, its accession to the security discourses, and its politics of repatriation, as a pragmatic response remained a few of the many controversial political discourses. As a result, the persistence of these discourses and practices have made this organization the “international community’s firemen” (Loescher 2001: 286-87). Such problematic discourses emanate from the growing awareness of risk in the struggle among contestable rationality claims “in which businesses and techno-scientific action acquire a new political and moral dimension” (Beck 1992:186) through the construction of new “regimes of truth” (Rose 1999:29), which are problematically constructed out of such claims. It was through such discourses and practices that Ms. Sadako Ogata had decided to intervene in the internal affairs of states such as Northern Iraq (Kurds) and the former Yugoslavia (Bosnia), as the safety communities’ firemen.
As one of the former senior advisors of the UNHCR in Geneva who has had an invaluable insider’s knowledge, Loescher (2001: 273) explained that Ogata’s pragmatic position eventually resulted in a split, if not a crisis, within the UNHCR itself between the principled (those who emphasized protection) and the pragmatic or the politically ‘astute’ (those who emphasized containment and repatriation). “When Michel Moussalli, Director of Protection when Ogata arrived, urged the High Commissioner to exert her moral authority on asylum issues with European governments,” writes Loescher, “Ogata strongly disagreed. She felt that it was more important to be politically astute than morally right when dealing with governments.”

This meant that, Ogata, as the supreme authority of the UNHCR, either took it upon herself to justify what she thought was right, or may have been under ‘intense’ pressure from state and non-state actors, as to take her organization to the direction they desired. Even though it is not clear yet if this has anything to do with her opposition to Ogata’s repatriation discourses and practices, the International Refugee Protection Director, Ms Mousalli, was, nevertheless, replaced, it appears, by the new International Protection Director, Mr. Leonardo Franco, whom Ogata introduced to the Executive Committee during her June 26, 1992 speech.

Based on Beck’s (2001) analysis and this thesis’ own critical assessment, the introductory chapter has argued that TNCs became the new, but not the only, structural powers in world politics. It maintained that nation-states still play a significant role, not only as enabling/instrumental, but also as structural powers. Dominant Western national governments, through their diverse political, economic, and military assemblages at the local, regional, and global level; it argues, have and continue to play a decisive role in preparing the ground for this

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28 Loescher notes that he got this information from an interview he conducted with Irene Khan, UNHCR Spokesperson, Geneva; January, 1999. He interviewed Ogata in August 2000 where he raised such issues and was told by Ms Ogata: “UN agencies had to be a step ahead in world politics and the demands and expectations of states”; footnote 1

29 At the 47th ExCom meeting of the UNHCR (1996), US ambassador Oakely, under the title: "The pursuit and implementation of durable solutions" made strong and “convincing” presentation to Ogata. See: US State Department, Statement of Ambassador Phyllis Oakely (1996).
take-over by 40,000 or so TNCs. Such a globalized and ‘industrialized’ ground, dubbed noble and superior to tradition in many literatures, was embellished in the name of progress through the pursuit of the ignoble experiment of liberalism, the same experiment that was largely responsible for over 170 million deaths in the twentieth century alone. It was in the pursuit of this same ignoble experiment that the UN’s jurisdiction extended in the 1990s, under the then Secretary-General, Boutros-Boutros Ghali, beyond its foundational legal and political boundaries in the name of maintaining regional and international order. Similarly, in its 1990s discourses and practices, conducted mainly in the name of peace and order, UNHCR put refugees to a test of ‘courage’ through involuntary repatriations. What did the UN and UNHCR find wanting in neo-liberalism? It is, after all, nothing more than “a political reason within which entrepreneurial and competitive conduct is made possible”, through “responsibilized” and “autonomized” agencies as in “auditing, accounting, and management” (Barry, Osborne, and Rose 1996: 10). All this does is facilitate governing from a distance by responsibilizing the citizen for its “own” perils of the “culture of poverty”, joblessness, and mobility. These are exclusionary practices of neo-liberal governing, with which, it appears, UN organizations, like the UNHCR, increasingly identify. How else can one explain the 1990s political behavior of the UNHCR? Alternatively, why would this organization be on the forefront of this un-mandated and dangerous political game such as involuntary repatriation, which is clearly against many of its of Convention provisions and various other human rights laws?

By citing the works of many critics of refugee repatriation (e.g., Richmond 1994; Black & Koser 1999; Barnett 2001; Hathaway 1997; Baxi 2001), the thesis has argued that as the only ‘semi-sovereign’ body mandated by refugee law to protect refugees, the UNHCR had its priorities misplaced once it embraced risk and started employing a game-theoretic analysis as its technology of governance. Through a fair use of the conceptual framework and other perspectives, the thesis has identified some of the foundational and enduring problems of the
UNHCR. The various sources utilized have provided relevant critical examination of the politico-legal discourses and practices the organization had gone through.

The next chapter problematizes, criticizes, and rejects UNHCR’s central arguments and the justifications advanced for refugee repatriation. The so-called game-theoretic analysis used in the refugee repatriation discourses and practices is also critically analyzed and disposed-of. Further, the chapter examines a sample case of refugee repatriation, involving a group from among the pre-1991 Ethiopian refugees in the Sudan, to illustrate some of the questionable governing practices of the UNHCR in the 1990. It offers alternatives or a more resonant “explanation” for the underlying reasons that imposed “repatriation” decision on the UNHCR, and provides alternatives to involuntary repatriation, without further details.
Chapter - 4

PROBLEMATIZING THE REPATRIATION SCHEME

In the UNHCR’s politics of refugee repatriation of the 1990s, there were several factual misrepresentations, definitional contests, and other questionable practices, which were replete with issues of risk, governing, power, domination, and authority. The most important of these, which stemmed from the fallacious assumptions about the end of the Cold War and the regional security theses include: UNHCR’s realist discourses in the invocation of the “cessation of hostilities” clause, “voluntary” repatriation, and the containment of refugees. Whatever happened to the “protection” principle? Who authorized the UNHCR to make a shift in its priorities? How can one explain these unprecedented phenomena?

As several writers (Cunlife 1995; Dcyl 1996; Sassen 1998; Fortin 2001; Crisp 2001; Bwakaria 2001; Goodwin-Gill 2001; Barnett 2001; and Loescher 2001) have argued, UNHCR’s institutional behavior and its changing discourses, was not the result of separate or accidental episodes, which happened overnight within the political framework of the end of the Cold War. It was rather the result of steady and continual calculated changes within the organization itself, as its history showed. One can argue that this position was also consistent with the changing behaviors of some dominant state-actors in the West, beginning specifically in the U.K. under Thatcher, and in the U.S., under Reagan. The thesis hinted that there were also major foundational and enduring problems within the refugee regime.

In regards to one of the fundamental problems surrounding the concept of “protection”, for instance, it has been argued that “international protection of refugees is regarded as complimentary to that which states are supposed to accord refugees in their territory” (Fortin 2001) suggesting that international law had no provision for the protection of de facto refugees. Fortin’s position
contrasts with Goodwin-Gill’s (2001) earlier arguments, which stated that refugees’ rights of protection emanate from the existing customary and treaty law. Such debates, of good intent aside, and in spite of the vagueness of the 1951 Convention, there is no clear provision, which would suggest that they are not. UNHCR’s mandate, which reads as the “protection” and “aiding” of refugees, is further evidence to support the argument that they are protected, in principle, although not necessarily in practice, as the 1990s discourses and practices would show.

The High Commissioner’s speeches and communiqués delivered to the Executive Committee and others (e.g., the global economic forum, the U.N Security Council, and others) were primarily responsible for such confusions and for the occurrence of the actual practices of refugee repatriation. As discussed in chapter three, some of the problems that contributed greatly to the 1990s practices were part of the inscription program in the 1951 refugee Convention. The 1950s legalistic wrangling on the protection principle, which Fortin (2001) was reflectively making references to earlier, is one good example for this for it became in the 1990s the raison d’être for the decision to end protection and repatriate refugees.

Ms. Ogata’s various speeches and communiqués highlighted three areas, in which she justified the “urgent” need for her so-called “voluntary” repatriation and containment of refugees. They are: the “end of the Cold War” and the “ceased circumstances” clause; the regional security; and “home” is better than the “refugee camp” theses. These three problematic concepts occupy a major part of this chapter, as they are subjected a rigorous criticisms and eventual rejection. The thesis briefly introduces each of the three issues and confronting them with some pointed questions. It would come back to the details after it has dealt with another issue of relevance – scientific/rationalist intervention.

First, the “end of the Cold War” and “ceased circumstances” thesis argued that because the Cold War had ended, refugees had no reason to continue staying in camps. Invoking the “cessation clause” of the 1951 Convention is,
therefore, just. The question is whether the Cold War (communism) was the only cause of forced migration and/or what factors can one attribute to the millions of forced displacements in the 1980s and 1990s, in the absence of communism.

Second, the “refugees as regional security risk” thesis, argued that because of their concentration in camps close to their borders, refugees posed a security threat to nation-states. Whatever happened to the original concept in refugee and human rights laws, which treated refugees as “people at risk” and how did they make that transition to becoming “risky” people? Such thinking takes place in terms of secondary effects, which, as Beck (1992: 170-171) has argued, displace primary effects, such as states’ responsibilities as their own original sources of insecurity. A fact which is often “rendered incalculable”, as the primary tendency in security analysis is “the feudalization of cognitive practice”. Rose (1999: 259-261) would characterize such problems and the players in it as the new territories “traced out by a plethora of quasi-autonomous agencies” or semi-sovereign entities, working within the “savage spaces” in the anti-communities on the margins of (national or international) society. Why are regional security issues of states prioritized over the human security issues of refugees? Who is responsible for regional insecurities?

Finally, the “home” is better than the “refugee camp” thesis, especially when linked to UNHCR’S governing practices, such as go home you will get support or stay in camps and risk the loss of protection and food aid, is, particularly, disturbing. Why would the UNHCR threaten to stop aiding refugees in camps if they have a legitimate fear of persecution at home? Would it not be more appropriate for UNHCR to investigate such possibilities rather than subjecting all to its prima-facie blanket decision, under the cover of the going

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30 By feudalization, Beck means that science works in a differentiated manner (its central paradox), and having lost its reality, faces the threat that others dictate to it what truth is supposed to be, as would feudalism.

31 Savage spaces are those social and political spaces, which Bauman (2000: 101), following the tradition of the great cultural anthropologist Levi-Strauss, called as: the anthropoemic spaces, where ‘vomiting’, spitting out others, barring physical contact, dialogue or social intercourse, are excluded.
“home”? How is it possible for anyone to buy into the “home” is better than the “refugee camp” thesis, even if it were true, when linked to such threats? Besides, who decides that “home” has become safer for refugees – UNHCR experts from their ivory towers in Geneva, or refugees’ representatives and their families and relatives at home? Besides, how much better is “home” to a refugee camp in light of a multitude of ethnic, racial, religious, and other tensions that followed the Cold War?

UNHCR’s above three arguments, particularly the last one (the back to “home” thesis), may appear to be relatively straightforward. But, further reading into these issues would reveal that they are more debatable, than obvious, and that they are subject to different interpretations (discourses) by different actors depending on one’s ideologies, cultural orientations/values, social positions, and interests. By virtue of this social truth, such arguments then occupy contested spaces. Understanding them would require a frame of analysis strong enough to break into and unpack the various “risk” discourses and the “technologies of government” employed, as critically examined mainly by Beck (1992, 1998); Rose (1999). Other writers like Sassen (1998) also play a significant role in this.

As stated earlier and before it gets into a detailed discussion of these issues, the thesis first presents, challenges, and discards the Zeager-Bascom (1996) game-theoretic analysis, a problematic rationalist intervention that went into the justification of the discourses and practices related to refugee repatriation. This game-theoretic analysis, as a micro-model in rational choice theory, starts with basic assumptions that are problematic. It assumes that negotiations between refugees’ countries of origin, the UNHCR, and donor nations can result in a win-win situation (repatriation with assistance) through ordinal preference rankings in a four quadrant game setup in which each party (country of origin and UNHCR – representing itself, refugees and donors) can come into an agreement.

Off-hand, one can argue that this is a problematic concept for use in connection with refugee repatriation and that it has relevance to this study
because of two problems that stand out. First, UNHCR’s exclusionary use of such a game-theoretic analysis in rationalizing refugee repatriation has allowed it to return refugees without their consent, hence, exposing them to more conflict and life-threatening environments. There are many examples for this. A few will suffice: more than 20,000 Tamils repatriated from Switzerland; more than 300,000 Bosnian refugees repatriated from Germany (Black & Koser 1999); and 200,000 Rohingya Muslim minority refugees repatriated from Bangladesh to Burma (Loescher 2001). Evidence suggests that there were conflicts, re-migrations, and even the possibility of “disappearances” (a euphemism for “killed”) involving these and/or other returnees (Amnesty International 1997a and 1997b; Van Hear 1998; Black & Koser 1999; Loescher 2001; UN/UNHCR 20001)

Second, as an integral part of rational choice theory, game-theoretic analysis creates contestable “rationality claims” (Beck 1992) between different interests (UNHCR vs. refugees) and needs (repatriation vs. asylum). It creates new “regimes of truth” (Rose 1999) as in UNHCR’s claim of “refugees as a security risk” as opposed to refugees as “people at risk” (claims of refugees, human rights instruments, rights’ advocates, and some sociologists). Hence, one can argue that, there is a direct link between the use of game theories and the UNHCR’s refugee repatriation discourses and practices, directly affecting human security issues.

**Human Security and Game Theory?**

One of the cardinal problems in the politics of irresponsible governance is the conceptualizing and defining of human behavior, rights, and issues of justice by way of scientific and rational calculations. Expert knowledge and science only serve the purposes of creating a calculated balance in the politics of controlling manufactured uncertainties or insecurities and as part of inscribing programs for governing such risks. Science and technological modernization have done very
little to address the core concerns of humanity. They instead multiplied the risks of societies, argues Beck (1992), by exposing them to the "invisible hazards that are becoming visible", through environmental degradation and through the insecurities and vulnerabilities experienced by workers in the job market. They allowed the subjecting of minorities, "strangers" to moral indifferences, through "which many people allow public excesses and violence to happen" (Beck 1992: 62). These deliberate human actions are both intended and unintended consequences of capitalism and liberal modernity, which mostly affect the less protected marginal groups in society such as racial, ethnic, and other minorities. In their intended consequences, they attempt to control those marginalized others, who are often presumed to have "fallen" off or strayed from the "norms", or are considered to be potential disturbances of the "moral" fabric of society and the political integrity of the nation-state or the region. The thesis sees UNHCR's policies in this light when examining, defining and criticizing its totalized norms, knowledges, and "regimes of truth", as in its repatriation discourses and practices or in its day-to-day governance of refugee camps. In their unintended consequences, modernization's problems (such as pollution) affect all parties including those who are responsible for their production. Yet, the rich attempt to buy some safety through their riches while the poor have to suffer their full consequences. The 1990s epitomize this global grid between the rich North and the poor South and between the richer few and the poorer many in the North itself.

The end of the Cold War and ultimately the collapse of the Soviet Union, have brought to the fore ethnic/national movements and induced large-scale migrations of peoples across international boundaries – creating minority populations around the world, who are the new subjects of the technologies of government. As Stoett (1999) argued, those who are estranged from the built-in "societal norms", like refugees, "are those who live in marginalized and securitized physical and political spaces in today's society. Human security is a moot concept if it does not apply to everyone including those who have fallen
outside the realm of traditionally recognized political collectivities". He defines refugees as "those who are on the margins of human security displaced as a result of war, genocide, starvation, ecocide, environmental degradation, etc., factors which conspire to force them leave their homelands each year". He concludes by posing the following two questions: "who are the truly homeless – those without community membership, those on the run from forces beyond their control? And what institutional response, if any, is in order that requires re-conceptualizing?" (Stoett 1999: 73-74). Such are the kinds of questions that confront the UNHCR head-on and that game theories are no solution to the problems of human security as they only work to justify political programs.

In their essay titled: "Strategic Behavior in Refugee Repatriation: A Game-Theoretic Analysis", Zeager and Bascom (1996), have used an ordinal preferences ordering of outcomes that go into the negotiation between two players. On the one hand, there is the government of refugees' country of origin (hereinafter – CO), and the UNHCR representing refugees, countries of asylum and donor nations (hereinafter – CAD), on the other. Although it is clear from the UN and UNHCR documents that the latter's mandates are to protect and aid refugees only, it is not however clear why these two authors have assumed in their analysis that the UNHCR represents both CADs and refugees in such a bargaining.

In the language of rational calculation, it is often the case that, basic assumptions that consider "all things to be equal" or ceteris paribus are problematically constructed. Such assumptions have flaws, more often than not, as they tend to "fend-off refutations, criticisms and empirical challenges" (Mouzelis 1995: 28-30). Because "the proof race" for such rationality claims is so expensive, such theorists also know that the "production of facts and artifacts will occur only at restricted places and at particular times" (Latour 1987: 179). Such rationality claims are also instrumental, designed to attain pre-conceived goals.

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32 See Appendices – A & B
(repatriation, in this case) irrespective of their consequences, for such theorists and scientists know in advance that they “cannot be called to account for the actual consequences of the results they worked out from the analytic point of view” (Beck 1992: 171). Such political rationalities, as game theory, carry “distinctive moral forms” embodying conceptions of “the nature and scope of legitimate authority and its distributions across different zones or spheres” (Rose 1999: 26), which legitimize inclusion (e.g., CO and CADs) and exclusion (refugees and their advocates) ahead of time. This way, they make sure that rationalized utilitarian outputs, which satisfy the security needs of dominant nation-states, the economic interests of businesses, and the governing interests of the political elites, are possible. It is in this light that this thesis treats the work of Zeager and Bascom (1996), which it discusses in detail from here onwards.

In constructing their problematic model, Zeager and Bascom, have assumed that the UNHCR would coordinate as well as focus on the interests of these parties (CADs) in their negotiating table, show below.

<table>
<thead>
<tr>
<th>COUNTRY OF ORIGIN (CO)</th>
<th>Repatriate</th>
<th>Don’t Repatriate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Assist</td>
<td>Don’t Assist</td>
</tr>
<tr>
<td>A</td>
<td>(4,4)</td>
<td>(3,3)</td>
</tr>
<tr>
<td>C</td>
<td>(2,2)</td>
<td>(1,1)</td>
</tr>
</tbody>
</table>

**UNHCR**

<table>
<thead>
<tr>
<th>UNHCR</th>
<th>Assist</th>
<th>Don’t Assist</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**NOTE:** Rank ordering for country of origin, rank ordering for UNHCR 4=best, 3=next best, 2=next worst, 1=worst

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With two players in the game, each faced with two choices, the authors argue, four outcomes are possible. The ordinal rankings of each outcome by each player corresponding to the two choices facing the UNHCR makes the CO as the ‘row player’, and the UNHCR as the ‘column player’. Each cell contains a pair of numbers showing the rank orderings of that outcome by the two players. The first number gives the ranking for the CO; the second number gives the ranking for UNHCR. Each player ranks the four outcomes from best (4) to worst (1).

According to the authors, the UNHCR is further assumed here to be sympathetic to refugees as shown by the preferences associated with the four possible outcomes: repatriation with assistance (4), repatriation without assistance (3), assistance without repatriation (2), and the denial of both repatriation and assistance (1). The authors further assume that both CO and the UNHCR would prefer to settle on quadrant one (4/4) for this is where their utilities are maximized. The authors again as assume that the CO shown in the table is willing to negotiate and admit its own refugees in exchange for assistance. The other three tables, not been replicated here, employ different strategies and outcomes. Given some of the most controversial involuntary repatriations conducted in the 1990s, it is likely that UNHCR would have still negotiated repatriation at other levels, if agreement on level one had failed. This would have been the scenario, for instance, if donors had refused to extend financial help for repatriation or if the country of origin (CO) manifestly expressed its discontents with the refugees (its own citizens) and yet would be willing to accept them without conditions attached.\(^{34}\)

The surge in repatriation exercises has “produced a growing number of allegations that UNHCR is playing fast and loose with the principle of voluntary repatriation, indeed, a knowing party to involuntary repatriation” (Barnett 2001:

\(^{34}\) Note that evidence shows that countries, which had no second thoughts about financing repatriation, had been those directly affected by refugees (e.g., Germany and Switzerland, in the repatriation of Bosnians and Tamils, respectively). In other cases, it was mostly institutions such as IMF and World Bank, as well as the EU that were also involved in funding repatriation, in addition to private funding agencies (Black & Koser 1999; Loescher 2001).
264-265), has argued. This suggests that UNHCR may have practiced repatriation at other levels with its advance knowledge of the possible consequences to refugees of such involuntary returns in its complicity with the temporary “asylum” countries and the refugees’ countries of origin. In repatriating the Rohingya minority refugees from Bangladesh to Burma, for instance, the UNHCR had claimed Burma (these refugees’ CO) to be peaceful and better, when it was not (Barnett 2001; Loescher 2001). Ironically, even if it was too late for the many victims of involuntary repatriations around the world, such questionable practices, some of which may have risen to the level of refouling, has been ‘critically’ assessed without casting blames against UNHCR or state actors, at the UN General Assembly meeting commemorating UNHCR at 50 in September 2001.\textsuperscript{35}

The application of game theories to address such social problems involving human subjects and marginalized peoples (refugees) is not only offensive and objectionable, especially coming from the UNHCR, but it is also an insult to the principles of justice, which such organizations often purport to uphold. Hence, as much as I am opposed to the use of such a method for addressing social and political issues of this magnitude, I am as much concerned about what goes on unnoticed – the aggressive state behavior and the interests of other players, which are marginally addressed, if addressed at all. This is often the result of the processes of science and rational calculations where the invisible is visible and the visible invisible, in the production of the exclusionary regimes of truth, which come out of such calculations.

The use of game-theoretic analysis, which places a humanitarian organization like the UNHCR at its core is particularly disturbing especially when it is further complicated by other interests, the security needs of states, the same states that offend the defenseless victims. They are offenders because such countries, to which refugees were involuntarily returned, (e.g., Afghanistan, Sri

\textsuperscript{35} UN-GE. 01-02643; A/AC.96/951 Note on International Protection, September 2001.
Lanka, Ethiopia, Somalia, Bosnia, etc.) remained intransigent when it came to "democratically" and justly dealing with their own people. If old dictators were no longer in power, it is largely because their powers crumbled and/or lost interest after the end of the bi-polar era. When former dictators lost their power bases, those creeping behind the West found their allies (mainly United States and the U.K.) who blessed the equally, if not worse, brutal technologies of governing by the new ethnic and religious elites and their forms of dictatorship. Ethiopia, Somalia, Rwanda, Afghanistan, the former Yugoslavia, and others epitomize this (Loesher 2001; Black and Koser 1999).

Zeager and Bascom's (1996) "game-theoretic" analysis, which became the rationalized complement to the UNHCR problematic repatriation discourses and practices, has at least two major flaws: first, it is exclusionary and more political than sociological and empirical in the sense that important players or significant others – refugees, have been excluded and their voices silenced. Further, it conflicts with the basic assumptions of empirical social research, which would require considering all key dimensions to ensure that the researcher did not leave out evidences. The absence of such evidence, in such a game analysis, would suggest that the actual process has considered social exclusion as an essential element to ensure the "irrefutability" of their work. Game theories are about essentialism, and essentialism is about supremacy of one knowledge, one truth, that of the scientist or the knowledge worker. As an integral part of liberal modernity's technologies of government, essentialism knows only one and tramples on all other knowledges by excluding such "other" knowledges as refugee-based, because refugees, as a minority group, are political spaces or "zones to be investigated, mapped, classified, documented, and interpreted" (Rose 1999: 175-76).

The second major flaw in this game-theoretic analysis is the authors' wrong assumption that the UNHCR represents the interests of both refugees and state actors (donors and others). This is like saying that an attorney will and can represent both the victim and the perpetrator, at the same time, and, in the end,
arrive at a just outcome, which is a true utopia, if not a politics of manufacturing consent. Through their discursive practices and rationalities, such experts calculate ahead of time what would bring them the best possible outcome of all the choices available. This is the essence of rationalism. The inclusion and exclusion process are mainly predicated upon the experts’ own basic assumptions and the one essentialist knowledge that goes into such a calculation. Such a policy, which assumes the role of legitimate authority, is often the result of what Rose (1999: 41) calls as the “objectification of human beings within the discourses that would govern them” to their exclusion from the “moral community” as being unfit to represent their own interests. Then again, they are self-acclaimed scientists and experts and why would they choose a critical concept to analyze the politically invisible – refugees, those who live in non-spaces only visible to the gaze of sovereign powers?

As proud political scientists of the school of conflict resolution, serving the interests of governments and businesses, Zeager and Bascom have ignored the fact that refugees live in a socially and politically excluded, or “nobody’s” space called a refugee camp. A political and territorial space dichotomized by a contradiction for it is both inside and outside of somebody else’s (asylum country’s) sovereign territory. As they fall under two sovereigns: the UNHCR and the country of asylum, one can further advance that refugees would have a hard time knowing who their real protectors and/or tormentors are, as they are increasingly lied to at the same time they are being subjected to all kinds of surveillance and strict enforcements of government programs. Crisp (2000) and Hyndman (2000) have provided ample evidence for this in their respective works after their field research in refugee camps in Kenya and Somalia. They have witnessed the violence that went on unchecked in such camps by governments and opposition groups. Crisp witnessed or has had first-hand information on crimes committed against Somali refugees in Kenya: Kakuma, in northwest of the country, and Dadabb, in the northeast. Hyndman interviewed many women refugees who had been beaten and/or raped by other refugees and security
guards, and explains how Geneva ignored the plights of these refugees in Northern Kenya. Amnesty International (1997b) made an appeal to the world with regard to the impending second genocide that was to take place in the Congo involving Rwandan refugees and calling on governments not to ignore these people. Beatings and arbitrary detentions by gun-carrying security guards are daily routines in such camps as well as others, such as the ones in the Sudan, which will be later in further detail. As refugees live amid, and yet farther away from, today’s anthropomic societies, they are also subjected to the different strategies employed by such communities and their governments: rejection, deportation, refoulements, and even killings, which one of history’s greatest cultural anthropologist – Levi Strauss, had predicted a long time ago, 36 become daily routine. Did their voices matter in the Zeager and Bascom’s analysis?

By simply acceding to the UNHCR claim, which stated that “refugees posed a security threat”, these authors simply chose to manipulate rational theory to fit this definition by excluding refugees from their analysis. In the process, they silenced the voices of the already marginalized people in global society. Had refugees been included, the authors would know their outcomes would have been different, but chose not to because such utilitarian outcomes would not be one of them. For this and other reasons stated, the thesis must reject the validity of claims made by game theories such as Zeager and Bascom’s (1996).

**From the “End of the Cold War” to “Back to Home” Theses**

As stated in the opening of this chapter, the thesis now examines in detail UNHCR’s three reasons used in its repatriation discourses and practices of the 1990s. This critical inquiry employs the problematization and rejection of each of

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36 Anthropomic strategies are those strategies of vomiting, rejection, exclusion, deportation and the like that collectives employ against minorities or peoples they want to exclude (as in Apartheid) or as in modern Ghettoization practices. The second strategy is the opposite, which Levi-Strauss called as anthropophagic: the attempt to devour, assimilates, and yet, destroys
the following three purported "causes" or reasons for repatriation: the "end of the Cold War" and "ceased circumstances" clause; the "regional security risk"; and the "back to home" theses.

A) "End of the Cold War" and "ceased circumstances" thesis

When UNHCR invoked the issue of the 'end of the Cold War' thesis and the "ceased circumstances" clause of the 1951 Refugee Convention, 37 two things must have gone into the calculation: first, as I have shown in the first chapter, the Cold War was often blamed in the West as a system generating refugees. While this may be the case, it has also been misleading in that it was only one side of the Cold War, namely communism, often blamed as the push factor for reactive migrations. What would be the meaning of attempting to understand, for instance, why millions of Vietnamese refugees left their countries in 1960s and 70s because of the "communist" war from the North, without also looking at the "imperialist" war from the South? Yet, the process of refugee production, both in the constructions of the political elite in the west, in the mainstream media, and within the supposedly neutral international organizations like the UN/UNHCR remained linked to "causes" from within communism. This continued into the Ogata era. It implied that the end of the Cold War also meant the end of hostilities in the countries of origin (Loescher 2001; Barnett 2001). It meant the invoking of the 'cessation clause' forcing refugees to return home without due process of justice and practices of their rights according to the Convention (Goodwin-Gill 2001; Barnett 2001; Hathaway 1997).

In contrast to the era of the Cold War, the post-Cold War era brought about other forms of terror (state and non-state) and internal conflicts, which came to dominate life in the South forcing people out of their countries of origin. The "Cold War itself gave order to a world that had skidded into the atomic age,
an order of terror to be sure, but one that made it possible to shift internal crises off on to external causes, that is enemies” (Beck 1998: 145-147), which meant communism, then; and refugees, now. In the same light, Hammerstad (2000) has argued that the post-Cold War era has been a period of greater uncertainty rife with civil wars with increasing number of people leaving their countries of origin whose numbers increased to 18.1 million (1992) from 14.9 million (1989) or at the end of the Cold war. The end of the superpower rivalry, adds the author, made it possible for states, especially in the West, “to employ refugee policies that more closely mirrored their interest in keeping them out namely, emergency humanitarian action and military humanitarian intervention to protect and contain (potential) refugees as close to their homes as possible” (Hammerstadt 2000: 391-393), as in Northern Iraq.

In the closing decades of the twentieth century, writes Rose (1999: 214), “beyond the politics of the right [referring to Thatcher] a new way of thinking about the objects, targets, mechanisms and limits of government has taken shape which shares many of the premises of neo-liberalism” or the ‘third way’ politics of Blair and Clinton. In the process, the ideal of the ‘social’ state has given way to that of the ‘enabling’ state, where increasingly “autonomized” agencies (accounting/auditing, health professionals, schools, etc.) came to fill the gap between society and political power. In this risk and safety-oriented political assemblage, risk managers and scientists occupy a vital space often in the service of safety-oriented Northern states and their many profit-driven TNCs. Agencies, such as the UNHCR either become specialized themselves in risk management, as in Geneva, or increasingly utilize the services of these groups already in place, as also discussed earlier.

There is little unsaid about the Cold War, more so in postmortem than when it was around and many writers suggested diverse views about the post-Cold War era. However, as Cox (1995) and Baxi (2001) have argued, rarely a

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37 For detailed analysis of “Ceased circumstances”, see Appendix-B, Section-A
few, if any, went so far as to suggest, as Francis Fukuyama did, that we reached the “end of history” which declared a total “victory” for capitalism and liberalism. Political writings such as Fukuyama’s, just like that of the historically problematic power discourses of Machiavelli and Hobbes, no doubt, have major political implications for global policies. It is possible to argue that such political discourses may have informed UNHCR’s own policies. The irony is that: both Fukuyama and Ogata are Western educated Japanese elites (with different citizenships) who made such key arguments (the former about “end of history” and the latter about “end of the Cold war”) in the same year - 1992. Was this a mere coincidence or the meeting of the minds?

As was severally shown in earlier chapters, the end of the Cold War was neither peaceful nor helped end hostilities in many of the former proxy states. The UN’s own International Organization for Migration (IOM) later admitted stating that, although “the disappearance of the bipolar world has given way to political ‘order’ in spite of efforts at consolidation, this new order is still rooted in old economic and social disorders” (IOM 1999: 14). This suggested that the old economic and social orders, which included colonialism/neo-colonialism, developmentalism, Cold War, globalization and the like, may have been largely responsible for the new conflicts and the chaotic disorder that followed the end of the Cold War. So, how is the “ceased circumstances” or “end of hostilities” clause to stand in view of this chaotic order after the end of the Cold War? As much as the Cold War ideology had been responsible for refugee generation, its demise did not end reactive migration. Nor has there ever peace and tranquility around the world since its end, thanks largely to the nuisances of military intervention by the one superpower, on the one hand; and fundamentalisms (religious fanatics, extreme nationalists, and racists), on the other.

On the cultural, social, and economic aspects of life, which many writers found to have direct links to refugee issues, increasing assaults have come from the world market dominated by TNCs (Said 1993; Appadurai 1996; Sassen 1998; Sklair 2001; Beck 2001; Baxi 2001). Through their close collaborations with the
world's financial institutions (IMF/World Bank) and through the trade regulatory body of the WTO, there is little doubt that TNCs rule the world. This is the vivid picture of the post-Cold War era, which Appadurai (2000: 2-3) has characterized as an era in which: "double apartheid is evolving." This double apartheid, as the author explains, was taking place in the "parochial debates and internal squabbles around globalization and the "end of history", on the one hand; and in the "growing divorce between these debates and those vernacular discourses that protect cultural autonomy in the global fora", on the other. One prominent feature of this era is the "growing rift between poor and rich states, whose basically simple topography was drawn in the starkest terms by the so-call Brandt Report" (Said 1993: 283).

As Cox (1995) argued, one of the principal factors taken into account in defining the ontology of the future political economy is "the reshaping of capitalism during the post-Cold War period". The author adds that the hyper liberalism of the 1980s was no more by the 1990s because "capitalism's gain on the ground" was shaken by then due to its lagging growth, "increasing the polarization of rich and poor, and environmental degradation" (Cox 1995: 37-38). Under such conditions of "advanced liberalism", where work itself has become a vulnerable zone, "perpetual insecurity becomes the normal form of labor, and lifelong 'social' labor" can no longer be "re-activated as the primary social integration of individuals and families" (Rose 1999: 158). Such were the macro realities of the post-Cold War period, as Appadurai, Cox, Rose and others saw them.

The UNHCR's invocation of the 'cessation clause' is similar to what Rose (1999: 15) refers to as a "program for controlling, regulating, mastering or exercising authority". Dean (1999:10) would call this "an attempt to shape with some degree of deliberation aspects of our behavior, according to particular sets of norms and for a variety of ends". The invocation of the cessation clause functions as one of many techniques of governance that renders the spaces visible over which UNHCR's power over refugees is exercised. As will be shown
later, the UNHCR implemented such a problematic technology of governance against a select group of Ethiopian refugees in the Sudan without much global consultations, political as well as social deliberations. For the UNHCR, the end of the Cold War meant the automatic end of hostilities in the refugees' countries of origin - a policy informed by Fukuyama's "end" of history thesis, which Baxi (2001: 94) has called as an "endomania that survives even a Derridian deconstruction". Their (the refugees') return is then "necessitated" from the former.

**B. The Regional Security Thesis**

According to this thesis, developed out of Ogata's various speeches and communiqués delivered to the Executive Committee and others in the early 1990s,\(^{38}\) it was argued that regional politics became highly unstable because of the presence of millions of refugees in areas bordering many countries (e.g., the Great Lakes Region, the Horn of Africa). In other words, refugees, once considered as people at risk, became, in the new political discourses, a "threat" to regional security or a "problem to be solved". While there is some truth in such a claim,\(^{39}\) there are also serious problems associated with it especially in the area of finding causal link between refugees and conflict, and in the policy choices.

From Beck's risk theory perspective, one can argue that the *de-facto* stateless refugees,\(^{40}\) as people placed in marginal spaces outside the protection shields of national and international law, are more vulnerable to the many harmful effects resulting from the practices of state and non-state actors than

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\(^{38}\) See the introduction and chapter three, here, for more details.

\(^{39}\) I will show this later when I discuss the Ethiopian refugees' case in the Sudan to show how other groups of refugees' political movements had been manipulated by governments and others to suppress future rivals, themselves refugees; or to combat governments from within others' territories.

\(^{40}\) Note that *de facto* statelessness describes a situation where refugees have not been recognized by international law to be stateless by law or *de jure*. *De-jure* stateless people are those diplomats who are outside of their countries and that they are recognized by treaty and custom to be legally residing outside of their countries of origin.
being a regional security threat. By way of the following two theses, this work
draws two arguments challenging UNHCR’s position of treating refugees as a
security risk. In the process, it may even provide a more resonant explanation in
locating the real sources of such risks. The first thesis would state and prove that
economic globalization (the role of TNCs and IGOs), not refugees, is one of the
biggest sources of risk production. Economic globalization denationalizes and
pushes people out of the South, but stops them at the border’s edge, in the
North. Thesis two argues that other global players: dominant state actors
(including those in regional conflicts), IOs/supranational organizations (UN,
UNHCR, EU) have directly contributed (by acting or not acting) not only in the
refugee production and regional insecurity issues but human insecurities in
general. These two, which this thesis examines in detail from here onwards, not
refugees, are responsible for the kinds of insecurity issues, which UNHCR wrongly
advanced.

In regards to the first point, the impacts of developmentalism, economic
globalization and the international regimes of rule (IGOs) protecting the interests
of TNCs and their sponsors (Northern states) have created two contradictory
processes. One the one hand, through their regimes of rule such as multilateral
agreements on trade (MAI) and trade related intellectual property rights (TRIPs)
they have not only produced unprecedented impoverishment of the South but
reactive migrations. On the other, they served to influence the instituting of strict
immigration regimes in the North. As a result, the numbers and categories of
refugees, asylum seekers, and labor migrants have multiplied, as severally
argued by many critics. “Development as a discourse”, writes Escobar, “shares
structural features with other colonizing discourses, such as Orientalism” in that it
has “functioned as an all powerful mechanism for the production and
management of the Third World”. It made the Third World the target of new
mechanisms of power, such as strict immigration controls, embodied in “endless
programs and strategies” (Escobar 1995: 213).
Such discussions, as Escobar’s, suggest that, on the one hand, new claims of human rights and social justice issues have come to surface as a result of globalization-imposed migrations, while, on the other, the “de facto transnationalizing of immigration policies” (Sassen 1998: 5) were taking place in the North to control migrations. Japan’s new immigration policy of 1990 (Sassen 1998: 16), EU’s pooling of sovereignty around issues of immigration in 1997 (Joly, Kelly and Nettleton 1997; Hamilton 1997), or United State’s strict immigration laws of the late 1980s to mid-1990s (Nanda 1989; Gibney 1999) have all been influenced by state security concerns, globalization, and IMF/World Bank operations, one way or another. Globalization’s contradictory processes: the opening up of the sovereign territory in the South and as a push factor for forced migration, one the one hand; and the building of fences around the borders of rich states in the North, on the other, has been critically analyzed by Klein (2002), beside others. Klein writes that this process “has always been a part of capitalism, as the only way to protect property from bandits”. Yet, “the double standards propping up these fences have of late, become increasingly blatant” (Klein 200: XIX). Regarding the strategic positioning of the other international or inter-governmental organizations (IGOs) such as the IMF, World Bank and WTO, writes Strange (1996) are ‘econocrats’ through which the “iron fist of American power – is exercised on behalf of the ruling elites of transnational capital”. Their powers can be felt as they “exist to protect and defend” the interests of the transnational business class” (Strange 1996: 161-63).

Regarding the second argument, one finds the role of supranational or international organizations (IOs) like the United Nations mainly instrumental as in “the compilation and publication of national income statistics, for creating standards and for better functioning of the market”. Such processes benefit the North, as in “the Doomsday Book of the Norman invaders of England”, and in some cases, directly “serve the interests and ideologies of some dominant states” (Strange 1996: 164-65). As argued earlier through the works of Cox (1995) and Sassen (1998), they are also structural powers as long as they have the
capability to "effect rules", as in UNHCR's repatriation discourses. This means that they contribute to risk production in refugee camps by acting or not acting, depending on the issues and parties involved.

Other structural and instrumental powers in world politics, the UN Security Council and NATO, have also been implicated not only in the feeding of ideas for the security discourses and operational behaviors of the UNHCR but in directly impacting refugees' lives through wars of intervention. As Hammerstadt (2000: 392) has argued, the highly visible trend which the UN Security Council (UNSC) has displayed during the last decade, was "unprecedented before the 1990s" for its "resolutions declared refugee emergencies (or their possibility) in Iraq, Somalia, the former Yugoslavia, Rwanda, Haiti to be threats to 'peace and security'. Close cooperation between the UNHCR and NATO "has also been a growing concern for human rights groups because of the increasing contacts and collaboration between the two" (Mendiluce 1994; Cunliffe 1997). "UNHCR's participation in NATO training courses and seminars at Oberammergau and in those organized by the North Atlantic Cooperation Council, in anticipation of possible operation with a humanitarian component involving NATO, writes Mendiluce (1994: 5), was the result of Ms. Sadako Ogata's renewed commitment to "peace, security, and stability" of sovereign nation-states. This was further confirmed in Ogata's foreword to the "State of World's Refugees", which reads as follows:

The subject of refugees and displaced people is high on the list of international concerns today not only because of its humanitarian significance, but also because of its impacts on peace, security and stability. The world cannot reach a new order without effectively addressing the problem of human displacement. 41 [Emphasis added]

At first sight, Ogata's above statement appears to criticize the world community of nations for ignoring the plights of the displaced. It also warns the same

community that issues of peace, security and stability faced threats if the
community did not act sooner than later. What are eerily missing from the above
statement are issues of human security and responsibility. She has not talked
about refugees' lives or why they were crossing international borders en masse.
Her emphasis is regional and state security; and her message, it appears, is
informing state actors to do the next 'best' thing to the challenges of
"protection", push for repatriation. If they fail to do this, the statement seems to
warn, there would be no world order, because refugees would threaten that
order. The truth is, it is state actors and their corporate allies who are responsible
for their own insecurities, real or imagined.

As previously argued in the three chapter, the UNHCR and its international
political and military arms, such as the UN Security Council, and NATO (a Cold
War era institution), have also been responsible for the manufacturing of
insecurities (imagined or real), which, in turn, multiplied refugees' risks/insecurities. UNHCR’s role in the Balkans along NATO operation lines, for
instance, "was increasingly perceived in political, rather than humanitarian,
terms" by one or more of the combatants in the field, and "the dangers of
 politicization have been amply demonstrated by UNHCR’s role as a substitute for
 international diplomacy and political resolve" (Cunlife 1997: 134-137). NATO
operations in the former Yugoslavia and the so-called allies of the Gulf war (1991
and 2003) have had an impact not only in creating hundreds of thousands of
deaths and reactive migrations but also new tensions between different ethnic
and religious groups. In light of these problems, is the UNHCR justified in its
blaming of the hundreds of thousands of internally displaced Kurds in Northern
Iraq; or the 500,000 or so Hutus who vanished into thin air in Zaire, as a regional
security risk? Are they simply symptoms of a bigger problem – the dominant
political and economic powers that may be lurking behind UNHCR’s
"humanitarian" tag to satisfy their own pragmatic needs?

The thesis reiterates that the role of states is central to risk production.
States, North and South, are primarily responsible for the plights of refugees
(their own and others’) as they occupy a central political space on the frontlines of forced migration. Human rights abuses, wars, economic deprivations, ecocide, famines, ethnocide, genocide, political killings and repressions are mainly states’ workings, not the workings of refugees or asylum seekers. Non-state rebel groups are also partly responsible for reactive migrations and for regional insecurities as in the Horn of Africa, Bosnia and elsewhere.

Following the foregoing discussion, then, one can advance that UNHCR’s manufactured and rationalized security discourses were largely misplaced. They permitted the organization to “embrace” risk and arbitrarily pass them on to refugees as part of the new technologies of government under ‘advanced’ liberalism, technologies which demanded “responsibilization” and “autonomization” (Rose 1999). Such a system necessitated the thinking that refugees be responsible for their own plights as well as that of nation-states: their own peace, security and stability needs as well as states’ security concerns. How is it possible to have the security of the state without human securities in place, unless such a security is ‘attained’ by silencing the voices of the people (refugees or IDPs) at risk? Where is the nexus between regional insecurity issues and refugees, and how did the UNHCR establish this nexus? Regional insecurity is often the result of state behavior, aggressive or “justified”, emanating from various sources: sovereignty, territoriality, economic, and political rivalries, foreign interests and interventions, etc., culminating into tensions and conflicts. Refugees are victims often caught in the crossfire between two or more sovereigns and/or rebel groups – whose crude technologies of government transgress international and cultural territories. They are subjects of the deterritorializing powers of TNCs, like the Calgary-based Talisman Energy in Southern Sudan, who necessitate their removal from their areas of operation.42

42 After forcing over 200,000 Southern Sudanese to refugee camps in Ethiopia and elsewhere, from my notes in John Garang, SPLA’s leader, speech to the Cable Parliamentary Channel – CPAC (Ottawa) a couple of years ago. After intensive criticisms from human rights groups, Talisman Energy had since sold its interest to an Indian firm and pulled out after so much opposition and criticisms from human rights groups.
The use of the very term regional security itself, one can advance, is a very problematic concept given who often claims it (school of realism) and the nature of the UNHCR (a symbol of "cosmopolitanism"). As argued in chapter two, Beck's theory of risk society (1992), complemented by Simon's (2002) concept of "embracing risk", provides the tool of risk analysis for understanding such problems. It was and continues to be argued that refugees are people at risk living in precarious conditions in crowded and infested refugee camps waiting in fear not knowing whether they would be able to get asylum elsewhere or be returned "home". Living in such a securitized environment, how can a refugee become a regional security risk? Whose security concern is advanced? Should regional security issues of sovereign states dictate the human securities of refugees and should this have been the primary concern for UNHCR? Could this policy have been part of the general exclusionary policies of the Northern states in the 1990s?

In reflecting on UNHCR's other questionable roles in crises areas such as the former Yugoslavia, Weil (2001: 79-80) has argued that "neutrality and impartiality – traditionally the cornerstones of international humanitarianism – have been significantly compromised by military humanitarianism", as in Bosnia, Kosovo and the Great Lakes region in Africa. Military humanitarianism is diametrically opposed to the tenets of international humanitarianism for "military forces rarely, if ever, have a purely humanitarian agenda" (Loescher & Loescher 1994: 1).

UNHCR's security discourses, as discussed in detail, are replete with serious flaws and problems, which emanate from manufactured and fallacious assumptions, which are in turn complicated with contested interests and claims. Such discourses and practices are some of the main defining features of the risk analysis and regulation regimes of science and business. They are not fit to address social issues and problems, as reactive migration or repatriation. Hence, this thesis rejects these security discourses and practices as insufficient and socially unjust reasons to justify repatriation.
C) The back to "home" thesis

In one of her various speeches made to the Executive Committee of the UNHCR, Miss Ogata argued that refugees would be better off if they were to go "home" rather than stay in camps. As Loescher (2001: 5-7) explains, this was implemented as part of the so-called "voluntary" repatriation program (VRP) in which refugees were advised to return "home" in order to "benefit" from UNHCR's temporary assistance for reintegration; and/or suffer the consequences of the termination of aid and protection, if they failed to do so. This is an exemplary case of an inscription technique, which, at first glance, would appear reasonable. This writer has no problem whatsoever with the argument that home is better than refugee camps. The question is: why would "home" be linked to a threat to end "protection" and "assistance" for those who need them? They need them, primarily, because they have a well-grounded fear of persecution at "home". Besides, who is to decide what constitutes "home" for refugees who have had none, in some cases for three decades, or for those born outside of the original homes of their parents? What is "home" outside of its defining concepts of a true sense of community, memories of belongingness, ease of security, and peace of mind?

In this era of the surveillant assemblage, where communities have increasingly been objectified "by positive knowledges, subject to truth claims by expertise and technologies of governing" (Rose 1999), a community is no longer defined by its contents but "by its closely watched borders" (Bauman 2000: 101). "Home" is nothing but a political and cultural space defined more by the contours of the residual ethnic, religious and cultural differences. It becomes an imaginary space for those who once belonged in it, but cut off from it for 10-30 years after having fled for their lives and witnessing the death and destruction of their families and their homes.
According to L. Malkki, home is not a place simply to remember, for: "to plot only 'places of birth' and degrees of nativeness is to blind oneself to the multiplicity of attachments that people form to places through living-in, remembering and imagining them". 43 In her ethnographic research about the Turkish Diaspora in Europe, Ilcan (2002: 120) writes that: "the home is one of many sites for exploring the challenges to belonging. This is especially so given its connotations as the origin of security, stability, and identity". In other words, although "home" is what is often portrayed in the media reports and immigration acts as a place where one feels secure, stable, and culturally identified, such a place is not necessarily where one belongs or symbolically longs to belong. This is especially the case today, where different technologies of government have transformed populations into "signifiers for a multitude of organized surveillance systems" (Haggerty and Ericson 2000: 605).

So, how satisfactory is the UNHCR thesis that "home" is better than the refugee camps? How did it govern the daily lives of the refugee camps as to sell such arguments to refugees who might choose, as many have, to "voluntarily" return "home" anyway? In the politics of risk analysis and the rationalizing of policy alternatives, processes that exclude the subjects affected, those in the position of power tend to make the "non-political political" and the "invisible visible" or vice versa (Beck 1992). This way, they make sure that the discursive meanings they ascribe to their new political discourses fit their chosen political goals. Refugees' original "homes" for UNHCR had different meanings before the 1990s. UNHCR's earlier discourses treated such homes as political spaces that were exclusionary, dangerous, and life threatening. By way of the early 1990s discourses and practices, and without any material change as to warrant their redefinition, they suddenly became "welcome" places for the same people considered at risk and needed international "protection".

43 Cited: in Ilcan (2002), p. 76
In the languages of risk and governance, the sudden appearance of such discursive practices take place in socially exclusionary political spaces. In such political spaces, the shaping of conduct becomes a routine in the hope of “producing certain desired effects and averting certain undesired events” (Rose 1999). By casting refugees as the “problem to be solved” (Bakewell 2002), and by employing such calculative rationalities and techniques of inscription, UNHCR sought to secure pragmatic policy alternatives that produce desired effects (repatriation) and avoid undesired events (refugees’ defiance to return).

Thus far, the thesis has critically analyzed and problematized the UNHCR’s three core concepts in its politics of refugee repatriation, as justifications to repatriate refugees. It has shown that these three problematic theses, or UNHCR’s underlying principles for refugee repatriation, could not bear up the test of social critique. Further, it finds them to be socially unjust. Hence, it rejects them in their entirety and proceeds to the next section, the consequences of these problematic theses and the subsequent repatriation practices to refugees.

**Consequences of Involuntary Repatriation**

Involuntary repatriation is the return of refugees to their countries of origin without their prior knowledge of the conditions at home and without express consents accorded by them at their points of departure, mainly refugee camps. Such a return can take the form of deception, as in the end of the Cold War thesis and in the seeking of consent through promises of material assistance; or through coercive and socially unjust practices, as in the exclusionary game bargaining or the many instances of spontaneous repatriations. These questionable practices of the 1990s, which, in some cases, may have risen to the level of cruel and inhumane treatment, clearly contravene the 1951 Convention, the 1948 Universal Human Rights Declaration, and the
1985 Convention against Torture.⁴⁴ Above all, they are socially unjust even if these instruments are themselves vague about these issues.

The thesis questions the term “voluntary”, repeatedly used in the High Commissioner’s various speeches and communiqués, as a problematic discourse which masks the truth (the actual nature of repatriation) for three reasons that stand out. First, in almost all repatriation cases involving the more than 12 million refugees, as Barnett (2001), Van Hear (1998), Black & Koser (1999), Loescher (2001) and others have illustrated, there is no single convincing evidence, with the possible exception of Cambodian refugees, which would suggest that repatriates have knowingly, willingly and expressly consented to their returns.⁴⁵ Even with the Cambodian return, there were unresolved issues of return with “safety” and “dignity”.

Second, as discussed elsewhere in this thesis, many of the countries of origin to which refugees returned, were still in political and social crises. This suggested that the “original” hostilities either did not end, or renewed through “newer” conflicts hence invalidating the legitimacy of UNHCR’s invocation of the “ceased circumstances” clause and the “voluntariness” of the program (Prendergast 1996; Stein and Cuny 1994; Kendle 1996; Doebbler 2000).⁴⁶ Finally, as repatriates are often, but not always, dumped across the border, often after a tedious travel, into their countries of origin, there is no evidence to suggest that they returned with “safety” and “dignity”, two principles that demand strict adherence.

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⁴⁴ See Appendices B and C & other instruments including the 1985 Convention Against Torture and Cruel Treatment (not shown); for more discussion about refugees’ legal and human rights.⁴⁵ See Eastmond and Ojendal (In: Black & Koser, 1999), pp. 38-55 for further information on how the Cambodian issue was “resolved” through the direct involvement of elders in the community, the UN/UNHCR, UNICEF, local NGOs & the Thai government in the “successful” return and re-integration of about 360,000 refugees. Even here, there were problems of return in “safety” & “dignity”.⁴⁶ Kendle (1998) examines UNHCR’s operation in Sri Lanka (1987-97) & involuntary repatriations of Tamils from India (1992), from Switzerland (1994) to conflict areas in Sri Lanka. Stein & Cuny (1994) provide a general discussion on repatriation during conflict citing Afghanistan, Somalia, Ethiopia, Angola, Mozambique, etc. Prendergast (1996) shows how within the “Front Line
Black and Koser (1999) and Loescher (2001) have argued that, it was the UNHCR and its experts in Geneva and in the field offices, who decided on behalf of refugees on almost all counts: voluntariness of the return, cessation of hostilities, and the “safety” and “dignity” issues.\(^{47}\) Such conditions of return of refugees to their yet unsafe countries of origin would then suggest that negative consequences, some of them life threatening, might be among many possibilities for those reactive migrants (political and war related) as these researchers', various reports of Amnesty International, Human Rights Watch, ICRC and local Human Rights' groups have documented over the years.\(^{48}\)

This work is critically aware that there is a need for further research into the post-repatriation on an ongoing basis before one can tell the full impact of the UNHCR repatriation discourses and practices. However, given available data out there (e.g., Black & Koser's 1999; Van Hear 1998 & Loescher 2001), with their more than twenty-five case studies, and based on general sociological and anthropological studies on reactive migrations and involuntary returns, one can identify at least three negative impacts to refugees. These are: return migration (re-migration), persecution (from detention to disappearances), and demographic impacts.

In regards to the first, return migration, there are ample evidences to support this. Millions of Afghanis, tens of thousands of Rohingya minority Moslems, hundreds of thousands of Ethiopian, Eritrean and Rwandan refugees, and thousands of Guatemalan refugees, who were forced to run back to their previous countries of temporary asylum or refuge as a result of new conflicts (Black & Koser 1999; Van Hear 1998; Loescher 2001). Second, as variously advanced by researchers and human rights groups such as Amnesty

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\(^{47}\) See: Black & Koser (1999), pp. 4-17 for detailed discussion concerning seventeen repatriation cases around the world involving millions of refugees. See also: Loescher (2001); pp. 272-347

International, many returnees faced persecution, which may have included “disappearances”. Tamil Tigers returned from Switzerland, Ethiopians from Sudan, Djibouti and Somalia, Somalis from Ethiopia and Kenya, Bosnians from Germany, Afghanis from Pakistan and Hutus from DR Congo are just a few of the many forced repatriation cases with some fatal consequences.

The third is the impact of demography. Unplanned mass returns of refugees to their countries of origin, writes Van Hear, have “several profound demographic (gender/married/single/age), socio-economic (labor participation and unemployment), political and cultural effects on recipient territories and their communities” (Van Hear 1998:12). This is especially true for communities, for instance, in Somalia, Ethiopia, or Afghanistan, where ethnic wars and natural disasters had already substantially altered their living habitats, or destroyed the social, political and cultural conditions of life. As shown earlier, this problem was not the sole feature of the South; the North, mainly Europe, also has had its own shares. Social exclusion of the “other” remained one of the worst features of neo-liberal governing in the 1990s.

Citing Rosenstrach, who, in the context of Nazi Germany’s political and racist dogmas against the Jewish People, wrote ‘neighbors become Jews’, Beck has argued that:

In the political construction of the stranger in the age of reflexive modernity, strangers are German Jews, who, with their prized medals from the First World War pinned to their chests, were taken away to the concentration camps in disbelief that patriots could do this to fellow patriots. Strangers are people who in their self-understanding are Jewish, who feel estranged in Germany and Europe and get their (fragile) identity from their strangeness (Beck 1998: 129-131).

This political analogy, which draws parallels from a period in humanity’s darkest memories to illustrate a problem we experience today, helps to show the precarious position minorities occupy in Europe and elsewhere. The Tamils in Switzerland, Bosnians in Germany, Ethiopians in the Sudan, North African and Turkish refugees and migrants in France, UK, Germany, or other minorities in North America, who are treated, as were “Jews” in Europe during the continent’s
darkest years. This is similar to the treatment of Blacks today in the American Ghettos or in the South African apartheid days. They are treated as those "who actually should be excluded according to the stereotypes of social order" (Beck 1998); and deported or forcibly repatriated now that their containment and extinction in concentration camps is no longer 'possible', at least legally.

The new global order "involves a return to the gamekeeper state and away from that of the gardener (welfare state), whereby "regulating mobilities" (Urry 2000: 189) becomes the rule rather than the exception. Those who refuse to become responsible or "govern themselves ethically, have also refused the offer to become members of our moral community", hence, penalties such as "three strikes, you are out" have become more appropriate and this way "citizenship becomes conditional upon conduct" (Rose 1999: 267). Refugees, asylum seekers, and other migrants in Africa, Asia, Europe and elsewhere, one can argue, became subjects for the gamekeeper states and their agencies (UN/UNHCR) who subject the former to the strict rules of the self-acclaimed new global moral communities. The three negative consequences, briefly discussed here, are only a few of many possible consequences. This writer challenges researchers in the field of refugee law to critically examine and address these issues.

The next section samples a refugee group from the Sudan, subjected to UNHCR's invocation of the so-called cessation clause of the 1951 Convention. It illustrates the injustice refugees suffered all over the world through such power discourses and practices, by none other than this one time "apolitical" and "humanitarian" organization – the UNHCR and its global allies.
SAMPLING AN INVOLUNTARY REPATRIATION

(Ethiopian Refugees in the Sudan)

"Unless the estimated 12,000 Ethiopian refugees who came to Sudan before the fall of the Mengistu regime in 1991 applied before the end of August to go back to Ethiopia, they will no longer be entitled to international protection."  

- Sadako Ogata (June 13, 2000)

In the much differentiated and contested terrains of science and politics, risk production and embrace are often the exclusive tasks of knowledge workers, businesses, and political elites that often benefit from them. The role of government today is mainly the provision of enabling laws and political environments that are conducive for the smooth operation of such tasks. Such technologies of government, as the above excerpt would show, create exclusive political spaces where: "arguments, strategies and tactics are analyzed in their own terms" (Rose 1999: 56).

The "cessation clause", which was applied to the Ethiopian refugees in the Sudan effective March 1, 2000 is a form of inscription program in which "conduits of power are brought into being between those who wish to exercise power and those over whom they wish to exercise it" (Rose 1999: 211). Through such programs already inscribed into the refugee law, the UNHCR was able to exercise its power against these refugees in three ways: through its de-recognition of their refugee status, by taking away their identity cards, and threatening to stop food-aid from World Food Program (WFP). All of these have all been exercised with the end goal being – the so-called "voluntary" repatriation.

The Ethiopian refugees in the Sudan and elsewhere, to which reference is made here, are those pre-1991 refugees, as they came to be known, whom the UNHCR found to be no longer eligible for international protection on the premises

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49 Announced to the UNHCR's Standing Committee by Mrs. Ogata in February 1999 & applied to all pre-1991 refugees all over the world including the 24,000 or so estimated in the cities and the 12,000 in refugee camps in the Sudan itself. See also: www.sudmer.com/SudRepByUNHCR.htm
that the Cold War had ended and that the “communist” Mengistu was no longer in power. The argument goes: because the Cold War had ended, the original causes of their forced migration had also ceased to exist hence canceling or ceasing their continued stay in the refugee camps. Further, their continued stay would mean, therefore, mean that they posed a threat to regional security and had to return “voluntarily”, or else!

This group of refugees is selected for two main reasons: first, as stated earlier, they were among the few cases around the world who were subjected to UNHCR’s “cessation clause” discourses and programs of inscription, as a result of which many had been negatively impacted. Their subjection to the sovereign exercise of two powers, UNHCR and the Sudanese government, is unique among refugee cases and they serve as a good example to show the inhumane features of the 1990s UNHCR’s security discourses that affected 12 million refugees around the world. Second, this is a subject close to this writer’s heart and soul as I share in these refugees’ plights, at least from their background brutal political experiences in the late 1970s and, now, in their political stance vis-à-vis the ethnic regime in Ethiopia, which treats them as enemies. Writing about their stories is the least I can do given the miseries they suffered in the hands of the Sudanese authorities – the government that got its carte blanche authority to dispose of them as it saw fit. Besides, their stories are stories of refugees all over the world and vice versa.

From the late 1970s to the early 1990s, Sudan hosted 2.5 - 3 million refugees from Ethiopia, Somalia, Uganda and elsewhere. The majority (about 1.5 million) came from Ethiopia beginning in the late 1970s fleeing the military government’s or the “Dergue’s” “red terror” (killings) of political opponents who were members and sympathizers of the underground Marxist party - Ethiopian People’s Revolutionary Party (EPRP). Although the military government was finally ousted in 1991, many more members of the EPRP, including those who returned after 1991, were forced to flee into the Sudan and elsewhere after the TPLF/EPRDF, a widely deplored ethnic dictatorship, came to and consolidated its
power. In the crude technologies of government of this ethnic regime, one finds problematic arrangements such as: the assembling and consolidating of political power through ethnic federalism, the exclusion and repression of political dissidents who advocate for a multi-party system, and the detention and disappearances of political opponents such as EPRP members.

The UNHCR knows well that the government in power declared EPRP members, those who represent the majority of the pre-1991 cases in the Sudan, as enemies simply for refusing to endorse its divisive rules. They refused to recognize, and for good reasons, the government's problematic arrangement for the Eritrean cessation, their politics of ethnic federalism, and their other divisive policies. UNJHCR can neither deny knowledge nor claim ignorance of the fact that the TPLF/EPRDF declared a war of annihilation against EPRP in the early 1990s, only a few months after it came to power, thereby detaining and disappearing most of its leaders and forcing the rest to flee to Sudan. These were the same group of people, whom the UNHCR slated for involuntary repatriation after invoking the "cessation clause" in February 1999, which became in effect in March 2000.

It is instructive to note that the UNHCR had also been silent about an incident that took place in 1992 involving the re-fouling of refugees from among this group who were under its loose protection in refugee camps in the Sudan. In the early 1992, a joint Sudanese and Ethiopian (TPLF/EPRDF) special military forces operation invaded two refugee camps in the middle of the night and arrested 21-23 EPRP members, who were then re-fouled to Ethiopia and of whom about 17 had "disappeared" since. Coverage of this and latter day incidents including the March 2000 "cessation clause" had been disturbingly, yet understandably, marginal even in the agendas of human rights groups such as Amnesty International or Human Rights Watch; or even in the news-hunting media, which is often politicized and selective in what to broadcast and what to sanction.
In their definition of what constitute human rights abuses, these organizations themselves tend to exclude, like all other exclusionary policies in the West, some political groups through their own discourses such as “combatants”, “communists”, etc. Only few groups and people like DR Curtis Doebbler, an international human rights lawyer operating out of Washington D.C., and others such as Solidarity Committee for Ethiopian Political Prisoners (SOCEPP),50 have been voicing the concerns of this silenced group, in addition, of course, to their political party – EPRP, from Diaspora.51 Other authors used in this thesis, such as Black and Koser (1999) and Loescher (2001) have generally addressed the refugee crises involving Ethiopians in the Sudan and their problematic returns to Ethiopia. It comes back to some of Loescher’s good arguments later on.

Other victims of the TPLF/EPRDF regime in Ethiopia included leaders of labor unions, the Ethiopian Teacher’s Association, political activists linked to parties not affiliated with the party in power, members and supporters of the Oromo Liberation Front (OLF). OLF leaders, once allied with the regime in power until their political fallouts, later became targets themselves of assassination by TPLF hirelings in neighboring countries like Kenya. A concerted effort between the Eritrean Peoples’ Liberation Front (EPLF) and the Tigrean Peoples Liberation Front (TPLF/EPRDF) had played a crucial role in changing the present and future face of politics in that country. They also managed in weakening their ardent opponents (mostly EPRP members and supporters) and succeeded in the break-up of the country itself, thanks largely to the complicity of the Sudanese security forces as well as significant actors in world politics – the U.S. and the U.K. The latter’s, especially U.S.‘s political legitimation of and economic and military

50 Note that DR Doebbler runs his own Web Page and has advocated as their representative of about 300 in Sudan. SOCEPP is an Ethiopian human rights group operating in Diaspora in Canada, USA, and Europe and advocates for the rights of all Ethiopian political prisoners under the TPLF-regime.

51 See: http://www/eprp.Org for more information on issues relating to refugees.
support to the regime has been, and remains, largely responsible for the
government's problematic stay in power.

The invocation of the "cessation clause", announced in February 1999,
imposed additional and more lasting consequences to these refugees in Sudan.
There is one specific problem involving these refugees. In the case of Ethiopia,
where the political territory had been reconfigured from political and
administrative federalism to ethnic federalism, by the TPLF-regime, and return to
"home" did/does not necessarily mean a return to the last place the refugee had
left. Upon return, his/her ethnic origin is often called into question and
"rejected/vomited" as Bauman (2000) would say. This is because she/he cannot
claim or assert identity with community, property, and birthplace in such "emic"
communities deliberately created by government, local or national, through the
politics of exclusion. This is especially true in the provinces of "Tigray" and
'Oromia' region. So, how is one to evaluate the UNHCR's problematic agenda of
the "cessation clause" versus the realities facing these refugees? Why was 1991
chosen as a demarcation point for such an invocation of the cessation clause and
why, specifically EPRP members? As the thesis has already extensively written
about the fallacies of the end of the Cold War thesis, it will not go back to this
issue except to point out that 1991 was chosen for two reasons: first, the military
regime of Col. Mengistu H/Mariam had ended at this time. And second, the end
of the Cold War analysts chose this year to link these pre-1991 refugees to the
Cold War, which had ended about that time, hence, to de-link them from the
legitimate claims and rights of a continued international 'protection'.

These refugees left Ethiopia both during the Mengistu and Meles regimes
and that Mengistu's enemies were, and still are, treated by the TPLF/EPRDF
regime as its enemies too. It is clear that UNHCR had not considered critically
analyzing political systems or forms of government across time to see how
politically marginalized and victimized people during one era can be re-victimized
in another. Instead, what it did do was assume the self-declared democracy of
the TPLF/EPRDF regime, closely assisted by the Americans, was genuine. In the
process, it failed to look into other material facts such as the disturbing various annual human rights reports on this regime.

As Pausewang, Tronvoll and Aalen have clearly argued, since the Dergue/military regime was ousted from power in 1991, all they saw was democratic pretensions and performances conforming to such pretensions, whether during election times or outside of it, by this ethnic group in power. They write:

There were many indications that did not point to Ethiopia developing the status of an entrenched democracy...despite the US's effort to keep the process of democratization in Ethiopia as its ally to maintain stability in the region and act as a buffer against Islamic influences, and in line with this objective has strengthened its trust in Ethiopia’s efforts at democratization. Even against all odds and evidence in the elections of 1992, 1994 and 1995, the US has persistently encouraged Ethiopia’s steps on the way towards 'democracy,' rather than criticizing that country’s obvious and often severe infringements of democratic rights. (Pausewang, Tronvoll and Aalen 2002: 40-41)

Note that the above statement is one of the mildest and most measured criticisms this writer has ever read against the ethnic regime in Ethiopia. Yet, it has a telling story of its own about the nature of democracy in that country, which should have been enough to prompt the UNHCR to re-visit its controversial decision. UNHCR would not accept such a reasoned argument, however. It would argue that its programs were ‘flawless’ and that its priorities remain the promotion of the ‘best’ interests of the ‘refugees’. This, to say the least, is the essence of the problematic concept of “justified political rationality”, which Rose (1999), Beck (1992) and many others, have variously illustrated in their works.

Political rationalities, characterized by regularities, have “distinctive moral forms and epistemological characteristics”, in that they embody conceptions of the nature and scope of legitimate authority, articulated in relation to some understanding of the spaces, persons, problems, and objects to be governed. As they often involve a certain element of thought inscribed in a “distinctive idiom or language”, such rationalities then come to “infuse, a whole variety of practices
and assemblages” (Rose 1999: 26), for regulating political, economic and social life.

UNHCR’s use of the language of moral principles, problematically intertwined with the regularities of the cessation clause, repatriation and containment represent political spaces rife with contested terrains. They are political rationalities unreflective of the organization’s purported ‘humanitarian’ agendas. In view of such arguments, then, the year 1991 as a political and historical marker of ceased circumstances, one can conclude, counts for very little in terms of determining the end of hostilities – for hostilities never ended but multiplied in Ethiopia.

UNHCR’s lack of concern for the human rights of Ethiopian refugees is not new. It goes back to the mid 1970s when millions flooded the Sudanese border fleeing war, political suppression and famine. "UNHCR denied that they were deserving of refugee status. It was only after the Oxfam report exposed the plight of these de facto refugees that the UNHCR finally felt compelled to change its arguments" (Doebbler 2000). Yet, the major part of UNHCR’s strategy to deny these refugees a full protection continued and this was clear when “UNHCR refused refugees to be legally represented by lawyers who had been willing to volunteer their time. It also refused to provide these refugees with copies of the 1951 Convention and the 1967 Protocol” (Doebbler 2000). If this is not the assertion of power through knowledge (the giving and taking away of it), then what is?

In segregated political spaces like refugee camps, as most everywhere else in life today, knowledge was to be “civilized, ordered, and embodied as a means of population instruction in such spaces, which enjoin civility and control of the outward signs of character at the same time they instruct order” (Rose 1999: 104). In this sense, refugee camps become more like prison colonies subject to all forms of surveillance and strict discipline, where the rights and responsibilities of the governed are dictated more by politically pragmatic, than principled discourses.
In May 2000, Doebbler and his colleagues made several attempts and letter-writing campaigns to change the decisions of the UNHCR towards these refugees. Doebbler and others urged the African Commission on Human and People’s Rights to contact the government of Sudan to stop forced repatriation. Government missions in New York and Geneva received similar requests to contact UNHCR to protest its actions. Doebbler’s attempts to speak to UNHCR high officials and ‘knowledge’ managers in Geneva failed. His talks with UNHCR workers and representatives in the Sudan were not much of a help, partly because they are low-ranking officials who get their own “knowledge instruction” from Geneva, and partly because they were part of the problem itself, as they often tended to side with their own governments’ policies. UNHCR’s country representative in the Sudan, Mr. W. R. Urassa, identified by petitioners in the Sudan as one of the local core problems and a conduit for Geneva’s questionable practices, through their press release dated March 17, 2001, or one day before their hunger strike, exemplifies this.

Diaspora Ethiopians have also lobbied the Secretary General of the UN, the US, EU, ICJ, and other important state and non-state actors to put pressure on the UNHCR and the Sudanese government to change their policies towards this group of refugees. In the end, everything seemed an effort in vain. Because refugees and their advocates are not state actors, their voices did not count. It contravenes the international refugee law, particularly the 1951 Convention, Article 38, which clearly states that “any dispute between parties to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the International Court of Justice (ICJ) at the request of any one of the parties to the dispute”.\textsuperscript{52} ICJ is, however, notorious in downplaying and rejecting individual or group petitions.\textsuperscript{53} Then, again, UNHCR

\textsuperscript{52} See: Appendix: B and C for such rights.
\textsuperscript{53} This has specially been the case when ICJ, the UN and dominant state actors rejected and/or ignored petitions of thousands of Ethiopians, both at home and in Diaspora, on issues of refugees as well as on the border demarcation issues involving Eritrea and Ethiopia.
and ICJ can argue, through their discreet interpretations of the law, that refugees were never a party to the Convention (only states are).

One can challenge such a position from three angles: human rights, victims’ rights, and substantive justice claims. First, human rights laws protect all individuals (refugees included) from intrusion by state or non-state actors into the realm of their negative rights (right to life, right not to be enslaved, etc). Second, individuals (refugees), as victims of state/non-state actors, have the right of access to and protection by the “courts” as defined by human rights laws as well by other instruments such as the 1985 Convention against Torture and Cruel Punishment. Finally, contemporary critical perspectives maintain that the existing formal laws and formal rights, which tend to perpetuate the systemic injustices embedded in them, have serious defects. As a result, substantive issues of equality, as in gender, race, ethnicity, culture, etc., remain on the peripheries of social justice and, hence, must be questioned and challenged, as many, like one of Canada’s Supreme Court justices, had.54

Despite such challenges from within the liberal justice system itself, it appears that “fixation on the political system as the exclusive center of politics” (Beck 1992: 187) is still the problematic feature of our time and continues to exist in such institutions, as the ICJ. Several claims suggest that we are in the post-Westphalian era where the principles of state sovereignty are no longer valid. While there is some truth to this, especially when looked at from critical perspectives that talk about individuals or groups’ “active art of living” (Rose 1999: 283), in which new rights are being asserted by everyone and everywhere, this essentialist political and legal thought of statehood and sovereignty remains the single most important obstacle for the absence of substantive justice.

It is through such legalistic principles and rationalizations enshrined in the 1951 Convention that the UNHCR used its discretionary power against the

governed. The invoking of the "cessation clause" against this group of refugees in the Sudan gave the Sudanese government the blanket power to exercise all sorts of its sovereign power on these refugees. This was only a small part in Ogata's general policies of neglect of the African refugee crises during which time she was preoccupied elsewhere. As Loescher (2001: 335) writes: "while the international community focused attention and resources on the crisis in Kosovo and East Timor, conflict and displacement in Africa were virtually ignored. Humanitarian disasters dominated developments and hundreds of thousands of new refugees took flight throughout the continent. In Sudan, hundreds of thousands of Southern Sudanese became newly uprooted", and there was insufficient crisis funding allocated for protection let alone food aid to the millions more leaving their countries while "billions of dollars were pouring into Kosovo. Faced with a severe cutback in funds for humanitarian relief during 1999 and 2000, the UN cut food aid and other essentials to millions of refugees", writes Loescher, emphasizing the crises on African situation and the Afghanis in Pakistan.

It was amid this chaotic disorder that Ogata condemned these refugees to the invocation of the cessation clause, which gave the Sudanese government the blanket power to coerce them to return on their own or forcibly return them as it saw fit. About 4,000 of those pre-1991 political refugees who evaded detention and forced repatriation, lost their jobs and identity cards and have had to live under threats of refoulement. Irrespective of the consequences of their defiance, they chose to assert their rights through an active art of living: by evading authorities through other survival techniques, and by rallying the support of international human rights and other groups to their cause. Others had suffered and continue to suffer night raids, detentions and physical abuses. Many are widowed women with dependent children who had lost their husbands in the wars against both the Dergue and the new regime - TPLF/EPRDF.
Conclusion

This chapter has covered several issues ranging from game-theoretic analysis and the refugee repatriation discourses to a general discussion of the social and political consequences of refugee repatriation with special coverage on Ethiopian refugees in the Sudan. It identified, criticized and rejected many of the key problems UNHCR's in the UNHCR's discourses and practices.

Although one cannot claim that the following three issues are the only ones, they, nevertheless, occupy a central place as persistent themes as the most resonant underlying causes "imposing" repatriation policies on UNHCR. These are: the regional security interest-convergence of nation-states (both in the North and the South); the weakening of the human rights regime/s; and the interests and constant intrusions of TNCs and globalization. The thesis also considers the merits of funding crisis to UN organizations, and civil unrests and wars (mainly in the South) as additional factors for the problem of repatriation. It was argued earlier that UNHCR's structural power allowed it to effect rules and institutions that govern the directions of its instrumental power, which enabled it to effect outcomes, as established under the refugee law. Hence, UNHCR remains to be the focal point of the problem of repatriation.

As to alternatives to involuntary repatriation: third country settlement (asylum) and second country integration, these were the normal practices of the refugee regime until the late 1980s. Because UNHCR's preoccupation was with returning and containing refugees, the Northern states' concern was the passing of strict immigration laws, and TNCs interests were the deterritorializing of spaces so that they can be made civil and convenient for profit maximization, these were not considered at all as possible alternatives. Asylum and second country integration were not part of Ogata's grand scheme. For her, they became obsolete as has the 1951 Convention and this has been well established in her various speeches. The third alternative, voluntary repatriation, which UNHCR claimed to have existed mainly through a persistent use of the term "voluntary", 
did not happen in practice. Because this thesis has already addressed this issue previously, it would not go back on what this means. Instead, it proceeds to the final chapter, which summarizes the main issues, makes critical updates, concluding with an overture into the future of the refugee regime.
Chapter - 5

CONCLUSION

This thesis started-off with a general assessment and discussion of the problems of liberal modernity, the difficulties encountered in international relations, and the magnitude of the transnational social problems of the 1980s and 1990s. Then, it introduced the problem it intends to investigate and the conceptual framework its uses, with a brief introduction on methodology, followed by a general evaluation of the UNHCR political discourses and practices of refugee repatriation. In chapter two, it developed a conceptual framework centrally informed by the works of Beck (1992) and Rose (1999), where the nexus between risk, governmentality and UNHCR’s politics of refugee repatriation was firmly established. While treating Beck’s theory of “risk” and Rose’s theory of “governing” as general theoretical guide to critique UNHCR’s two central corresponding problems of risk and governance (refugees, as regional security risk, and “repatriation” and “containment” (as practices of governing by coercion); it made sure that other issues, not directly addressed by two concepts, were taken-care-of by other relevant perspectives. To this end, human rights and social justice, political economy, feminist, and critical theories of globalization served this purpose in this and all other chapters. In this chapter, discourse analysis, as the method of research, has also been developed and effectively utilized both in the selection of material that went into this thesis as well as in the discussion of some of the major problematic discursive practices of the UNHCR. Chapter 3 presented a background analysis of the UNHCR history mainly, but not entirely, through use of the two core concepts of risk and governance. Human rights and political economy perspectives also played a major role to fill-in the void. Chapter 4 became the mainstay of the thesis where it elaborately discussed issues of repatriation and their consequences. It has problematized and rejected the repatriation discourses and practices, as well as rationalist interventions. The thesis advanced three important social and political consequences of involuntary
repatriation, namely: return migration, persecution (detentions and disappearances), and demographic impacts. It also provided alternative views that illuminated the underlying reasons for refugee repatriation. A sample case of Ethiopian refugees in the Sudan, has also been discussed vis-à-vis UNHCR’s invocation of the “cessation clause”.

The latest information, released by the Solidarity Committee for Ethiopian Political Prisoners (SOCEPP), involving these Ethiopian refugees in the Sudan confirms that, as of late June 2003, they were being re-registered by UNHCR and given identity and food ration cards. It emphasizes that this has been the result of massive lobbying efforts of the refugees themselves, human rights groups, Ethiopians in Diaspora, and even some state actors who saw a serious flaw in the UNHCR’s invocation of the “cessation clause” against these refugees. As this writer was also involved in the lobbying effort, he is personally aware that, even though its full extent remain unknown, the Canadian government was also involved in such a collective effort to protect these refugees from refoulement by the Sudanese and Ethiopian governments. This goes to support the thesis’ various arguments that the UNHCR policy, under Ogata, was not only “legally” questionable, but flawed on many grounds.

As previously argued and as this new development seems to suggest, there are more reasons, than one, which should prompt researchers to go beyond the “normative” routes of inquiry as to find the real underlying conditions that led to a decision, which forced 12 million people to return to ‘nowhere’. What are the underlying conditions and circumstances? The thesis identified some of these in the last chapter. Why would UNHCR enter such an uncharted territory such as the use of game theory unless there were other overwhelming factors from the rear and/or political convictions from within? Is it possible that some countries in the North, TNCs and other global actors may have been primarily responsible for such a policy shift or can one explain the problem from Ogata’s individual actor-oriented decision vis-à-vis the power she occupied in the organization?
The thesis suggests that it is a combination of both and that the answer to such questions is a definite yes to both. Yes, to the first half because of the reasons mentioned in chapter four, and to the second, because of Ogata’s key role in her speeches and communiqués for creating such an environment. Yet, it sees both as interconnected whole, not as dichotomous and separate incidents. Various writers such as Latour (1987), Beck (1992, 1998, 2001), Rose (1999), Sassen (1998), Baxi (2001) etc., have shown this to be the case. As to the role of Northern states, treated here as primarily responsible for the refugee crises, it can be summarized through a discussion of some of the eye-opening arguments, which the different writers I have used in this thesis have made.

As Joly, Kelly and Nettleton have argued, “in the 1990s, Europe and North America had become a fortress with a hostile new agenda passing tougher legislations and closing their doors to refugees coming mostly from Africa and Asia” (Joly and Co. 1997). Donor-fatigue among vital financial supporters of the UNHCR (such as the U.S. and U.K. whose ‘concerns’ were shared by others) also resulted in the dramatic curtailing of their funding obligations to the UN and the UNHCR in the 1990s. Based on Cunlife’s (1995) analysis addressed elsewhere in this thesis, and Hamilton (1997) who wrote that “migration from Africa to Europe is one of the many regional systems that European states are striving to understand and manage” (Hamilton 1997), one can add yet another dimension. It is possible to argue, and has been argued, that the North may have considered the crises in the South as having the potential for diffusing to their countries, ethnic and “cultural” problems and “regional” diseases like the much-politicized, but less proven, “West-Nile”/“AIDS”/“Ebola” viruses. Hence, containing poverty, third world “diseases”, and social/ethnic tensions close to their “origins” had to be the ‘legitimate’ solution.

The UNHCR’s and some Northern states’ 1990s policies were also much questioned on the merits of race and ethnicity (e.g., Richmond 1994). Heavy-handed repatriation discourses applied, selectively, on African and Asian refugees (e.g., Ethiopians, Hutus, or Afghans). In the practices of the slave-owner
mentality of the yester years, re-inscribed today through the “cultures of poverty” and “deviancy” theses of sociologies of governance; or “ghettoization of black citizens in the U.S.A., generated by racism, and derived from the history of chattel slavery” (Byrne 1999: 20,113-114), the socio-spatial exclusionary practices of minorities remains liberal modernity’s single most persistent theme. As the U.S. plays a significant role in world politics, today’s global intervention under Bush being a good example, it can be argued then that her domestic practices of systemic discrimination and the ghettoization of blacks and other minorities have a bearing on decisions taken globally (by UNHCR or others allied to the U.S.). This was shown in the UNHCR’s brief history and remained the case in the 1990s through UN and UNHCR’s differentiated humanitarian responses to two groups of refugees: Bosnia and Kosovo (with proximity to Europe), those who were getting all kinds of “humanitarian” treatment and temporary protection in the North, on the one hand. The forgotten Rwandan, Afghani, and Somalian refugees, who were being ignored and subjected to unprotected genocide simply because they did not directly ‘affect’ Europe,\(^5\) on the other. Note that reference is made to this issue only to question the differential treatments accorded by the governing elite within the UNHCR and Western states, not the concept of protection per se, which may have benefited these other refugees (displaced persons), who were, no question, victims of the politics of ethnic/religious cleansing (from both sides). Similar arguments have been made by writers like Richmond (1994), who looked at Europe’s new and strict immigration policies of the 1990s and concluded that: there was indeed a “global apartheid” taking place mostly affecting refugees and asylum-seekers from Africa and South-East Asia. The systemic ghettoization of blacks and other minorities in the U.S., the U.K, Germany and other countries in segregated socio-spatial spaces and their social construction as “problem” groups, have had influences on attitudes of host states

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5 Various critiques have extensively written and variously argued that the UN/UNHCR policy in Rwanda, may have also promoted genocide (Crisp 2000; The Guardian 1997; Richmond 1993/1994; Loescher 1994/2001; Weil 2001) and many of the other authors used in this thesis.
as well as the UN/UNHCR as to negatively impact refugees, asylum seekers, and migrant workers from the South.

Often linked to such socio-spatial segregations or ghettos, on which Bauman (2000) and Beck (1998) have extensively written, are the casting of blame against these minorities for impacting social tensions, as has always been the case in the U.S., and in most of Europe in the 1990s. The EU’s 1997 Treaty of Amsterdam, which created the pooled regime of sovereignty among member states to deal with refugee issues, one can argue, was also a direct result of such new developments (Amnesty International 2001; Bloch and Levy 1999). The frequent use/s and application of the concepts and practices of “repatriation” and “containment” by the UNHCR, mostly in the African refugee crises, is again one persistent theme in refugee discourses, which supports the validity of such claims.

The use of the word “containment” is highly politicized and contested, at least from the 1947 “Truman Doctrine” onwards. It meant: to constrain, to confine or to stop the spread of South’s problems to the North, much like the ‘containment’ of communism in the Truman Doctrine. The more relevant issue here is not the marginal interest this thesis takes in comparing discourses at different time intervals, but the problems and the dangers associated with the construction, normalization, and use of such terms in the languages of governance. Such languages carry extraordinary powers as to exclude or alienate people from communities and from themselves. As this became the blatant feature of the neo-liberal modernity under globalization in the global cities of New York, London, Frankfurt, Amsterdam, Paris, Tokyo, etc., the containment of minorities through ghettoizations, and their control through the security assemblages of community and formal policing also became the rule. EPZs also epitomize this kind of power discourses. The world’s richest are concentrated in such cities where decisions that affect the globe take place and guarded by local and global powers. They epitomize the political spaces of operation for the “transnational capitalist class” (Sklair 2001), and as the “global grid of strategic
sites” emphasizing “centrality and marginality” (Sassen 1998: 211) of power. The global powers and their concentrations in such big global cities have a direct bearing on the behavior of international organizations, where their head offices are often located.

Given these realities and the 1990s problematic discourses and practices of the UNHCR, which are yet largely unchanged, one can argue, then that the organization’s policy directions and alternatives will continue to be informed by the dominant ideologies of market capitalism and neo-liberalism and by the new “technologies of government”, thought and acted upon from such cities. Irrespective of recent attempts by the UNHCR to address the refugee problem through what it calls as “global” consultations, the main modus operandi of the refugee regime remains to neo-liberal. This means that the refugee regime’s main rules of the game will remain entrenched within the problematically constructed refugee Convention of the 1950s, 1960s and the 1990s; while governing discourses and practices will continue to be informed and defined by neo-liberalism’s theoretical and practical needs of governing from a distance.

Although the reality is as described above, this writer hopes that the plights of refugees will not continue ignored for much longer. As human rights groups spread and justice issues get more and more attention, refugee issues will carry more weight. In all of this, sociology continues, and should, broaden its scopes of the concepts of society, of risk, and governance; and provide, as Wagner (1994) and Mouzelis (1995) have variously suggested, an intellectual guidance to inform policy alternatives on a global scale. In this age of globalization (from above and from below), where the world seemed to have shrunk, one can advance that sociology has, and continues, to transform itself and address global issues that are no longer demarcated by the political and physical spaces and fences of state sovereignty.

Bibliography


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APPENDIX – A: Preamble to the UN Charter

Charter of the United Nations
Preamble

We the Peoples of the United Nations Determined

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom,

And for these Ends

to practice tolerance and live together in peace with one another as good neighbors, and

to unite our strength to maintain international peace and security, and

to ensure by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples,

Have Resolved to Combine ours Efforts to Accomplish these Aims

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.
APPENDIX - B: Preamble to the 1951 UNHCR Convention and the 1967 Geneva Protocol (Relevant Articles only)


22 April 1954

Preamble

The High Contracting Parties

Considering that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

Considering that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavored to assure refugees the widest possible exercise of these fundamental rights and freedoms,

Considering that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and protection accorded by such instruments by means of a new agreement,

Considering that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation,

Expressing the wish that all States, recognizing the social and humanitarian nature of the problem of refugees will do everything within their power to prevent this problem from becoming a cause of tension between States,

Noting that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner,

Have agreed as follows:

Chapter I, General Provisions

Article 1: Definition of the term "Refugee"

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who:

(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization; Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfill the conditions of paragraph 2 of this section;
(2) As a result of events occurring before 1 January 1951 and owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B. (1) For the purposes of this Convention, the words "events occurring before 1 January 1951" in Article 1, Section A, shall be understood to mean either

(2) Any Contracting State, which has adopted alternative (a) may at any time extend its obligations by adopting alternative (b) by means of a notification addressed to the Secretary-General of the United Nations.

C. This Convention shall cease to apply to any person falling under the terms of Section (A) if:

(1) He has voluntarily re-availed himself of the protection of the country of his nationality; or

(2) Having lost his nationality, he has voluntarily re-acquired it, or

(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(5) He can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;

Provided that this paragraph shall not apply to a refugee falling under Section A (1) of this Article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;

**Article 32: Expulsion.**

(1) The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

(2) The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

(3) The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures, as they may deem necessary.

**Article 33: Prohibition of expulsion or return ("refoulement")**
(1) No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

(2) The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

**Article 38: Settlement of disputes.**

Any dispute between parties to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

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**Protocol relating to the Status of Refugees**

The Protocol was taken note of with approval by the Economic and Social Council in resolution 1186 (XLI) of 18 November 1966 and was taken note of by the General Assembly in resolution 2198 (XXI) of 16 December 1966. In the same resolution the General Assembly requested the Secretary-General to transmit the text of the Protocol to the States mentioned in article V thereof, with a view to enabling them to accede to the Protocol entry into force 4 October 1967, in accordance with article VIII.

**Status of ratifications, reservations and declarations**

**The States Parties to the present Protocol,**

Considering that the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 (hereinafter referred to as the Convention) covers only those persons who have become refugees as a result of events occurring before 1 January 1951,

Considering that new refugee situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention,

Considering that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention irrespective of the dateline 1 January 1951,

Have agreed as follows:

**Article 1. General provision**

1. The States Parties to the present Protocol undertake to apply articles
2 to 34 inclusive of the Convention to refugees as hereinafter defined.

2. For the purpose of the present Protocol, the term "refugee" shall, except as regards the application of paragraph 3 of this article, mean any person within the definition of article I of the Convention as if the words "As a result of events occurring before 1 January 1951 and..." and the words "...as a result of such events", in article 1 A (2) were omitted.

3. The present Protocol shall be applied by the States Parties hereto without any geographic limitation, save that existing declarations made by States already Parties to the Convention in accordance with article I B (1) (a) of the Convention, shall, unless extended under article I B (2) thereof, apply also under the present Protocol.

**Article 2. Co-operation of the national authorities with the United Nations**

1. The States Parties to the present Protocol undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the present Protocol.

2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the States Parties to the present Protocol undertake to provide them with the information and statistical data requested, in the appropriate form, concerning:

   (a) The condition of refugees; (b) The implementation of the present Protocol; (c) Laws, regulations and decrees, which are, or may hereafter be, in force relating to refugees.
APPENDIX – C: Preamble to the 1948 Universal Declaration of Human Rights (Articles relevant to Refugee Issues)

FIFTIETH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS 1948-1998

Universal Declaration of Human Rights

Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948

On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights the full text of which appears in the following pages. Following this historic act the Assembly called upon all Member countries to publicize the text of the Declaration and "to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories."

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,
Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

**Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS** as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

**Article 1.**

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

**Article 2.**

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

**Article 3.**

Everyone has the right to life, liberty and security of person.

**Article 4.**

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

**Article 5.**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

**Article 6.**

Everyone has the right to recognition everywhere as a person before the law.

**Article 7.**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

**Article 9:**

No one shall be subjected to arbitrary arrest, detention or exile.

**Article 12.**
No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, or to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13.

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14.

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15.

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 27.

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 29.

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(2) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.
Appendix – D: World Refugee Status as of June 2001

<table>
<thead>
<tr>
<th>Region</th>
<th>1 Jan. 2001</th>
</tr>
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<tbody>
<tr>
<td>Asia</td>
<td>4,599,190</td>
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<tr>
<td>Africa</td>
<td>7,082,260</td>
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<tr>
<td>Europe</td>
<td>5,711,260</td>
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<tr>
<td>North America</td>
<td>1,017,188</td>
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<tr>
<td>Latin America &amp; Caribbean</td>
<td>375,690</td>
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<tr>
<td>Middle East</td>
<td>70,980</td>
</tr>
<tr>
<td>Total</td>
<td>12,621,400</td>
</tr>
</tbody>
</table>

The Refugee Story in Statistics

The complex world of refugees and the work of UNHCR in helping them can often be best told through statistics. This page covers developments in more than 150 countries among nearly 22 million refugees and other groups 'of concern' to the agency, including asylum seekers, refugees returning home and people uprooted within their own countries – so-called internally displaced persons (IDPs).

Statistics track the implementation of international refugee conventions, progress toward achieving long-term solutions for refugees and of UNHCR's assistance programs. There is data, including graphs and charts, covering asylum applications, refugee populations and the origin, age, sex and location of refugees within countries and their legal status. Forced migration is covered, globally, regionally and thematically.

UNHCR's Population Data Unit (Population and Geographic Data Section) is responsible for maintaining the information on this page. If you have any questions or observations or require further information, please contact the Head of the Unit at hqcs00@unhcr.ch.
Vita Auctoris

This author was born in Ethiopia. He came to Canada in September of 1988. After six years of work with a major Insurance Company as an Insurance Underwriter, he went back to school to fulfill one of his two major dreams - see justice win the day in Ethiopia and get a college degree, in that order. Despite the human cost that went into resisting two dictatorial regimes, the realization of justice in Ethiopia has not taken place yet. It remains the noblest cause for this writer.

Despite the mental and physical trauma this writer has and continues to suffer resulting torture in the hands of the military dictatorial government of the late 1970s, this has not deterred him from pursuing issues of justice and his education. In September of 1997, he joined the University of Windsor as a fulltime student. Six years later, or at the age of 51, irrespective of the incredible mental and physical traumas and challenges he has been under, and which only he understood, he managed to achieve, not one, but two degrees: a Bachelor of Arts (Honors) in International Relations, and a Master of Arts Degree, in Sociology with distinction. Such eventualities have been the happiest highlights of his life, thus far.

His plan for the future is to settle and build a family and work as a researcher in the areas of social justice. If things fall within plan, he also intends to write a book in the future about his people's bitter experiences, in which the author's history takes only a small part, through three regimes: the regime of Emperor Haile Selassie, the military dictatorship of Col. Mengistu H/Mariam and the ethnic dictatorship of the TPLF/EPRDF regime led by Mr. Meles Zenawi.

M.T.A

October 2003