



Bastiaan Bouwman

## **Postwar Displacement, Liberalism, and the Genesis of the International Refugee Regime**

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## CONTENTS

Author

Abstract

1	Introduction	3
2	Refugee governance from the 1920s to the 1940s	5
3	Collective self-determination and the nation-state	8
3.1	Liberal internationalism and the expulsion of the Germans	8
3.2	Repatriation and the (re)construction of nations	10
4	The turn towards individual rights	12
4.1	The IRO and the global resettlement of the “last million”	12
4.2	Human rights, the Cold War, and decolonisation	14
5	Conclusion	18

References

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# Postwar Displacement, Liberalism, and the Genesis of the International Refugee Regime

Bastiaan Bouwman

## ABSTRACT

Drawing on the burgeoning historiography on refugees and displacement, this working paper provides an account of the post-Second World War emergence of the international refugee regime. The paper places the genesis of this regime, centred around the 1951 Refugee Convention and the United Nations High Commissioner for Refugees, in the context of interwar antecedents as well as its globalisation in the second half of the century, leading up to the present day. Building on previous SCRIPTS working papers, the paper highlights the tension between collective self-determination and individual rights inherent in the liberal script. Generally, the liberal internationalism that shaped the governance of displacement privileged selectivity and exclusion over the individual rights it proclaimed, at times, even sanctioning displacement itself. In this regard, the paper highlights three liberal motives as particularly influential: the pursuit of peace through ethnic homogeneity, Cold War competition, and the maintenance of (post)imperial hierarchy.

## 1 INTRODUCTION<sup>1</sup>

The international refugee regime that presently governs asylum policy worldwide is organised principally around the Geneva Refugee Convention (1951) and the United Nations High Commissioner for Refugees (UNHCR, 1950). It emerged in the aftermath of the Second World War, during the onset of the Cold War and the initial stage

<sup>1</sup> This paper was developed within the framework of the Cluster of Excellence “Contestations of the Liberal Script (SCRIPTS)”, Research Unit “Borders”. Apart from engaging with the SCRIPTS framework and network generally, I benefited from comments received while presenting drafts of this paper at the SCRIPTS Research Unit “Borders” and the SCRIPTS Jour Fixe, where Jessica Gienow-Hecht offered very helpful comments. I also gained a great deal from presenting a draft at the Institute for Migration Research and Intercultural Studies at the Universität Osnabrück, at the invitation of Sebastian Musch, and from comments generously provided by Laura Robson and Ana Guardiola.

of postwar decolonisation. Especially since the influx of asylum-seekers in Europe in 2015–2016, the norms these institutions represent have been heavily contested. Both those in favour and those against admitting refugees often portrayed this “crisis” as “unprecedented”. Many have pointed out that this framing is empirically tenuous and serves distinct purposes. On the part of restrictionists, it feeds apocalyptic narratives of an overwhelming “wave” of arrivals. On the part of refugee advocates, it undergirds humanitarian appeals for funding and public outcry and can invite a focus on what needs to be done in the short term, as opposed to the long-term factors at play (Jansen/Lässig 2020). By contrast, discussions of refugees can also evoke displacement as a timeless phenomenon, unchanging and recurring cyclically, which may invite apathy or complacency (Reinisch/Frank 2016: 3). None of these views takes proper account of the historical nature of refugee politics, however, obscuring how current outcomes relate to the refugee regime’s origins and subsequent development. This paper provides such a historical perspective, focusing on the resolution of the post-Second World War “refugee crisis” in Europe that coincided with the establishment of the reigning international liberal order and the institutions that continue to govern what has been called “refugeedom” today (Gatrell 2013).

The history of the refugee regime is closely connected to the history of postwar liberalism. As Tanja Börzel has argued, the 2015–2016 crisis represented a struggle over the EU’s “liberal authority”

and, by extension, Europe's identity as a continent defined by its liberalism, pitting "liberal ideas of Europe embodied by the values of enlightenment, such as human rights, democracy, the rule of law, and market economy" against "nationalist and xenophobic ideas of Europe based on an essentialist interpretation of the continent's Christian heritage" (Börzel 2020: 4).<sup>2</sup> The EU refugee regime thus serves as a prime example of the process whereby the liberal script is presently contested in Europe. Operationalising what is meant specifically by the "liberal border script", Daniel Drewski and Jürgen Gerhards have pointed to the tension between individual and collective self-determination, defining liberalism by its prioritisation of the former (Drewski/Gerhards 2020: 5). With respect to migration, the authors note that the prevalent account of the liberal script affirms states' right to exclude outsiders (Drewski/Gerhards 2020: 14).<sup>3</sup> In the case of forced migration, though, this must be balanced against refugee and human rights law, which provide for the right to seek asylum and the principle of non-refoulement (not returning anyone to a country where they might face imminent danger), while nevertheless leaving the decision to grant asylum with the state. Overall, Drewski and Gerhards characterise international refugee law as "a 'minimalist' liberal compromise between national sovereignty and individual rights" (Drewski/Gerhards 2020: 28). How did this compromise come about?

The postwar years are generally understood as the site of a revolution in the ascendancy of individual rights, which were newly recognised in international law through the United Nations

Charter (1945) and the Universal Declaration of Human Rights (1948). The 1951 Refugee Convention is often seen in this context. The leading legal scholars James Hathaway and Michelle Foster start their overview of refugee law by stating that "[r]efugee law may be the world's most powerful international human rights mechanism" (Hathaway/Foster 2014: 1). More broadly, the political theorist Seyla Benhabib has put the area of "international migration" forward as one of the areas in which "human rights codes" are being transformed "into generalisable norms". She thus charts a history of gradual progress in limiting the prerogatives of the nation-state:

As international human rights norms are increasingly invoked in immigration, refugee, and asylum disputes, territorially delimited nations are being challenged not only in their claims to control their borders but also in their prerogative to define the boundaries of the national community" (Benhabib 2002: 561–563).

This account invites the assumption that postwar displacement was resolved because of the rise of humanitarianism and human rights and that we should look for ways to bolster these forces today to resolve global displacement. The direction that the politics of asylum and migration have taken in the past decades raises the question, however, whether this – a vital component of any successful response – is enough. As I will show, while humanitarian motives and the rise of individual rights played an important role in resolving the post-Second World War crisis of displacement, they only partially account for its relative success.

Ironically, the institutions that now seem incapable of adequately resolving mass flight arose during a time of far greater upheaval. Though the Second World War and its aftermath displaced dozens of millions in Europe alone – hence it was of far greater scale than, for instance, the fallout from the Syrian war – this crisis was resolved, in

2 Börzel also observes that EU institutions like the Common European Asylum System build on, but in some ways diverge from, the international refugee regime.

3 The authors note that while the usual view is that collectives can deny admission to outsiders, some theorists have argued that the ideal of "democratic self-determination" implies that "everyone affected by a decision should also have a say in it", even non-members. They rightly note, however, that this is very much a minority position.

the view of most observers, in a relatively satisfactory way. By 1950, the vast majority of displaced persons had found new homes, one way or another, and the remainder would be resettled or locally integrated by the early 1960s. How could such a vast crisis be resolved so effectively while leading to the establishment of institutions that seem ineffective today? Broadly speaking, the answer is that, on the one hand, postwar displacement was resolved in ways that we would now generally judge wholly indefensible, and on the other, it drew on a set of powerful political and economic imperatives, which are no longer applicable in the same way. Reading these years through the lens of the liberal script, I argue that liberal responses to displacement adjudicated the tension between collective and individual self-determination depending on humanitarian, political, and economic considerations, leading to widely diverging outcomes depending on the constellation of these motives. With respect to political considerations, I discuss three major liberal internationalist motives: the pursuit of peace through ethnic homogeneity, Cold War competition, and (post)imperial hierarchy.<sup>4</sup>

Synthesising the recent historical literature on the era, with particular reference to the European crisis of displacement out of which UNHCR and the 1951 Refugee Convention emerged, I first sketch out the rise of international refugee governance from the 1920s to the 1940s, providing a sense of the wider historical arc. The rest of the paper traces the two phases in which the postwar crisis was addressed through two subsections each. The first phase highlights the importance of collective self-determination and the nation-state in the 1940s, with one subsection discussing how the mass expulsion of ethnic Germans from East-Central Europe fit with liberal internationalism and the other how repatriation and the (re)

construction of nation-states were at the heart of solving the lion's share of the problem. The next phase shows the ostensible turn towards individual rights in the late 1940s, in the context of the emergent Cold War. The first subsection provides an account of the resettlement of the “last million” displaced persons, and the second considers the Cold War origins of human rights and the Refugee Convention while ending with a brief overview of the regime's subsequent globalisation and the limits thereof. In the conclusion, I reflect on how this history speaks to the present-day politics of displacement, including the case of refugees from Ukraine.

## 2 REFUGEE GOVERNANCE FROM THE 1920s TO THE 1940s

While noting long-term precedents (Kleist 2017), historians have argued that the twentieth century marked a new era in refugee history. Multinational empires collapsed and modern nation-states emerged, “totalising ideologies” such as Nazism and Communism systematically persecuted their enemies, and the responses to refugee crises were increasingly internationalised (Gatrell 2013: 2). It has been widely observed that late nineteenth-century European states were a great deal laxer about the administration of their borders than they are today.<sup>5</sup> In the early twentieth century, however, and particularly after the First World War, states introduced increasing restrictions on border-crossing (especially on entry, though authoritarian states also clamped down on exit). Such measures often derived, as the historian Claudena Skran writes, from “racist and ethnocentric thinking” aimed at “ethnic homogeneity”

<sup>4</sup> For a discussion of liberal internationalism more generally, see (Lake/Martin/Risse 2021).

<sup>5</sup> Globally, the pattern was different. “From a global perspective, the usual periodization in which the age of mass migrations ended in 1914 is not appropriate. World migration reached new peaks in the 1920s, and the immigration restrictions of the 1920s were also part of much longer trends of regulation, border control, and nationalism that had grown concurrently with migration since the middle of the nineteenth century” (McKeown 2004: 155-156).

in addition to domestic economic reasons. These included the 1930s economic downturn, a reduced need for manual labour, the rise of trade unions, and the rise of welfare entitlements. Political reasons, chiefly suspicions about refugees' loyalty or potential criminality, also played a role (Skran 1995: 23–27). As the sociologist John Torpey has pointed out, this development, symbolised by a sharp increase in the mandatory use of travel documents, was at odds with increasing integration overall in terms of communication and technological means of travel. But it dovetailed with the rise of “economic policies that dramatically reversed the economic liberalism that had underwritten the late nineteenth-century period of relatively unencumbered movement, as free trade gave way to protectionism” (Torpey 2018: 151, 160). National borders in interwar Europe were thus more sharply drawn than ever before, and the boundaries between citizens and non-citizens more pronounced and consequential, as states' decisions to grant, revoke, or withhold nationality could cause displacement or render people stateless.

At the same time, the era saw the rise of international governance in the form of the League of Nations. The League's expertise-driven internationalism was deeply connected to displacement. As the historian Mark Mazower has written, one of the two major issues that put the League's secretariat on the map was the post-World War I plight of refugees in Europe and the Middle East, which constituted a humanitarian, public health, and political crisis (the latter given the perceived threat of Bolshevism). The Russian Civil War and its attendant famine overwhelmed the voluntary agencies that had dominated the realm of humanitarian action thus far, and when the Russian Red Cross Committee appealed to the League to act, it appointed the Norwegian explorer Fridtjof Nansen as High Commissioner for Russian Refugees. When the Soviet Union denationalised anti-Bolsheviks in December 1921, Nansen came

up with the international travel documents that would colloquially be named after him – “Nansen Passports”, of which about 450,000 were issued – allowing bearers to travel (though states were not obliged to admit them; the attraction of the system to states was that it allowed them to have refugees move on) (Mazower 2012: 147, 156–157). Russian refugees, and later Assyrians and Armenians too, were thus enabled to join family or find employment, either of which would allow them to sustain themselves (Long 2013: 9). The above-mentioned rise of immigration restrictions made the Nansen travel documents a burning necessity, as previously many of the displaced might have been able to simply travel on by themselves as migrants (Skran 1995: 21).

This era's immigration laws generally did not legally distinguish between refugees and migrants. In other words, as Skran argues, they “treated refugees – people who had fled their home countries because of persecution or violent conflict – as being the same as other migrants, primarily people who left their home countries to improve their economic position.” Yet by the 1930s, intergovernmental and private organisations had induced governments to gradually begin to make the distinction, for instance, by easing the procedures for visa applications by refugees or by introducing “a preferential quota for refugees” (Skran 1995: 28, 225). Hence, the foundation was laid for the distinction between refugees and migrants as it would be generalised following the Second World War – and as it is familiar to us today. At the same time, the space for refugees to move across borders during these years was only ever partial since it was subject to states' discrimination based on criteria such as “[q]ualifications, age, health and race”. Many refugees thus remained stuck in their country of first asylum. Moreover, as the economic crisis of the 1930s set in, the appetite for migration and resettlement vanished, while domestic hostility to migrants rose, leading states to curtail admissions and instead overwhelmingly focus on



the more modest goal of providing refugees with “[h]umanitarian aid and maintenance” (Long 2013: 11). In 1933 the League of Nations crafted a Refugee Convention that was meant to provide refugees with more stable legal status, but this only had the support of eight states, and even then, its provisions, such as the requirement to treat refugees in most respects “as the nationals of most-favoured nations”, could be ignored. States restricted the right to work for foreigners across the board, reducing refugees to vagrancy, which then served as a reason to expel them; since they could not be repatriated, refugees in this position crossed into a third country illegally, where they were “compelled to live as outlaws” (Hathaway 2005: 88). The hopeful developments of the 1920s turned into increasing despondency in the 1930s.

Emblematic of the decline of openness and international cooperation on displacement during these years was the plight of Jews seeking to flee the Third Reich. At the 1938 Evian Conference, an initiative by President Roosevelt, the Intergovernmental Committee for Refugees (IGCR) was created, which took over the lead from the League on the issue of refugees. But the conference became infamous for its failure to take stronger action to allow Jews to leave Germany, even as the severity of Nazi persecution was widely known – the American James G. McDonald, League High Commissioner for Refugees (Jewish and Other) Coming from Germany, had resigned in protest at the Nuremberg Laws (1935), after calling for states to take action against Germany’s discriminatory policies. The IGCR failed to resettle refugees on a significant scale (Sjöberg 1991). Surprisingly, unilateral state action to liberalise immigration policies did allow for the escape and resettlement of, according to Skran, “approximately 400,000 people, or about 50 per cent of the Jewish population of greater Germany in 1933” (Skran 1995: 223). But many of them would fall victim to the subsequent conquest of their countries of asylum (especially France), and the fate of most others was

already sealed. Particularly egregious were instances of fleeing Jews being returned to Germany. This example and other failures of interwar refugee governance would inform postwar policymaking, which sought to move from ad hoc policies on specific groups to more comprehensive solutions – ultimately leading to the establishment of the refugee regime.

The Second World War laid the roots for the postwar crisis of displacement, through Nazi forced labour policies, the taking of prisoners of war, concentration and death camps, and mass flight before the advancing Red Army. But the displacement of the late 1940s also resulted from postwar developments like the expulsion of minorities, especially ethnic Germans, from Eastern Europe, the Sovietisation of Eastern Europe, and postwar anti-Semitic violence. As the League and its system of High Commissioners were retired, the international institutions most directly involved in response to displacement were the United Nations Relief and Rehabilitation Administration (UNRRA (1943–1947)<sup>6</sup>, the International Refugee Organisation (IRO, 1946–1952), and the United Nations High Commissioner for Refugees (1950–). In addition to these organisations, which were focused on European refugees, there were the United Nations Relief and Works Agency (1949–), which was exclusively concerned with Palestinian refugees, and the United Nations Korean Reconstruction Agency (UNKRA, 1950–1958), which included care for refugees in its wider remit. These organisations managed displacement (and, in UNRRA’s and UNKRA’s case, much more than that) in the context of reconstruction and the onset of the Cold War. The following sections highlight the major aspects of this undertaking, in roughly chronological fashion, with a focus on the epicentre of the postwar governance of displacement: Europe. Throughout, I consider how liberal responses to displacement

6 UNRRA also absorbed the initially independent Middle East Relief and Refugee Administration (MERRA, 1941–1944).

accommodated different elements – humanitarian, political, and economic – which led to highly uneven outcomes in terms of how collective self-determination and individual rights were balanced.

### 3 COLLECTIVE SELF-DETERMINATION AND THE NATION-STATE

#### 3.1 LIBERAL INTERNATIONALISM AND THE EXPULSION OF THE GERMANS

Reconstruction was a project of rebuilding and re-affirming the nation-state, which could be at odds with respect for individual rights. Most strikingly, it involved the forced transfer of populations, an aspect not always reflected in general histories of the postwar years. As the historian Tony Judt has written, contrasting the aftermath of the Second World War with the First, “with one major exception [Poland] boundaries stayed broadly intact and people were moved instead”, so that “the outcome was a Europe of nation states more ethnically homogenous than ever before” (Judt 2010: 27; cf. Frank 2011, 27). Whereas the First World War had led to a League of Nations with a regime to protect Central and Eastern European minorities, the Second led to a United Nations which declared human rights but which did not prevent the expulsion of millions, particularly those classified as ethnic Germans. In fact, in their 1945 Potsdam conference, the Allies affirmed this process, which had already got underway in retaliation for the wartime occupation and its atrocities. British policymakers, especially, approved – including Churchill himself. The fact that many among the German minorities in these countries had welcomed the German invasion, had moved, with official encouragement, into areas ethnically cleansed by the Nazis, or had been directly complicit in Nazi crimes counted against them. Thus, by a high estimate, 12.45 million ethnic Germans were expelled from Poland, Czechoslovakia, Hungary, Yugoslavia,

Romania, and elsewhere, and an estimated 1.71 million more died in the process (Schwartz 2019: 127). (Other estimates are in the order of ten million and several hundred thousand, respectively.)

The Allies’ approval of this process must, of course, be seen in light of the question of war guilt, which also led to other punitive policies, such as the initial denial of food aid to Germans. But Potsdam’s sanctioning of the expulsions cannot be fully understood without bearing in mind the support still enjoyed by the concept of the “unmixing” or “disentanglement of populations” among liberal internationalist policymakers (Reinisch and White 2011). These drew from the preceding decades the lesson that it was wisest to “make minorities history” through organised population transfers to prevent future strife (Frank 2017: 7). Such transfers had been developed in part in an imperial context, for instance in League of Nations mandate territories like Syria, Lebanon, and Iraq (Robson 2017). A particularly important precedent was the 1922–1923 Lausanne Conference, following the Greco-Turkish War, which moved about 1.22 million Greeks from Asia Minor and 400,000 Turks from Greece. Despite being advertised as rational and “organised” – the British Foreign Secretary welcomed it as bringing “an end to ‘old deep-rooted causes of quarrel’” – this was, in fact, “a chaotic and even violent process”, which disclosed “the possibility that human rights could be abrogated by governments that claimed the moral high ground whilst simultaneously deporting people against their will” (Gatrell 2013: 64, 79). Owing not least to Lausanne’s perceived success, such solutions remained in policymakers’ minds into the 1940s. As Mazower has written, population transfers were part of American thinking about globalising the New Deal’s planning-oriented approach: this “incorporated both progressivism and coercion, a vision of state-led rationalization that existed alongside and sometimes trumped individual human rights”. To prevent a recurrence of the two wars that had devastated Europe, the Allies

thus promoted “ethnic homogeneity as a desirable feature of national self-determination and international stability” (Mazower 2009: 138, 143; cf. Mazower 2004).

During the war, the Allies had come to frame the conflict as being about human rights, and this concept was included in the foundations of the UN and later in the Universal Declaration of Human Rights (1948). The conjunction of the Allies’ articulation of human rights and the expulsion of ethnic Germans led some Germans to use the former to protest the latter. Surveying uses made of the language of human rights in postwar Germany, the historian Lora Wildenthal has observed that “[i]n the immediate postwar period, those Germans who claimed that the Allies had violated Germans’ human rights were probably the more numerous and vocal, and certainly they were to be found all across the political spectrum, not just on the right” (Wildenthal 2012: 45). Wildenthal illustrates this through the example of the West German international lawyer Rudolf Laun. Laun had opposed Nazism and criticised Hitler’s regime from his position at the University of Hamburg, even during the war. But after the war, rather than focus attention on German crimes, he sought to dissociate the German nation from the Nazi dictatorship and instead traced a lineage of victimhood from the Versailles settlement of 1918 and the Treaty of Saint-Germain (1919) through to Nazism – as repression committed against the German people – to postwar occupation, mistreatment of prisoners of war, and expulsion. Laun used the concept of human rights to advocate redress for Germans, especially those who had been expelled from Poland, Czechoslovakia, and elsewhere in Eastern Europe, as well as those who had become refugees by fleeing the Soviet advance; the two groups together numbered about fifteen million. Through his leadership of the reconstituted German Society for International Law, Laun sought to cast the plight of the German nation in terms of both individual and collective human

rights: the right to life, liberty, property, and due process, as well as the right to self-determination and a “homeland”. These protests soon merged with the use of human rights language by German anti-communists since the expelling countries were now under Soviet sway and established communist regimes (Wildenthal 2012: 58, 171).

German protests against expulsion ultimately fell on deaf ears, despite support from religious organisations like the World Council of Churches and the Lutheran World Federation. The British Bishop George Bell – famous for his ties to the German resistance but also his denunciations of British bombing policies – spoke out against the expulsions (Frank 2008: ch. 4). But the question of war guilt militated against recognising the Germans’ claims, and once the expulsions were carried out, they were a *fait accompli*. Moreover, the integration of expellees as citizens of the new German states meant that international support became less of an obvious channel for ameliorating their plight than the promotion of Germany’s economic recovery. Expellees would continue to play an important role in German politics since they constituted a significant share of the population, which would even go on in the early 1950s to be represented by its own party in parliament in the Federal Republic (Ahonen 2003). Fear of expellee revanchism in the late 1940s helped push Germany’s Eastern neighbours towards the Soviet Union (Frank 2011). But especially in the context of the postwar *Wirtschaftswunder* – and the Marshall Plan aid which enabled it – expellees themselves were no longer plausibly a concern for international organisations. In the West, though not in Germany itself, the expulsion would recede from general memory, in large part owing to the problematic politics of many expellee organisations but also because of how uncomfortably it sat with narratives of postwar justice and respect for individual rights. Liberal internationalism had, based on the logic of war guilt and the “disentanglement of populations”, elevated

the national self-determination of the expelling states over the individual rights of their German minority citizens (cf. Douglas 2012).

### 3.2 REPATRIATION AND THE (RE)CONSTRUCTION OF NATIONS

The Allies and the international organisation they had created for the purpose, UNRRA, concentrated their attention on repatriating the millions who were, unlike the Germans and anyone considered to have collaborated with them, recognised as “displaced persons”. But here, too, national self-determination was central – at least initially. Over the summer of 1945, six to seven of the eight million displaced persons in Germany alone – former foreign and slave labourers, prisoners of war, and concentration camp survivors – were repatriated, with the aid of the Allied armies and under the aegis of UNRRA. As the historian Jessica Reinisch has written, the repatriation effort was rooted in “a widely shared understanding that nation-states had a right to demand the return of their citizens, and that it was the moral duty of citizens to return and take part in their country’s reconstruction”. While some planners entertained visions of worldwide resettlement, only repatriation was immediately feasible and was in line with the continued predominance of state sovereignty. Moreover, repatriation was necessary because it was widely held that otherwise, the reconstruction of Europe, including its economic development, would be stymied, and “another war would surely be on the horizon” (Reinisch 2016: 157).

Many of those repatriated were Russians: by September 1945, an astonishing 5,218,000 Soviet nationals had been repatriated, the vast majority from central Europe (Shephard 2011: 84). Not all were welcomed: while the majority were absorbed into Soviet society without issue, 7% “faced criminal charges of collaboration or other war crimes” (and many others “were drafted into the Red Army

or labour battalions”) (Janco 2014: 439). Many resisted repatriation to the Soviet Union, however, creating tension between the Soviets and Western governments. The Soviets insisted that, per the 1944 Yalta accords, “all people originating from areas within its new (1945) borders were Soviet citizens and thus subject to forcible transportation”. But Western governments did not force repatriation of those who had not been Soviet citizens prior to the war, such as Latvians, Estonians, and Lithuanians, as well as Poles from east of the Curzon Line. This interpretation derived from Allied nonrecognition of 1939–1940 Soviet territorial gains in these areas. Displaced persons from these areas were not to be repatriated “unless”, as British guidance to commanders went, “they affirmatively claim Soviet citizenship” (Shephard 2011: 86). This exception was applied liberally, in that no proof was required of one’s claim to the above nationalities, exempting them from repatriation (Janco 2014: 432). Where Western states did not recognise the citizenship on which the Soviet claim was based, in other words, this claim lost its power.

This practice did not mean that the Western powers denied the primacy of the nation’s claim over its citizens more broadly: forced repatriation did continue to occur until 1946. Some 70,000 Yugoslavs and Cossacks were forcibly repatriated from Austria until heart-rending scenes of resistance – based on the correct expectation that, for many, death awaited – led to a stop. Ukrainians, who were considered Soviet subjects, similarly faced repatriation, though they put up resistance. Finally, diaspora lobbying in the West and deteriorating East-West relations gradually led the Western Allies to cease forced repatriation by the summer of 1946 (Shephard 2011: 83, 92). This was a major policy reversal by UNRRA and its Western member states, which prefigured the international refugee regime’s core principle of non-refoulement. Hostility towards the Soviet Union and its conduct in Eastern Europe had finally led them to elevate the

individual preferences of citizens over the claims of the state.

The story of the (re)establishment of postwar nation-states would not be complete without attending to the creation of the state of Israel in 1948 and the resultant expulsion of the Palestinians. Part of the impetus for establishing Israel was, as it happened, an act of organised repatriation. The Soviets repatriated 150,000 Polish Jews, who had survived the war in exile. However, most did not stay in Poland, given the state of the country and their former homes and belongings, as well as postwar pogroms, which prompted them to flee to Germany. They and other Eastern European survivors joined the quarter million Jewish survivors in Germany (Cohen 2011: 126). Though some desired to remain in Germany, most then gravitated towards Zionism, seeking to establish a Jewish state in Palestine. British support for Jewish immigration to Palestine (then a British mandate) had helped prompt the 1936–1939 Palestinian Arab revolt, and the British government subsequently attempted to depress the rate of immigration. Hence, after the Second World War, the British government took in tens of thousands of Jewish displaced persons (DPs) while allowing a mere 1,500 Jews to migrate to Palestine per month (in early 1947). The British even sought to interdict prohibited Jewish immigration to Palestine, which was taking place via ports in France and Italy, detaining tens of thousands in camps in Cyprus (Nasaw 2020: 359–364). But American governmental and nongovernmental recognition of Jewish extraterritoriality (and even Soviet recognition of Jews in Germany as “non-repatriable”, contrary to the British position) ultimately favoured emigration to Palestine. After Israel’s independence, resettlement by the IRO would move a further 132,000 Jews there, making for a total of more than 300,000 Holocaust survivors who had moved there by 1952 (Cohen 2011: 143; Nasaw 2020: 359). Having been a minority in Europe, Jews now had a nation-state of their own, which served as a

haven to many of the displaced – something that was key not least because anti-Semitism had not disappeared, and many countries were reluctant to take in large numbers of Jewish displaced persons.

International legal debates reflected the renewed ascendancy of the sovereign nation-state in establishing the postwar order and the position of the displaced in it, including in the case of Israel. As the historian Mira Siegelberg has written, postwar debates among legal thinkers about statelessness and human rights reflected a tension between those who thought the individual was now becoming a subject of international law, which could claim those rights before international institutions like the United Nations, and those who thought that rights would have to be grounded in one’s citizenship in a sovereign state. Hersch Lauterpacht, the British refugee jurist whose articulation of human rights helped bring about its insertion in postwar international institutions, thought that “individuals have rights by virtue of their humanity” but considered it practically essential for there to be “an internationally guaranteed right to a nationality” as the guarantee of these other rights (Siegelberg 2020: 182–183). This position was similar to that of Hannah Arendt in her late-1940s essays and her 1951 book, *The Origins of Totalitarianism*. In the latter, she famously put forward the need for a “right to have rights”, that is, citizenship. This assertion must be understood in light of her general view that the capacity for meaningful action derives from membership in a community. Arendt thought that, in Siegelberg’s words, “The state, in addition to being the primary agent that assumes responsibility for the stateless, serves as the stage upon which actors”, that is, fully recognised citizens, “can perform” (Siegelberg 2020: 191–192). The state of Israel could be seen as a paradigmatic example of this vital importance of citizenship. As Arendt wrote, “Not only did loss of national rights [by the stateless] in all instances entail the loss of human rights; the restoration of

human rights, as the recent example of the State of Israel proves, has been achieved so far only through the restoration or the establishment of national rights” (Arendt 1951: 295). While the subsequent development of international norms on human rights and asylum would arguably change this state of affairs, Arendt’s writing pointed to the continuing default stance of the sovereign nation-state as the guarantor of rights to citizens, as opposed to noncitizens.

Conversely, the plight of the Palestinians demonstrated how international recognition as a refugee could entail rightlessness. The establishment of the state of Israel, which took place amid escalating violence between Jews and Arabs while British imperial troops withdrew, went hand in hand with the expulsion of 750,000 Palestinian Arabs. As the historian Laura Robson has argued, this was not only the result of circumstances at the time; the League of Nations and the British mandatory administration had pursued the “denationalisation” of Palestinians for three decades. Essentially, Palestinians were framed as a minority rather than a nation, and their expulsion could be justified and their right to return denied, while international organisations – especially UNRWA – could position themselves as offering humanitarian succour. Displaced Palestinians were entitled to relief but not repatriation or resettlement (Robson 2020: 78–81; cf. Akram 2014; Irfan 2023). In other words, not all claims to nationality were equal, and the “durable solutions” pursued on behalf of European refugees remained – and still are – out of reach for Palestinian refugees. The imperial background to the establishment of Israel and the displacement of the Palestinians is suggestive of a wider pattern, moreover, to which I return below, whereby Western powers reserved far stronger rights regimes and more effective solutions for Europeans, whereas non-Western displacement was naturalised and either excluded from international attention or relegated to second-tier institutions such as UNRWA.

## 4 THE TURN TOWARDS INDIVIDUAL RIGHTS

### 4.1 THE IRO AND THE GLOBAL RESETTLEMENT OF THE “LAST MILLION”

While UNRRA helped consolidate a Europe of nation-states, the subsequent phase in resolving the crisis, that of resettling displaced persons who could not be repatriated, was much more international, even global, in nature. After repatriation ground to a halt by the end of 1946, an approximate “last million” displaced persons remained, encompassing “Holocaust survivors and non-Jewish anti-Communist refugees” from Eastern Europe (Cohen 2011: 5). The newly created IRO was tasked with organising their resettlement. The Soviets departed the scene of international refugee governance at this stage by refusing to work with IRO, furious with the Western refusal to continue the forced repatriation of its nationals. IRO was instead dominated by the United States, which provided most of its means – which were vast, at \$155 million annually, amounting to a budget four times the size of the United Nations (Reinisch 2016: 166). The resettlement of the “last million” was thus carried out in the context of the postwar rise of American-led liberal internationalism and the emerging Cold War (Cohen 2011: 9).

Humanitarian and political considerations were part of this process, but economic and demographic factors were at least as important, though they have often been overlooked. Already in the late 1930s, among policymakers, there had been “general agreement that Europe was suffering from a chronic problem of overpopulation, that it needed to be able to export its surplus populations overseas, and that post-1918 barriers to migration flows had contributed to worsening international tension” (Mazower 2009: 109). This belief survived the war. The IRO’s director, the American New Dealer J. Donald Kingsley, viewed the rationale for resettlement as follows:

[A]n excess of people in Europe whose very presence constitutes a threat to political and economic stability; a vast and growing demand in other parts of the world for labor; the skill and the political and cultural assets possessed by these fretfully idle men and women (Cohen 2011: 101).

Moreover, this supply was met with demand: the legal scholar James Hathaway has written that the effectiveness of the response to postwar displacement was the product of a “fortuitous coalescence of interests, as the postwar economic boom in states of the New World had opened doors to new sources of labor” (Hathaway 2005: 91). And Cold War tensions, discussed in greater detail in the next section, pushed Western states to accept anti-communist refugees.

The IRO capitalised on the opportunity this confluence of factors created. In persuading states to take in displaced persons, it highlighted their utility as “surplus manpower”, advertised their anti-Communist credentials, and pointed to the need to relieve Europe of its “surplus population”. The results were remarkable. The organisation “directly transported or helped resettle over one million displaced persons in some forty-eight countries” and therefore represented “the first ‘supernational authority’ to regulate refugee migration on a worldwide scale” (Cohen 2011: 101–103). By the end of 1951, DPs had been resettled as follows: “328,851 to the United States, 182,000 to Australia, 150,000 to western and northern European nations, 132,000 to Israel, 123,000 to Canada, almost 100,000 to South America, Central America, and the Caribbean” (Nasaw 2020: 534). Though other mass resettlement schemes would take place in the twentieth century, such as that of Vietnamese boat refugees from the late 1970s, the IRO’s action remains unmatched in its efficacy.

However, its success does not mean that the IRO’s operation was as morally unproblematic as its advocates suggested. Reporting on the IRO’s work

for the benefit of the newly established UNHCR in 1951, the Director of the IRO Council reflected, in self-congratulatory fashion:

[T]he IRO, in cooperation with the Governments of receiving countries, has developed a technique of organized, selected migration which seems to have satisfied the migrants as well as governments of receiving countries. It has in fact been recognised that migration must be considered as a single integrated process which begins with a migrant’s application for admittance and ceases only when he is finally and firmly established. Selected and organized migration has therefore become a universally recognized principle on which immigration countries are now basing their future policy.<sup>7</sup>

The element of selection was, however, more problematic than the Director’s statement acknowledged. For instance, selectivity was on display in the foreign worker programmes that Western European states set up from 1946 onwards, which facilitated the migration of 150,000 displaced persons (Cohen 2011: 107). British European Voluntary Worker (EVW) programmes between 1947 and 1951 brought thousands of workers from Central and Eastern Europe, recruited directly from German displaced persons camps, with the aid of the IRO, to work in the United Kingdom as labour migrants, but with a promise of permanent settlement. The programmes strategically shifted their presentation of these migrants as either refugees or workers: selection was based on utility (those who were ill or were found to have misbehaved, or women who became pregnant, could be sent back to the camps), and the government touted the programmes’ economic benefits. When faced with accusations of “slave labour”, however, for instance, by the Soviet Union, the British government characterised the workers as refugees (Long 2013: 14–15).

7 IRO General Council, “The Experience of the IRO in the Field of International Migration Operations”, 5 March 1951, GC/199, 77, World Council of Churches Archives, CICARWS 425.5.163/1.

Picking up on the issue of selectivity, the historian David Nasaw paints a much more critical picture of resettlement by raising the question of how the IRO privileged non-Jewish Eastern Europeans and narrowed the opportunities for Jewish displaced persons. “The IRO turned upside down what might have been – should have been – its primary mission.” He explains that the organisation let its member states select “only those who, they believed, would benefit their nations by working hard and effectively at jobs no one else wanted, were reasonably assimilable, and reliably anti-Communist”. This policy favoured “young, healthy, unmarried non-Jewish Latvians, Estonians, Lithuanians, Ukrainians, and Poles” while disfavoured Jewish displaced persons, who were underrepresented in the occupations or skills that member states selected for (such as agriculture, mining, or logging), and who suffered from the anti-Semitism embedded in immigration policies (Nasaw 2020: 358–359). Making matters worse, Nasaw emphasises that neither the IRO nor the member states took seriously the need to screen for collaborators and war criminals among the Eastern Europeans, for instance, those who had served in the Waffen-SS or as concentration camp guards (a famous example being the Ukrainian John Demjanjuk, who would be extradited from the US to Germany to stand trial in 2009, where he was found guilty) (Nasaw 2020: 504–505). US agencies even actively recruited such individuals “to enlist them in intensifying Cold War battles with the Soviet Union” (Nasaw 2020: 468). Thus, Cold War and economic motives combined with anti-Semitism to produce an outcome at odds with universalist rights talk and postwar justice.

#### 4.2 HUMAN RIGHTS, THE COLD WAR, AND DECOLONISATION

Does this mean that refugee resettlement was, in fact, divorced from or even opposed to the concurrent rise of human rights? On the contrary, there are good historical reasons to consider the

concepts of human rights and refugee rights as connected. Stephen Porter has noted that, generally, efforts to aid refugees were highly pragmatic, yet there were connections between activities “on the ground” and UN standard-setting. “Key UNRRA advocates and officials were, in fact, also involved in the formulation of the UN Charter and the Universal Declaration” (Porter 2015: 527). The historian G. Daniel Cohen has argued that the Refugee Convention represented the first instantiation of postwar human rights as binding international law. Whereas the Universal Declaration of Human Rights was a mere declaration (though it would become considered customary law before the two Covenants that made it binding went into effect in 1976), the 1951 Refugee Convention realised universal individual rights in international law. As Cohen observes, the UN’s first human rights resolutions in February 1946 dealt with Displaced Persons, and the Universal Declaration’s Articles 13 to 15 applied to them (Cohen 2011: 81–82).

Furthermore, the IRO pushed the Commission on Human Rights on rights beyond those to nationality and asylum, such as “the right to fair trial and protection against double jeopardy and retroactive justice, as well as freedom from arbitrary interference with privacy, family, home, or correspondence” (Cohen 2011: 95). And, like the Universal Declaration, the Refugee Convention included social and economic rights, such as the right “to work and start a business; to be protected by labor law; and to be eligible for social benefits” (Aleinikoff/Zamore 2019: 10). These latter rights were meant to facilitate refugees’ integration into host states’ economies and enable them to earn a livelihood. According to one historian, human rights represented a “New Deal for the world” – the internationalisation of Rooseveltian liberalism, characterised by a powerful, planning-oriented state committed to significant redistribution (Borgwardt 2005). As suggested above, the IRO’s resettlement programme can, to



an extent, be considered an outgrowth of what remained of New Deal thinking in the 1940s in its concern for redistributing Europe's "surplus population" and promoting displaced persons' economic integration (cf. Robson 2023).

The point is rather that despite being ostensibly universal and politically neutral, both human rights and the Refugee Convention aligned with the emerging Western bloc in the early Cold War. While the Universal Declaration of Human Rights' most prominent advocates portrayed it as transcending political and cultural fault lines (Glendon 2001), the emphasis on individual rights aligned it with Western liberalism – as evidenced by the Eastern bloc's abstention from the final vote.<sup>8</sup> And while the Universal Declaration emphatically included social and economic rights, the polarisation induced by the Cold War rapidly reduced these in salience; when Western European states crafted the European Convention on Human Rights (1950), it included only civil and political rights (Duranti 2017). The late-1940s turn to individual rights, which also shaped the IRO, therefore wound up signifying a turn away from the robust egalitarianism of the New Deal and toward a more restricted Cold War liberalism or "anti-totalitarianism" (Moyn 2018: ch. 3). Cold War liberals were above all concerned with individual freedom, especially through the protection of civil and political rights, such as religious freedom, as a bulwark against excessive state power, even as they expanded welfarist social provisions to stave off the appeal of socialism (Bell 2014). Even for the many Christians who were wary of Cold War polarisation and sought to protect the figure of the human "person" against both the excesses of liberal individualism and socialist collectivism, the concept of individual rights meant a predisposition toward liberal democracy and

internationalism (Bouwman forthcoming). The postwar emphasis on the protection of the individual, in other words, did not simply emerge in a space of abstract cosmopolitanism or impartial humanitarianism but orbited Western liberal internationalism. In line with such a reading, Cohen has written that the Refugee Convention, which focused strictly on individuals fleeing persecution, was "[t]ailor-made for anti-Communist refugees" (Cohen 2011: 99). Similarly, the political scientist Gil Loescher has written that "[t]he Convention was intended to be used by the Western states in dealing with arrivals from the East, and largely reflected the international politics of the early Cold War period." (Loescher 2001: 45)

Human rights and refugee rights would thus both become a hallmark of the Western bloc's self-identification in contrast to the communist East. The admission of refugees from the East bolstered the humanitarian credentials and democratic self-image of the West while highlighting that their flight in itself served as an implicit rebuke of communism as a system and symbolised a positive choice for liberal democracy (Bon Tempo 2008: 3–4). Not all refugees, in fact, had strong ideological motives: IRO estimated that only about a quarter "were refugees in the strict sense", but it excluded "only those naïve enough to admit to being economic migrants" (Goodwin-Gill 2008: 17). Those who did have strong ideological motives, however, were by far the most visible, also because of state backing. Many such exiles would subsequently play a role in anti-communist activities in their new home countries simply by publicly narrating their personal experience or, for instance, contributing to propaganda across the Iron Curtain through media like Radio Free Europe and Radio Liberty (Kind-Kovács 2013). Apart from serving as symbols, refugees thereby served as agents in the discursive fashioning of the liberalism of the Cold War West in contrast with the illiberalism of the East. While economic motives continued to be important, this meant that political

<sup>8</sup> The Declaration was also influenced in important ways by Latin American delegates, which tended to emphasize social and economic rights more than Western delegates did, not from a socialist but from a social Catholic perspective.

considerations would ultimately predominate in determining refugee admission.

The focus on the refugee as an individual rights-bearer had significant long-term implications for the conduct of asylum policy, but these should not be overstated. The IRO took a narrower approach to eligibility for refugee status than UNRRA. Whereas UNRRA singled out a subset of postwar refugees for DP status and hence eligibility for international support, it made no judgment as to the claim of those ineligible to be described as refugees. The IRO's mandate, by contrast, "explicitly identified so-called 'bona fide' or 'genuine refugees and displaced persons'". Thus, the burden was now on individual refugees to prove their bona fides in visa applications and screening procedures. The 1951 Refugee Convention would subsequently take up this distinction, enshrining it in international law (Reinisch 2016: 167). Adopted by a 26-state Conference of Plenipotentiaries in Geneva, it defined a refugee as someone who,

owing to 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 (UNHCR 2010: 14; cf. Bem 2004; Glynn 2012).

At the same time, however, what counted as "persecution" was interpreted through a Cold War lens so that collective rather than individual identity remained key.<sup>9</sup>

<sup>9</sup> This also applied to the admissions policy of individual states like the US, which did not ratify the Refugee Convention despite playing an important role in shaping it, and which only brought its policy into line with the Convention after 1980. Writing in 1986, Loescher and Scanlan noted that "[s]ince 1945, well over 90 percent of those [refugees] admitted to the United States have fled Communist countries" (Loescher and Scanlan 1986: xviii). Even in the 1980s, refugees generated by anti-communist violence in Central America, to take the most important example, were denied refugee status by the Reagan administration. On refugees from El Salvador, see Todd 2021.

The emerging international refugee regime was not only politically selective, but also temporally and geographically. The Convention, building on the experience of relief operations in the late 1940s, contained further important limitations. It was characterised by its pan-European coverage, an expansion compared to previous instruments that applied only to specific groups but nevertheless sharply limited in scope (cf. Krause 2021). Also, while – like the IRO – it subsumed all those who had fallen under previous instruments (including Russian, Spanish, and Armenian refugees), the Convention only applied to those fleeing their country "as a result of events occurring before 1 January 1951" (UNHCR 2010: 14; cf. White 2021). Further hamstringing its enforceability, the Convention refrained from challenging states' prerogative to deny asylum, in line with the right to "seek" and to "enjoy" but not necessarily to be "granted" asylum, as formulated in Article 14 of the Universal Declaration of Human Rights.

These limitations with respect to geography, temporality, and state discretion ran counter to the hopes of the legal experts who produced the first draft of the Convention. The IRO's Gustave Kullmann (a Swiss jurist who had fled Russia following the Bolshevik Revolution) had remarked at the time that the IRO's draft, which had aimed "to secure as universal application as possible" and to include "all categories [of refugees] which might come under the mandate of the new High Commissioner", was "'realistic' in the sense that it aims at not going beyond what can reasonably be demanded of a liberal democratic State" (Glynn 2012: 136–137). It also disappointed the hopes of nongovernmental refugee advocates such as Elfan Rees, the spokesman of the World Council of Churches (WCC) (and an advocate for the rights of German expellees), who compared the Convention to a "menu at an expensive restaurant, with every course crossed out except the soup – and a footnote to the effect that the soup might not be served in certain circumstances" (Cohen 2011: 154).

The Convention's focus on European refugees – which included European refugees outside Europe but excluded refugees in or from European colonial territories – reflected not only Cold War logic but also a longstanding bifurcation of international law along racial lines. As the historian Glen Peterson has observed, British legal scholarship around the turn of the twentieth century assumed a distinction between civilised and uncivilised nations, and the tutelage of the latter by the former required that the imperial exercise of power be exempt from the international legal constraints that applied to relations between European states. Colonised peoples, in other words, were at the mercy of imperial powers and could not be recognised as refugees (Peterson 2016: 213–228). Though the League of Nations and then the United Nations eroded this logic by introducing mechanisms of oversight and promising pathways to independence, the mid-century refugee regime continued to be shaped by this colonial legacy. Instead of a single international refugee regime expanding its remit over time, from a global perspective, a system emerged that, from the outset, differentiated sharply between European and non-European refugees. In conjunction with racially discriminatory migration policies generally, which sought to restrict migration from the global South to the West, access to asylum and resettlement in the global North would remain largely restricted to refugees *from* the global North (Achiume 2021).

It is key to emphasise, in this regard, the global scope of displacement in the 1940s. There were tens of millions of refugees around the world, the majority of whom were outside Europe, almost none of whom were to receive international support or even recognition. In the case of Chinese refugees who had fled the Civil War and the People's Republic of China, for example, even Cold War political affinities did not trump established racialised policies to curtail Asian migration to the West, especially the United States (Madokoro

2016). In another major mid-century case of displacement, the Partition of India and Pakistan, no international organisation analogous to UNRRA or UNRWA was called into being. Critiquing Western liberal humanitarianism's focus on European refugees, India withdrew from UNRRA, which it had joined while still under British rule, declined to join the IRO, and did not sign on to the 1951 Refugee Convention. Integrating those displaced by Partition as citizens – reaffirming the centrality of the nation-state – India thus set about establishing a regime of refugee rights separate from the system that would develop around UNHCR and the 1951 Convention (Kapoor 2021). This development was emblematic of a wider pattern in that, unlike in other world regions, no regional refugee regime would develop in Asia (Börzel 2020: 6).

UNHCR's mandate ultimately allowed it to gradually expand its activities and the Convention's applicability beyond their initial temporal and geographical restrictions, developing what would be termed the international (or even global) refugee regime. Drawing on its discretion to use its “good offices” to intervene on behalf of refugees and work with host governments, UNHCR did so first temporally when it acted to aid Hungarian refugees following the 1956 Hungarian Revolution and then geographically, in the context of the Algerian war of independence (Rahal and White 2022; cf. Ruthström-Ruin 1993). In 1967, states signed the New York Protocol to the 1951 Convention, undoing its temporal and geographic limitations.<sup>10</sup> Moreover, in effect, the definition of the refugee was also widened in subsequent years. The rise of asylum-seekers arriving in the West since this time led UNHCR and many Western states to recognise a wider category of “humanitarian refugees”, and Western states widened their

<sup>10</sup> At the same time, there were efforts at developing regional instruments, such as the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa, adopted by the Organization of African Unity, and the 1984 Cartagena Declaration on Refugees, issued by the Organization of American States. On the former, see Schenck 2020.

interpretation of “persecution” to include, *inter alia*, “battered women or victims of ethnic conflicts” (Cohen 2011: 163). Under the influence of decolonisation, the refugee regime’s potential scope was, in other words, expanded temporally, geographically, and substantively.

Yet the significance of this expansion was undercut by the simultaneous hollowing out of the right to asylum. The ostensible universalisation of the refugee regime went hand in hand, first of all, with the curtailment of resettlement as a “durable solution”. With limited exceptions driven by the logic of the Cold War – most notably in the case of the Vietnamese “boat people” in the 1970s and 1980s (Lipman 2020; Cosemans 2021)<sup>11</sup> – the globalisation of refugee rights did not lead to the mass resettlement of refugees from the global South in the West. Instead, the system that emerged provided “care and maintenance” in local (usually global South) host countries of first asylum in the expectation that repatriation would become possible. Hence, the vast majority of refugees have remained in the global South, while Western states and UNHCR provide financial, logistical, and staff support to sustain this humanitarian system. To the extent that non-European asylum-seekers have arrived at the EU’s borders in increasing numbers, especially from Syria, Afghanistan, Iraq, Somalia, and Eritrea, the sharp limits to Western willingness to take them in have been obvious (Lucassen 2018). Pointing variously to the allegedly “unprecedented” nature of displacement in the post-Cold War era, the “different” nature of displacement outside the West, or both, Western states have adopted what the historian Benjamin Thomas White has called a “view from an armed stockade” (White 2019; cf. Chimni 1998).<sup>12</sup> Though in many respects, this has, as the above history has suggested, merely repeated

long-established patterns, the past decades have seen states take ever more concerted measures to prevent refugees from arriving at the border to file their claims. Even if such measures arguably demonstrate a form of progress in that they implicitly acknowledge asylum-seekers’ rights once they reach the border, they highlight how the collective right to self-determination – the right to exclude – continues to be exercised, if not lawfully, then extrajudicially (FitzGerald 2019). Similarly, states such as the United Kingdom and the United States have engaged in what critics charge are cases of *refoulement*, forcibly repatriating rejected asylum-seekers to countries where they face imminent harm in contravention of the 1951 Convention (McDonnell 2022). Such developments underline the resistance among Western liberal democracies to admitting non-Western refugees, flagrantly undermining these countries’ stated commitments to refugees’ rights and human rights more generally.<sup>13</sup>

## 5 CONCLUSION

Central to this paper has been the tension between collective self-determination and individual rights. Reading the resolution of the postwar crisis of displacement through this lens, I have shown how it initially depended on the (re)assertion of the nation-state. The expulsion of the Germans represented this in the most extreme form: millions were expelled without recourse to the human rights the Allies had fought in the name of. Rather than an act of illiberalism, I have stressed how this should be understood as part of the liberal-internationalist notion of the “disentanglement of populations” and the planning-oriented mindset of the New Deal while not neglecting the crucial

11 My thanks to Sara Cosemans for sharing this unpublished work.

12 White applies the term to the work of the scholars Paul Collier and Alexander Betts, specifically.

13 The wider context of this resistance can in part be explained by the “liberal paradox”, whereby states seek to regulate migration in such a way as to simultaneously reap economic benefits while avoiding domestic political fallout – the latter of which is especially associated with the reception of refugees (Hollifield 2004).

factor of war guilt. Repatriation, whether voluntary or forced, returned millions to their home countries, which were considered to have a powerful claim to their allegiance. And the establishment of Israel allowed hundreds of thousands to move to a new home, even as this went hand in hand with the displacement and indefinite immiseration of the Palestinians. All these events reaffirmed that the liberal nation-state was the essential guarantor of individual rights, with membership as a citizen serving as the essential precondition for these rights. Collective self-determination, as exercised through the nation-state, thus played an outsize role in the initial phase of resolving the crisis, highlighting how even liberal actors may qualify or disregard individual rights.

The second phase of the postwar displacement crisis revolved around resettlement rather than repatriation, which invited a greater emphasis on the individual, yet it was nevertheless fundamentally shaped by motives other than cosmopolitan or humanitarian. Political motives, in the form of the emerging Cold War and continued (post)imperial hierarchies, and economic motives, in the context of postwar reconstruction, were decisive, resulting in preferences for anti-communist and economically useful refugees while marginalising those outside the West. Displaced Europeans who depended on humanitarian compassion alone took the longest to resettle or integrate. Xenophobic motives, concerned with who was sufficiently assimilable or potentially a security risk, also played a part in the selection, especially anti-Semitism. The 1951 Refugee Convention's definition of the refugee and its temporal and geographical limitations, moreover, reflected the Cold War preoccupation with Europeans fleeing communist persecution. Refugees beyond the West remained excluded from this emerging refugee regime's provisions or relegated to separate and less effective institutions.

While the international refugee regime was subsequently globalised in scope, the Cold War lens continued to exercise a decisive influence on who was recognised as a refugee and who was not. The emergence of a nominally more cosmopolitan humanitarianism, meanwhile, was marked by entrenched divides between the global North and South and the creation of an increasingly palliative rather than restorative approach. Mass resettlement – the hallmark of the IRO's response to the plight of Europe's "last million" – was replaced by, as Alexander Aleinikoff and Leah Zamore have put it, a humanitarian system that, while it was purportedly "designed to put people back on their feet", in fact, "keeps them on their knees" (Aleinikoff and Zamore 2019: 105–106). This disconnect is most obvious if we look at the mass encampment of refugees (cf. Long 2013: 21–22). The focus on the rapid resettlement of displaced persons after the Second World War thus stands in sharp contrast to the "second exile" routinely experienced by refugees today.

These patterns do not apply equally: Ukrainian refugees, notably, have found much easier pathways to asylum in Europe than Middle Eastern and African refugees. This dichotomy demonstrates the continuing importance of both ethnic and religious as well as political affinities. Although suggestions that a "second Cold War" with Russia is underway are misleading, the Western-Russian confrontation over Ukraine resembles, in some ways, the Cold War crises that led to Western receptivity toward anti-communist refugees. For all the talk of post-Cold War liberal cosmopolitanism, the importance of collective political identification remains a crucial factor in determining whether refugees' rights are realised. Despite the progress towards universal rights since the 1940s, the liberal script retains much of the state's prerogative to selectively admit refugees, privileging collective over individual self-determination.

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