New Asylum Regimes or a World without Asylum? The Myth of International Protection

Louis Gentile

Introduction

This chapter is based on a contribution to a conference entitled ‘New Asylum Regimes in the World’ but it might be more accurate to call it ‘Towards a World without Asylum’. For that is the direction in which we are moving, a world in which growing human rights rhetoric is matched by increasing barriers imposed by states to keep out asylum seekers. The problem is compounded by a serious decline in the modest level of human rights protection offered to refugees, all of whom are by definition victims, or potential victims, of human rights violations, who have fled across an international border. Let us not forget that what is at stake is what has traditionally been the only effective form of international protection offered to victims of human rights abuses. The United Nations system created in the aftermath of the Holocaust and the Second World War did not envisage effective intervention to protect the human rights of persons inside their national boundaries even if the UN Charter and other international instruments did make reference to promoting and encouraging respect for human rights and fundamental freedoms, and for intervention in exceptional circumstances to preserve international peace and security. Cold War politics ruled out any effective, practical international intervention to protect fundamental human rights.

In 1998 was celebrated the fiftieth anniversary of the Universal Declaration of Human Rights (UDHR), but those of us who are engaged in the practice of refugee and human rights protection see greater cause for shame and mourning than we do for celebration. The international community has completely failed to protect fundamental
human rights. The flame of optimism that briefly followed the end of the Cold War was quickly extinguished as genocide was perpetrated in Bosnia and Rwanda while the international community watched. In the absence of political will even genocide has been allowed to occur, discrediting the United Nations which has deflected much of the blame from powerful member states, who alone have the power and resources to make effective universal human rights protection a reality. In 1997 we experienced a new phenomenon as thousands upon thousands of refugees under UNHCR’s ‘protection’ were hunted down and exterminated in eastern Congo (ex-Zaire), a genocide perpetrated against refugees outside their country of origin and ostensibly under the protection of the international community. What have we learned from this experience and other recent emergencies and what can we change to enhance protection in the future? This is the key question for us.

I speak as a practitioner, having spent much of the past ten years in the field dealing with the victims of human rights violations. I have served with the UNHCR in Turkey, Bosnia, Djibouti, as part of the emergency team deployed to the Republic of Congo (Brazzaville) in June 1997, and with the Canadian Foreign Service in Ottawa and the Philippines. I have seen children decapitated by Bosnian Serb artillery in Srebrenica and wounded and starving children who survived being hunted down like animals while trekking for thousands of kilometres barefoot across the ex-Zaire. In recent years I have witnessed both an intensification of human rights violations in countries of origin and a severe decline in the level of protection and assistance provided to refugees and asylum seekers in countries of asylum. How can we account for this deterioration in international protection in an era when the rhetoric of governments worldwide increasingly acknowledges, and even actively advocates, respect for universal human rights principles?

This may come as a surprise to some but as a UNHCR Protection Officer I see myself first and foremost as a human rights practitioner and advocate and see UNHCR, despite its many faults, as the UN’s most active and innovative human rights agency. Therefore what I am proposing is not an academic article in the traditional sense but rather a very frank practitioner’s point of view. I would like to speak about four interrelated myths which I believe are seriously undermining universal human rights principles and refugee protection. I will then consider the tragedy in the Great Lakes region of Africa in relation to these myths and conclude with lessons learned from our mistakes and recommendations for future action.