

Synchronizing Domestic and Foreign Policy Concerns: The Case of the 1980 Refugee Act

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The U.S. refugee program lies at the intersection of domestic and foreign policy, and also at the intersection of practical and humanitarian concerns. The Refugee Act of 1980 represents the single most comprehensive attempt to formalize, structure, and regulate this double intersection, and thus approach a balance of policies that simultaneously promote our domestic well-being, social equity, and foreign policy effectiveness. The act provides an especially good vantage point from which to understand American refugee policy, but also serves as a test case of how such synchronization of the foreign and the domestic, the practical and the humanitarian, might occur in other policy areas. Such policy synchronization, after all, will be of increasing importance as the United States reorients itself to a new and more interconnected world—a world in which the lines between national and international developments and concerns are becoming ever more blurred.

In examining the lessons from the refugee program, this essay begins with an overview of the dynamics of U.S. refugee policy since the Second World War and then considers the fitful growth of a formalized refugee program that culminated in the Refugee Act of 1980. The discussion then turns to some of the specific ways in which that act attempted to synchronize different policy considerations. That attempt, however, was nearly swept away as the logic of stabilizing a domestic refugee program collided with the mass and volatility in foreign policy considerations concerning admission of refugees. The Refugee Act, then, may provide some useful lessons about how—and how not—to synchronize the foreign and the domestic, the practical and the humanitarian.



Resettlement of refugees from camps in Germany, Austria, and Italy through Bremerhaven, Germany, by the International Refugee Organization, 1951.

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That process of synchronization will become ever more important as U.S. domestic and foreign policy considerations become more intertwined and as the United States must now struggle to put its own house in order at exactly the time when sweeping changes in the world—including the recent Arab spring—would seem to make the American model of even greater global relevance. This specific refugee case is also of particular value in the way it links the very practical considerations of immigration and immigrant adjustment with the more specific American historical commitment to being a land of refuge. Such synchronization of the practical and the moral, perhaps especially in the area of human mobility, will also be increasingly crucial as the world's economic, social, political, and cultural visions become more fully interlinked.

America and Refugees

In the main, the U.S. refugee program since the Second World War has reflected a world split into communist and non-communist camps. However, that summary statement masks a number of factors that have shaped a complicated relationship between America and refugees that dates back to the very beginnings of American history. That relationship has often been a mutually supportive one: America has absorbed refugees, and refugees have in turn contributed greatly to the country. The relationship has, however, also sometimes been a negative one with America, and Americans, drifting into intolerance, hostility, or sometimes simply apathy to injustice.

To understand refugee policy is thus also to understand a complicated long-term relationship between America and refugees. That relationship hinges on several distinct factors.¹ The first factor is certainly ideology. Almost all refugee admissions through the 1980s, for example, can be accounted for in terms of the American stance against communism. The roots of the contemporary refugee program can be seen in the Displaced Persons Act of 1948, which was driven quite explicitly by a concern to avoid repatriating European refugees to newly communist nations.² The broader analytic factor, how-

¹ David Haines, *Safe Haven? A History of Refugees in America* (Sterling, Virginia: Kumarian Press, 2010).

² Particularly useful reviews of U.S. involvement with displaced persons (DPs) are provided in Leonard Dinnerstein, *America and the Survivors of the Holocaust* (New York: Columbia University Press, 1982); Robert A. Divine, *American Immigration Policy, 1924–1952* (New Haven, Connecticut: Yale University Press, 1957); and Mark Wyman, *DPs: Europe's Displaced Persons, 1945–1951* (Ithaca: Cornell University Press, 1989). For more general historical information on refugees in the United States, see Carl J. Bon Tempo, *Americans at the Gate: The United States and Refugees during the Cold War* (Princeton, New Jersey: Princeton University Press, 2008); Gil Loescher *Beyond Charity: International Cooperation and the Global Refugee Crisis* (New York: Oxford University Press, 1993); Gil Loescher and John Scanlan, *Calculated Kindness: Refugees and America's Half Open Door* (New York: Macmillan, 1986); Courtland W. Robinson, *Terms of Refuge: The Indochinese Exodus and the International Response* (New York: Zed Books, 1998); Norman L. and Naomi F. Zucker, *The Guarded Gate: The Reality of American Refugee Policy* (San Diego: Harcourt Brace Jovanovich, 1987); and *Desperate Crossings: Seeking Refuge in America* (New York: M. E. Sharpe, 1997).

ever, is probably not anticommunism per se, but the importance of ideology in American policy.³ The point, then, is that America has been most willing to accept as refugees those whose reasons for flight match American ideological commitments.

A second factor is national responsibility. By far the two largest refugee populations coming to the United States, at least since the Second World War, have been Cubans and Vietnamese. In both cases, the American connection is not simply an abstract ideological one, but is based on cases in which there was extensive U.S. involvement and in which U.S. actions were directly responsible for refugee flight, whether through creating particularly emblemized antagonisms (Fidel Castro, Ho Chi Minh), through actions that exacerbated hostility (e.g., support for the Bay of Pigs invasion in Cuba), or in actions that directly led to governmental collapse (e.g., virtual removal of military support and air protection to South Vietnam).⁴ Admission of refugees is often a way to alleviate American complicity in the creation of the situations from which refugees flee.

A third factor is international responsibility. In the resettlement of displaced persons (DPs) after the Second World War, for example, the United States was part of a broader international effort to resolve the DP situation. That sense of international responsibility reflected the need to show U.S. involvement per se, but also that America simply had the greatest overall capacity to absorb new migrants. Similarly in the second round of the Southeast Asian exodus in the late 1970s, the United States again participated in more general international efforts to resolve the “boat” crisis. Today, as well, U.S. involvement is crucial in U.N. efforts at refugee resettlement—accounting for over half of U.N.-requested resettlement slots.⁵ For the United States not to participate in international refugee efforts would be disastrous to those efforts.

³ Bon Tempo (*Americans at the Gate*), for example, very much emphasizes the importance of anticommunism as the driving ideology underlying refugee assistance.

⁴ For useful overviews of the specifics of the Cuban and Vietnamese cases, particularly the early years, see David W. Haines, ed., *Refugees as Immigrants: Cambodians, Laotians, and Vietnamese in America* (Totowa, New Jersey: Rowman & Littlefield, 1989); Gail P. Kelly, *From Vietnam to America: A Chronicle of the Vietnamese Immigration to the United States* (Boulder, Colorado: Westview Press, 1977); Young Yun Kim, *Population Characteristics and Service Needs of Indochinese Refugees* (Chicago: Travelers Aid Society of Metropolitan Chicago, 1980); Andres R. Hernandez, ed. *The Cuban Minority in the U.S.* (Washington, D.C.: Cuban National Planning Council, 1974); Richard Fagen, Richard A. Brody, and Thomas J. O’Leary, *Cubans in Exile: Disaffection and the Revolution* (Stanford, California: Stanford University Press, 1968); and William Liu, et al., *Transition to Nowhere: Vietnamese Refugees in America* (Nashville, Tennessee: Charter House, 1979).

⁵ Regarding U.N. efforts, data from 2009 indicate a total of 112,400 refugees referred by the Office of the United Nations High Commissioner for Refugees (UNHCR) for resettlement, of whom 79,900 went to the United States—thus 71 percent. See UNHCR “Durable Solutions and New Displacement” (<http://www.unhcr.org/4ce531b59.html>). These figures vary from year to year, but the point here is simply the importance of the United States to this international effort.

A fourth factor is personal connection. Whether through comradeship in war (e.g., the Hmong who were involved in the CIA's not-so-secret secret war in Laos),⁶ ties of family and friendship (e.g., the many marriages and informal social ties between Americans and Vietnamese),⁷ or the links of religion (e.g., Russian Jews and Pentecostals; Christians in south-east Asia and northern Africa),⁸ in all these cases, personal connections have been crucial to decisions about who is to be accepted for resettlement in the United States. That importance of personal ties mirrors the way in which the bulk of new immigrants to the United States are people already connected to U.S. citizens through family or work,⁹ but adds to that a stronger sense of moral commitment, and often religious commitment as well.

Finally, a fifth factor is one of morality—often religiously based—and specifically the obligation to recognize and assist those who must flee because of persecution (or sometimes for other reasons as well). This factor is conventionally associated with the United Nations Convention and Protocol on Refugees, but the American commitment to refugees goes back much further in time and rests on cultural and religious foundations that only partly match the formal refugee definition in international law. Indeed it may be useful to distinguish an American cultural morality from the specific legalized morality of the Convention and Protocol.

It is the combination of these multiple factors that creates a complicated double intersection: of practicality and morality, and of domestic and foreign policy. Individually these five factors do *not* necessarily fall directly into one category or the other, either of domestic versus foreign policy, or of practicality versus morality. Consider the way personal connections operate on both domestic and foreign policy levels. With Southeast Asian refugees, for example, the personal connections sometimes moved from the domain of foreign policy to that of domestic policy. Thus people who were connected in Southeast Asia were reconnected in the United States: Americans who had worked in Vietnam with Vietnamese now worked diligently in the United States to bring those same Vietnamese to the United States.¹⁰ They thus created a “domestic” version of a

⁶ The Hmong, in particular, receive certain special benefits under U.S. law. The Hmong Veterans' Naturalization Act of 1980, for example, provides for a language exemption and special criteria for civics testing for Hmong veterans applying for citizenship.

⁷ One might compare, for example, the very different but equally deep relationships between Americans and Vietnamese as seen in Le Ly Haislip's *When Heaven and Earth Changed Places* (New York: Doubleday, 1989), and Lady Borton's *After Sorrow* (New York: Oxford University Press, 1996).

⁸ The special provisions in U.S. law for some of these other groups are discussed later in the paper.

⁹ For example, in FY 2010, 66.3 percent of new legal immigrants were admitted under family categories. See Randall Monger and James Yankay, “U.S. Legal Permanent Residents 2010” (U.S. Department of Homeland Security, March 2011).

¹⁰ On the other hand, many of those assisting Vietnamese refugees as sponsors were, in fact, people who had opposed the war and the politics of the very people they were now assisting. Here a new kind of personal connection was created.

“foreign” relationship—just as the “domestic” hostility of State Department staff to Jews during the Second World War helped create a “foreign” delay in visa processing overseas.¹¹

In helping refugees, Americans’ moral commitments also shift back and forth between foreign and domestic arenas. The United Nations refugee definition, for example, requires that refugees have crossed international borders,¹² but the American commitments, based on political sympathy toward dissident Cubans and on religious connection to Jews and Pentecostals in Russia and Eastern Europe, permit the acceptance of people still within their country of origin.¹³ In such cases, the moral commitment to help as defined in the domestic policy arena overrides the more internationalized requirement that refugees must have already fled across a

¹¹ For discussion of how anti-Semitism among State Department staff affected their handling of visa applications, see David Wyman, *Paper Walls: America and the Refugee Crisis, 1938–1941* (New York: Pantheon Books, 1985 [orig. 1968]), and *The Abandonment of the Jews: America and the Holocaust, 1941–1945* (New York: The New Press, 1998 [orig. 1984]).

¹² In U.S. law, the definition is as follows, as given in Sec. 101(a)(42) of the Immigration and Nationality Act: A refugee is “any person who is outside any country of such person’s nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.” This differs slightly from the original U.N. version that specifies any person 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; 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.” United Nations Convention Relating to the Status of Refugees (1951).

¹³ The U.S. definition of refugee, for example, goes on to say that “in such circumstances as the President after appropriate consultation (as defined in section 207(e) of this act) may specify, any person who is within the country of such person’s nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The term ‘refugee’ does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion. For purposes of determinations under this Act, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion.” This extra wording has expanded over time, but originally represented a desire to provide in-country processing for religious refugees who needed to exit the Soviet Union. That desire appeared in the form of an amendment to the Immigration and Nationality Act (INA) sponsored by Senator Frank Lautenberg of New Jersey in 1989. Thus, in the annual presidential determination on refugee admissions, there is a section that permits in-country processing for those in the former Soviet Union, Cuba, and now Iraq. See Presidential Memorandum—Refugee Admissions (Presidential Determination # 2011-2) of October 8, 2010, available at <http://www.whitehouse.gov/the-press-office/2010/10/08/presidential-memorandum-refugee-admissions>.

national border. The domestic moral commitment is thus to aid those who *need* to flee in addition to those who have already fled.

This double intersection, then, is not one that can be readily summarized, but one that is created by the intermixed moral and practical, foreign and domestic, aspects of each of the multiple factors that underlie refugee admissions. That lack of an easy summary reflects the inherently fluid nature of refugee situations, whether in numbers, severity, origins, causes, or destinies. But this does pose great problems in trying to forge a regularized program for admitting and resettling refugees—a problem to which the next section turns.

Formalizing the Refugee Program since World War II

Given this double intersection of foreign and domestic, practical and humanitarian, the development of an integrated refugee program was difficult. Before World War II, the lack of such a program was of little concern since there were either few refugee arrivals or little need to distinguish refugees from other immigrants. In the years after the end of the Second World War, however, that changed. There were millions of displaced persons in Europe after the war, and with shifting borders and changing governmental regimes, it was not always clear exactly to where refugees should return or even if they should return at all. There was a growing recognition of the dangers (real and ideological) of forcing DPs back to countries that were now communist. It was a fear, for example, that was jointly shared by Franklin Roosevelt's widow, Eleanor, and his presidential successor, Harry Truman.¹⁴

Figure 1: The Path to the Refugee Act of 1980

1945	Truman Directive
1948	Displaced Person's Act
1953	Refugee Relief Act
1956	Hungarian Uprising
1959	Castro enters Havana
1975	Saigon falls

¹⁴ Eleanor Roosevelt's earlier advocacy for refugees is discussed in Joseph P. Lash, *Eleanor and Franklin* (New York: W.W. Norton & Co., 1971). See also Steve Neal's *Eleanor and Harry: The Correspondence of Eleanor Roosevelt and Harry Truman* (<http://www.trumanlibrary.org/eleanor> n.d.).

The need to provide resettlement in the United States for at least some of these DPs was first formally acknowledged with a directive from President Truman in 1945. His directive permitted some 40,000 DPs to enter the country, with their visas “mortgaged” against future visas available under the Immigration and Nationality Act.¹⁵ Most of these arrivals were Jewish.¹⁶ Initial efforts to expand the numbers met with limited support for that very reason. Only as the public began to realize that most of the DPs were, in fact, Christian, did enough support develop to expand the program. The result was the Displaced Persons Act of 1948, which as subsequently amended, allowed for the entry of 415,000 DPs, and the Refugee Relief Act of 1953, which authorized another 214,000.

Figure 2: Refugee Admissions Leading up to the Refugee Act of 1980

(Source: U.S. Department of State refugee data system (WRAPS))

1948–1952	Displaced Persons Act	415,000	Annual average 47,000
1953–1956	Refugee Relief Act	214,000	
1956–1957	Hungarian refugees	32,000	
1959–1974	Cubans	656,000	
1965–1974	Parolees	78,000	
1975		146,000	Annual Average 85,000
1976		27,000	
1977		20,000	
1978		37,000	
1979		111,000	
1980		207,000	

While it was the United States government that approved the entry of the DPs, it was the voluntary agencies that had the central role in post-arrival assistance. Indeed, the author of the original House bill in 1947 (Representative Samuel Stratton) stressed how unlikely these people were to need assistance since they had proved their self reliance by “having escaped and endured what millions of their kinsmen could not survive.”¹⁷ This foreign policy issue of helping resolve the postwar DP problem could thus be pursued *without* any domestic policy concerns. The U.S. government could simply admit

¹⁵ These visas were thus quite limited in number. “Mortgaging” would be used again in the 1948 Displaced Persons Act, but subsequently abandoned with the Refugee Relief Act of 1953.

¹⁶ Dinnerstein, *Survivors of the Holocaust*, 163.

¹⁷ Divine, *American Immigration Policy*, 116.

the DPs and count on local communities and organizations to absorb them without any special programs or funding. Refugees were thus cost-free and consequence-free. In 1956, in the wake of the crushed Hungarian uprising, some 200,000 refugees¹⁸ streamed across the border into Austria, and ultimately 37,000 of them were resettled in the United States. This time, however, the government was more actively involved. Refugees were processed through an actual military base on U.S. soil (Camp Kilmer in New Jersey), and post-arrival assistance received greater attention. But still the emphasis was on how readily self-reliant these refugees would be, that they would *not* need any special assistance.¹⁹ Carl Bon Tempo, for example, notes the government's "feverish efforts to reassure Americans" that these refugees were like them, that they were "good Americans" in terms of family, gender roles, and employment.²⁰ A classified CIA memo noted at the time the "happy" fact that these refugees were young, well-educated, and with relevant occupational background.²¹ They would, it seemed, fit in quickly and well, thus posing no kind of programmatic burden after their arrival. Refugees, then, were just regular, good immigrants after arrival, even though they had been admitted under a special category.



Cuban refugees during the Mariel boat lift, 1980

Less than four years later, a much larger refugee influx began from Cuba. The influx occurred in distinct phases, reflecting the degree to which the Cuban government under Fidel Castro would allow people to leave and, if so, whether they

¹⁸ The CIA's estimate of 188,000 is provided in Guy Coriden, *Report on Hungarian Refugees* (U.S. Central Intelligence Agency). https://www.cia.gov/library/center-for-the-study-of-intelligence/kent-csi/vol2no1/html/v02i1a07p_0001.htm, accessed Sept. 1, 2011.

¹⁹ The exact numbers are somewhat difficult to extract since different admissions authorities were used. Here, I follow the comprehensive attempt to sort out these numbers in the Congressional Research Service's 1979 report, *Review of U.S. Refugee Resettlement Programs and Policies* (Report prepared for the Committee on the Judiciary, U.S. Senate; July 1979).

²⁰ Bon Tempo, *Americans at the Gate*, 75.

²¹ Coriden, *Hungarian Refugees*.

could go directly to the United States.²² There was also a major change in the U.S. government's involvement in post-arrival assistance for the refugees. Perhaps the two key initiatives were the establishment of a federal government presence directly in Miami in 1960 by President Dwight Eisenhower, and legislation two years later (the Migration and Refugee Assistance Act of 1962) that directly authorized federal funds for post-arrival assistance. Presaging the more formal program of the Refugee Act of 1980, this assistance was broad and included cash assistance, health care, education and training, and even resettlement assistance for those willing to move away from Miami to other parts of the United States. The assistance, furthermore, was open-ended in terms of duration of assistance and of how long the federal government would reimburse states and localities for their costs on behalf of refugees. Refugees thus continued to be a special "client" population in a domestic program of assistance long after their arrival in the United States.

Over the next 15 years, there were continued Cuban arrivals, an increasing number of refugees from the Soviet Union, and occasional smaller groups. These arriving refugees had quite strong support in the United States. Both the Cuban community in Miami (with much help from the Catholic Church) and the very well-organized American Jewish community furnished invaluable practical and political assistance for further admissions and for ensuring continued post-arrival assistance.

The influx of refugees from Southeast Asia posed, at least initially in 1975, a situation somewhat like the Hungarian case in terms of processing and somewhat like the Cuban case in terms of post-arrival assistance. Once again, as with the Hungarians, there were processing centers on U.S. soil and the need for an even larger level of support from the voluntary agencies to sponsor some 125,000 refugees.²³ Thus again, the federal government was handling processing and the voluntary

²² All these different cohorts had somewhat different characteristics. For useful reviews of this complicated history, see María Cristina García, *Havana USA: Cuban Exiles and Cuban Americans in South Florida, 1959–1994* (Berkeley: University of California Press, 1996); and Guillermo J. Grenier and Lisandro Pérez, *The Legacy of Exile: Cubans in the United States* (Boston: Allyn and Bacon, 2003).

²³ These early efforts are well-chronicled in reports to the Congress, especially by the Congressional Research Service. See, for example: *U.S. Immigration Law and Policy: 1952–1979* (Report prepared for the Committee on the Judiciary, U.S. Senate; May 1979); *Review of U.S. Refugee Resettlement Programs and Policies* (Report prepared for the Committee on the Judiciary, U.S. Senate; July 1979); and *Review of U.S. Refugee Resettlement Programs and Policies* (Report prepared for the Committee on the Judiciary, U.S. Senate; July 1980). Also very helpful is the U.S. Senate (Committee on the Judiciary) *Hearing on the Refugee Act of 1979* (S. 642). Perhaps the most influential non-government report at the time was Julia V. Taft, David S. North, and David A. Ford, *Refugee Resettlement in the U.S.: Time for a New Focus* (Washington, D.C.: New TransCentury Foundation, 1979).

sector was handling actual resettlement (although state governments could also sign as sponsors). There was also, however, the precedent of the Cuban case with direct federal funding of post-arrival assistance. The legislation providing assistance to these new Southeast Asian refugees (the Indochinese Migration and Refugee Assistance Act of 1975) thus granted the same kinds of assistance and services, and the same reimbursement of state and local government costs, that already existed for Cuban refugees.²⁴ These new refugees lacked a strong community base in the United States, which presented some positive policy options, such as, for example, dispersing the refugees across the country and thus avoiding the kind of refugee concentration that existed in Miami. It also, however, meant that it would be some time before there was an active refugee community that could work in cooperation with the government and the voluntary agencies. Thus at least the initial burden on both the public sector and the voluntary agencies was higher.

The Southeast Asian refugee influx in the late 1970s posed some additional challenges. Unlike the seemingly one-time effort of 1975, this crisis was a continuing, even escalating one. The number of Southeast Asian refugees increased from around 80,000 in 1979 to 167,000 in 1980. The arriving refugees were no longer almost solely Vietnamese. Instead there were now many Cambodians (of quite mixed social class origins) and Laotians both from the lowlands (usually termed “ethnic Lao”) and from the highlands, most notably the Hmong (but also such other groups as the Mien). The ethnic and linguistic origins were diverse, but so as well were the personal experiences (e.g., Khmer holocaust survivors)²⁵ and the language, educational, and occupational backgrounds that so greatly affect post-arrival adjustment.



Vietnamese refugees, 1981

There was thus in the late 1970s great uncertainty about how the Southeast Asian

²⁴ There were, interestingly, two quite separate pieces of legislation for the Cubans: the Cuban Adjustment Act of 1966 (Public Law 89-732) provided for their legal status but never even used the word “refugee,” and the Migration and Refugee Assistance Act of 1962 (Public Law 85-510), which authorized assistance and services for refugees, of whom the great majority were Cubans.

²⁵ The holocaust continues to reverberate through the Cambodian American experience. Even the U.S.-born generations must inevitably confront it. See Jonathan Lee, ed., *Cambodian American Experiences* (Kendall-Hunt, 2010).

refugee exodus would develop over time and also how the program of post-arrival assistance should be structured, including whether it should be more fully aligned and integrated with other existing assistance programs. There were administrative complexities with different agencies responsible for different aspects of post-arrival assistance (particularly the sometimes competing roles of the Department of State and the Department of Health and Human Services) and with different legislation for the various refugee groups, each with its own kind, level, and duration of support. There were also lingering questions about why the United States had not incorporated the formal U.N. refugee definition into its own laws and why U.S. refugee admissions were so restricted to particular areas of the world. Overall, there was no single, fully rationalized “refugee program” that would underpin both refugee admissions and post-arrival assistance to refugees.²⁶

When Senator Edward Kennedy opened hearings in March 1979 on comprehensive refugee legislation, he remarked for the record that American efforts on be-



Senate Judiciary Committee hearings concerning Cambodian relief. October 16, 1979. From left, Harold Metzbaum, Edward Kennedy, and Strom Thurmond.

half of refugees had been useful but that there was a need to “do this job better” The final version of that legislation, the Refugee Act of 1980, was passed the next year and remains the guideline for our current U.S. refugee program, administratively (as in the division of responsibility between the Department of State and the Department of Health and Human Services), in how refugee admissions are decided (through annual consultations with the Congress), and in the weaving together of the public and private sectors (and of government at the federal, state, and local levels).

In terms of post-arrival assistance, the Refugee Act was clear that refugees did need some kind of transitional assistance, but the nature and duration of that assistance were subject to debate in formulating the legislation, in passing it, in implement-

²⁶ These debates can be traced through the extensive hearings and background documents leading up to the Refugee Act of 1980. See sources at note 23.

ing it, and in the almost immediate amendments to it. The new Reagan administration, for example, moved to limit the time periods for much refugee assistance, doing so just as the country slipped into a major recession.²⁷ But it was probably the foreign policy eruptions of 1980 that were more crucial to the fate of the Refugee Act, particularly the arrival of large numbers of Cubans and Haitians on U.S. shores soon after its passage. Although these arrivals were ultimately given the same kinds of assistance that refugees received, they did not receive the same legal status. Meanwhile, the flow of refugees from Southeast Asia continued at a high rate.²⁸

A Domestic Program Meeting Foreign Policy Concerns

This effort to make the refugee program more orderly and more effective came in the middle of a period of remarkable turbulence. This period was the crucible in which the future of refugee admissions and the futures of refugees after arrival were reconfigured. There would now be a very clear and central role of the government in post-arrival assistance as well as in admissions and processing. The Refugee Act of 1980 thus produced a rationalized program both for admissions and post-arrival assistance. In terms of post-arrival assistance, for example, the specific roles of the public and private sectors were clarified, as were the precise ways in which the federal government would reimburse states and localities for their costs in providing refugee assistance, whether in terms of cash and medical assistance or in programs such as English-language training and employment services. Yet much of that program was undercut by the incoming Reagan administration's broad attack on the welfare system—a system to which refugees had now been formally added. So there is a very cautionary tale here of the fate of attempts to rationalize domestic assistance programs. However, there are also some cautionary notes to be sounded in the way this attempt to resolve an assortment of moral and practical, foreign and domestic aspects of the refugee issue was lodged in a program modeled on the logic of fixed and predictable domestic policy concerns (e.g., a defined population at whom are aimed a defined set of services) instead of innately unfixed and unpredictable foreign policy concerns (e.g., undefined populations at whom flexible assistance must be aimed).

²⁷ There were actually two separate issues: how long special assistance would be available to refugees and how long the federal government would reimburse states and localities for their regular forms of assistance (e.g., Aid to Families with Dependent Children [AFDC] and Medicaid at that time) provided to refugees. The periods for both were increasingly and sharply restricted over the 1980s. See the review by Philip Holman (the long-term policy director of the domestic assistance program) in Philip A. Holman, "Refugee Resettlement in the United States," 3–27, in David W. Haines, ed., *Refugees in America in the 1990s* (Westport, Connecticut: Greenwood Press, 1996).

²⁸ The standard data are from the Department of State's WRAPS database. See <http://www.wrapsnet.org/>.

One fundamental problem was the uncontrollable size of the “target” population. The Refugee Act of 1980 envisioned a normal flow of 50,000 refugees per year.²⁹ Yet it did so at a time when the number of refugees arriving annually was well over 100,000. Those numbers decreased slightly during the 1980s, yet remained close to an annual average of 100,000 throughout the remainder of the century, only dropping significantly after 9/11. Simply put, the idea of a 50,000 normal flow was utterly inconsistent with international conditions. It is possible that the 50,000 figure may have put some pressure on foreign policy to avoid situations of mass influx (e.g., by later keeping Kosovars in or near Kosovo), but the inability to reduce admission to that “normal flow” level for a full two decades, and only then under the vastly reoriented landscape of post-9/11 national security, does not provide much support for such a view.³⁰



Refugees from Kosovo arrive in Macedonia, March 1999.

Another problem emerged from the Refugee Act’s aim toward broader global representation in refugee origins. The U.S. refugee program would no longer be simply an ad hoc response to particular refugee crises in which the United States had a particular interest. Instead it would be a broader program for refugees from all kinds of situations throughout the world. It would be a program more fully aligned with the global refugee mandate of the United Nations High Commissioner for Refugees (UNHRC), thus including refugee situations in which the United States might have little direct national connection. Africa was crucial in this regard. Here the effect was also delayed but, as the influx from Southeast Asia

²⁹ As noted in the text, this figure of 50,000 was totally inconsistent with existing conditions, but it was a constant selling point for the new legislation.

³⁰ The yearly refugee arrival numbers for the first years of the new millennium, for example, were 72,519 in 2000, 68,388 in 2001, 27,070 in 2002, 28,117 in 2003, and 52,858 in 2004. See Office of Refugee Resettlement, *Report to Congress on the Refugee Resettlement Program* (U.S. Department of Health and Human Services, 2011).

lessened, the number of refugees from Africa did increase significantly, becoming a major regional segment by the mid-1990s, and the source of the majority of refugees by the mid 2000s.³¹ Here, then, the kind of fixed target planning did indeed have some effect. But, given the lack of control of overall numbers, that effect was still unpredictable, especially as many of these refugees posed resettlement difficulties (e.g., low education) that subverted the efficacy of financial planning (e.g., how much to allocate per capita for assistance and services). Furthermore, the specific background of refugees varied greatly *within* regions, reflecting more the foreign policy considerations of refugee origins (especially responding to conditions in Somalia and Southern Sudan), rather than the more planned service categories of this seemingly newly rationalized refugee program.

The two parameters thus most essential to any fixed program of domestic assistance—overall size and composition of the “target” population—remained elusive. Yet the efforts to control these two parameters had the effect of encouraging responses to unforeseen refugee events outside of this new program framework rather than within it. Most graphically, in 1980, with the proverbial ink barely dry on the Refugee Act, the exodus of some 130,000 Cubans and 30,000 Haitians elicited a response outside the provisions of the Refugee Act. These arrivals were eventually legally admitted under a newly created status of Cuban-Haitian “entrant.” The entrants were provided with the same assistance and services as refugees, but never formally defined as refugees.³² One effect—and probably a very damaging one—was increasing public confusion about what a refugee really was. If these people were refugees, then why weren’t they called refugees? If they weren’t refugees, then why were they receiving the same benefits as refugees?³³

Another way in which refugees were admitted outside of the refugee program involved the asylum process. This process was also formalized under the Refugee Act

³¹ Following the usual Department of State figures (WRAPS), for example, the proportion of refugees from Africa was less than 1 percent in 1980, 3 percent in 1990, 24 percent in 2000, and peaked at 55 percent in 2004.

³² Again, this was a case of legislation providing to a newly defined population the same benefits applied to a previously defined population: thus entrants were to be provided what was provided to refugees, just as earlier on Southeast Asian arrivals were to be provided what had been previously provided to earlier (especially Cuban) arrivals.

³³ The more profound confusion doubtless lay with the public policy debates about “political” versus “economic” refugees that surfaced in the early 1980s. The result was a kind of looping illogic: some refugees flee for economic reasons, formal refugee status is only for political reasons, therefore these refugees aren’t real refugees.

of 1980, using the same U.N.-based refugee definition. But the process was a very different one, based within U.S. borders, virtually requiring legal representation, and available by definition only to those who could manage to reach the United States, often entering as “illegal” immigrants before seeking asylum. The asylum process was thus intensely legalistic, often contortionary in forcing people to be illegal on the way to seeking legality of status, and tended to select for younger, single migrants who could afford and withstand what was sometimes tantamount to self-trafficking into the United States.³⁴ The resulting pool of asylum applicants differed greatly from the pool of approved refugees³⁵ suggesting that, instead of consistency, the Refugee Act had produced two quite different systems for addressing the situation of those who flee, one subject to adjudication within the United States and another subject to screening overseas.³⁶

The Fates of Synchronization

After Senator Kennedy opened the initial hearings³⁷ for the Refugee Act in 1979 with an evocation of refugees as “one of the oldest and most important themes in our Nation’s history,” Senator Strom Thurmond proposed a different, more modest standard, cautioning about “the cultural and demographic impact of the refugee problem” and the need to pursue “enlightened interest tempered with compassion.” The current refugee program has elements of both these views. Following Kennedy, it is a refugee program that reaches out to all parts of the world and to people of all races, creeds, colors, and classes. Following Thurmond, it is a refugee program small enough that it is but a “tempering” of the self-interest that guides most American immigration policy, particularly in seeking as immigrants people who generate limited costs but solid rewards, whether in their labor, their taxes,

³⁴ For some general examples of the tortuous paths asylum applicants must take, see the web site of the American Immigration Lawyers Association (<http://www.aila.org>). Human Rights Watch’s recommendations on asylum reform also merit attention: “Renewing U.S. Commitment to Refugee Protection Recommendations for Reform on the 30th Anniversary of the Refugee Act” (Human Rights Watch, March 2010). See <http://www.hrw.org/>

³⁵ For example, in 2010, the three leading country sources of refugees were Iraq, Burma, and Bhutan, while the three leading sources of approved asylees were China, Ethiopia, and Haiti. See Daniel C. Martin, “Refugees and Asylees: 2010” (U.S. Department of Homeland Security, May 2011). See http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_rfa_fr_2010.pdf

³⁶ This dual system is not necessarily a bad idea. Indeed it has certain appeal for leaving open alternative mechanisms for different kinds of refugee (or refugee-like) situations. But it does create certain inconsistencies and, of course, legal and administrative costs.

³⁷ The quotations from Senators Kennedy and Thurmond are in “The Refugee Act of 1979, S. 643, Hearing before the Committee on the Judiciary, United States Senate” (Serial No. 96-1; March 14, 1979).

their businesses, or just their contribution to a level of population growth that is the envy of nearly every other industrially advanced society.³⁸

As we grapple with how to address the history of government, this small refugee program provides an excellent opportunity to assess the intersection of domestic and foreign policies, including their differing styles, strategies, and structures, and the different ways each balances practical and humanitarian issues. The U.S. refugee program would seem to be an area in which domestic and foreign policies are quite closely aligned in terms of a shared goal (humanitarian relief), a shared bureaucratic structure (including clear allocation of roles to the Departments of State and Health and Human Services), and a shared commitment to actively cooperate with religious and secular voluntary agencies. The program is thus of considerable interest for issues of morality, bureaucracy, and civic engagement, as well as its linking of domestic and foreign policies. Its lessons may well have broader utility, perhaps especially in areas—such as migration overall—where American commitments lie both with domestic and foreign policy considerations, with, for example, the parallel needs to strengthen Mexico and to control, protect, and support Mexican laborers in the United States.

The lessons from the Refugee Act of 1980 are not always positive ones. On the other hand, the attempt was impressive in its willingness to encompass a full range of foreign and domestic issues. Without such attempts at synchronization, the stresses and styles that inevitably pull foreign and domestic policy apart will remain unbridled. And that is a dangerous trajectory in a world where the very distinction between the national and the international is becoming ever more blurred.

Photo credits: International Refugee Organization, Vietnamese refugees (photo by J. Micaud), Kosovo refugees (photo by R. LeMoyné), United Nations High Commissioner for Refugees; Mariel boat lift, U.S. Coast Guard; Kennedy hearings, U.S. Senate Historical Office.

³⁸ There is an interesting parallel between this interchange between Senators Kennedy and Thurmond, and the one three decades later between Patrick Leahy (as he sponsored legislation to amend the Refugee Act) and Richard Lugar (through a report to that same committee opposing Leahy's recommendations). Here too the Democrat sought an expansion of refugee definitions and admissions and the Republican—while supporting the general notion of America as land of refuge—cautioned about the difficulties and costs of refugee resettlement and thus the need to keep admissions lower. See the Refugee Protection Act of 2010 (S. 3119, March 15, 2010) and “Abandoned Upon Arrival: Implications for Refugees and Local Communities Burdened by a U.S. Resettlement System That Is Not Working: Report to the Members of the Committee on Foreign Relations” (Senate Print 111-52; July 21, 2010).