Chapter One
Forced Migration, the Refugee Regime
and the Responsibility to Protect

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Introduction

According to the UN High Commissioner for Refugees (UNHCR), about 42 million migrants are living outside of their home communities, forced to flee to obtain some measure of safety and security from conflict and repression. The full extent of forced migration is much larger, however. Forced migration has many causes and takes many forms. People leave because of persecution, human rights violations, repression, conflict, natural and human-made disasters, and environmental hazards. Many depart on their own initiative to escape life-threatening situations although in a growing number of cases, people are driven from their homes by governments and insurgent groups intent on depopulating or shifting the ethnic, religious, or other composition of an area. Forced migrants include persons who cross international borders in search of refuge as well as those who are internally displaced. Also of concern are stateless persons, populations affected by natural disasters, those living in areas that are or will be affected by climate change, and those involuntarily resettled as a result of development projects.

Through most of the 20th century, international protection was focused—if at all—on persons who had crossed international borders in seek of refuge from war and persecution. Particularly during the Cold War, little international attention was paid to persons still within their own countries who faced

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similar dangers to those experienced by international refugees. Notions of sovereignty largely precluded intervention on behalf of internally displaced persons (IDPs). Moreover, many were displaced by Cold War proxy conflicts in which the United States and the Soviet Union supported different sides. It would have been difficult, if not impossible, to negotiate a Security Council resolution in support of intervention on behalf of IDPs in such conflicts. And, intervention without a resolution would have been exceedingly dangerous, potentially bringing the superpowers to direct confrontation.

With the end of the Cold War came changing concepts regarding the responsibility to assist and protect the internally displaced. During the past two decades, classic notions of sovereignty have been placed under considerable pressure when they are used to prevent humanitarian assistance and protection from reaching populations in acute need of aid. International human rights and humanitarian law have growing salience in defining sovereignty to include responsibility for the welfare of the residents of one’s territory. To quote Francis Deng, the former Representative of the UN Secretary General on Internally Displaced Persons, and his colleague Roberta Cohen, in arguing for greater international attention to internally displaced persons,

Since there is no adequate replacement in sight for the system of state sovereignty, primary responsibility for promoting the security, welfare and liberty of populations must remain with the state. At the same time, no state claiming legitimacy can justifiably quarrel with the commitment to protect all its citizens against human rights abuse…. Sovereignty cannot be used as justification for the mistreatment of populations.2

The concluding document of the landmark 2005 World Summit established the responsibility to protect in cases of genocide, war crimes, ethnic cleansing and crimes against humanity, even if it means intervention in the internal affairs of a member State:

In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.3

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