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# Human Rights, Refugees, and Normalization

In the spring of 1979, Representative Lester L. Wolff (D-NY), Chairman of the Subcommittee on Asian and Pacific Affairs of the House's Committee on Foreign Affairs, opened a special hearing on Indochinese refugees by explaining that the world was witnessing a "human tragedy on a scale unprecedented to date."[1] The "human tragedy," broadly speaking, had two dimensions. The first involved oceanic migrants who fled in unseaworthy vessels and faced unpredictable waters, pirates, and starvation during their journeys, individuals the world called "boat people." Still others, known as "land people," fled through dangerous overland routes that often-required traversing mountainous terrain, completing daring river crossings, and successfully navigating through minefields to reach foreign – usually Thai – soil. While the vast majority of oceanic migrants were South Vietnamese departing from their homeland's long coastline, most of the 400,000 overland migrants who fled between 1975 and 1979 were Cambodian or Laotian.[2] Though taking distinct routes and often fleeing for related yet different reasons, contemporaries often referred to these migrations jointly as the "Indochinese refugee crisis."

Between 1975 and 1979, these migrations reached staggering proportions. In a four-year period, the number who reached the shores of first asylum nations skyrocketed from 100 per month to upwards of 57,000 per month. As shocking as these figures are, even they fail to capture the full scope of the migration. The best available data, collected by the United Nations High Commissioner for Refugees (UNHCR), for instance, only counted those who successfully reached foreign soil. Those who died en route, in other words, do not appear in official figures. While it is impossible to know with certainty, estimates widely reported at the



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time suggested that between one-third and 60 percent of oceanic migrants died at sea.[3] Even if one adopts the lower figure, the magnitude of death is still horrific: more than 100,000 souls in a four-year period.[4]

Quantitative representations of the diaspora, though valuable and illuminating, fail to capture the migration's cultural, emotional, and psychological toll. Fleeing involved abandoning the support systems that migrants had established in spite of decades of warfare and its concomitant hardships.[5] This violent disruption of people's lives took an especially hard toll on family units. Because extended family members were an integral part of Vietnamese family life, migration inevitably required separations amid intense uncertainty about the future. The adults who made decisions on behalf of families, moreover, were usually under no illusions about the conditions they would face or their chances of success. Yet they still took their young children, a few possessions they could carry, and supplies they knew would not last the duration of their journey and fled. It was the presence of circumstances severe enough to lead hundreds of thousands of families to decide that migration was worth the risk – in addition to the phenomena of forced migration, especially of ethnic Chinese from Vietnam – that led American Vice President Walter Mondale to argue in July of 1979 that without immediate action, the international community would be condemning migrants to the same fate as the "doomed Jews of Nazi Germany."[6]

As the number of migrants increased precipitously, the global and domestic contexts through which American policy makers understood and framed the issue also transformed dramatically. Gerald Ford had insisted that the United States had a "profound moral obligation" to its South Vietnamese allies. Throughout Jimmy Carter's tenure as Commander in Chief, this underlying rationale expanded. As Leo Cherne, co-chairman of the Citizens Commission on Indochinese Refugees (CCIR) argued, "former US involvement in Vietnam[,] while an important source of the special obligation we have, is dwarfed by the remorseless requirements of our own humanity" and the United States' recent "official enlargement of our concern for human rights."[7] The surge of a global human rights movement, combined with growing international awareness of the Holocaust, provided a powerful moral lexicon and infused urgency into the question of how the world would respond to the migrations, as Mondale's comments so readily demonstrate.[8]

Given the centrality of human rights to Carter's campaign and subsequent foreign policy, it is easy to imagine Cherne's comments about the "remorseless requirements of our own humanity" invoking a sense of

pride or camaraderie in the nation's thirty-ninth president. Cherne's statement and other similar remarks, however, were a thorn in the president's side. While the Ford administration spent a great deal of time and political capital to ensure that 130,000 parolees resettled in the United States, the South Vietnamese were not among Carter's top priorities when he entered office or, arguably, at any point during his presidency. During the late 1970s, momentum for generous admissions stemmed from outside the White House. The most influential actors were nongovernmental organizations like the CCIR and their allies in Congress, especially Senators Ted Kennedy (D-MA), Rudy Boschwitz (R-MN), Claiborne Pell (D-RI), Bob Dole (R-KS), and Representative Stephen Solarz (D-NY).[9] Although it took concerted pressure and events outside their control, these advocates were ultimately successful in arguing that the US-RVN alliance remained intact and demanded an American policy response. Policy initiative for South Vietnamese resettlement originated from nonexecutive actors for the next fifteen years.

While nonexecutive actors were crucial, the White House still set the tone and bureaucratic priorities through which nonexecutive actors had to navigate. The Carter administration, I argue, completely reversed the way it framed the connections (or lack thereof) between various aspects of the nation's Indochina policy.[10] Initially, the administration tried to separate its efforts to normalize relations with the SRV, address the oceanic and overland migrations, and promote human rights abroad.[11] These three issues, however, became deeply intertwined.[12] The surge of the Third Indochina War, rapprochement with China, and the deterioration of US-Soviet relations all facilitated this shift. By 1979, the administration championed the position that it once opposed by insisting that the Indochinese diaspora, especially the fate of oceanic migrants, were human rights concerns and that these issues should play a central role in US-Vietnamese relations.[13]

The Carter administration's merging of human rights initiatives, refugee policy, and discussions about US-SRV relations had two major consequences. First, the administration's framing further exposed the deep flaws of a virtually non-existent, ad-hoc American approach to refugee admissions. The parole power, which successive generations of Cold War presidents had used to admit refugees fleeing communism, was no longer sufficient. The Refugee Act of 1980, the first stand-alone US refugee law in the twentieth century, ameliorated many of the challenges US policy makers faced in admitting South Vietnamese between 1975 and 1979 and set precedents that reverberated far beyond Indochina. Second, the

administration's decisions laid the groundwork for the pace and scope of subsequent US-Vietnamese normalization. Although attempts to resume formal diplomatic relations with the SRV failed, they cast a long shadow. Henceforth, US officials maintained that Hanoi had to provide a "full accounting" of missing American servicemen and withdraw its troops from Cambodia before negotiations on formal US-Vietnamese bilateral ties could resume. Even after formal talks ceased, however, ongoing dialogue between Washington and Hanoi continued. American and Vietnamese officials still met regularly, in secret bilateral meetings and open multilateral forums, to discuss refugees and family reunification. This status quo defined US-Vietnamese relations throughout the 1980s.

## NORMALIZATION TALKS STALL, REFUGEES SURGE

On January 20, 1977, Jimmy Carter became the thirty-ninth president of the United States. "This inauguration ceremony marks a new beginning, a new dedication within our Government, and a new spirit among us all," Carter commended, where "peoples ... are craving, and now demanding ... basic human rights."[14] These ideas – a new beginning, where a human rights-based morality would dictate American policy – were especially attractive in the wake of the Vietnam War and the Watergate Scandal and helped bring the relatively unknown Georgian to the White House.

One of the ways Carter sought a new beginning was to pursue formal relations with the SRV.[15] As the National Security Council (NSC) put it two weeks after Carter's inauguration, "obviously, we must seek to normalize relations with Vietnam."[16] "Normalization could serve a variety of US interests," a memorandum explained: "It might enable us to limit Soviet influence in Indochina" and "inhibit Vietnamese adventurism toward its neighbors," not to mention "open up commercial and economic opportunities for American businessmen."[17] The report concluded that while Asian governments would be "sensitive to our style in pursuing" official ties, "most ... hope to see us overcome our differences with the Vietnamese."[18]

After the United States made various goodwill gestures in January and February, Hanoi expressed interest in receiving an American delegation.[19] Because of the potential of the prisoner of war/missing in action (POW/MIA) issue to fan the flames of domestic opposition, as Reagan's challenge to Ford in the 1976 election demonstrated, the administration was sure to tread carefully. In retrospect, however, what is most striking about this

initial delegation and Carter's general position on POW/MIA accounting is that they lacked the intense passion and impossible expectations that characterized the official US stance in the 1980s and beyond.[20] Before the delegation's departure, for example, the Department of Defense "impressed upon the Commission the need to be realistic in its expectations for further Indochina accounting."[21] As Carter recorded in his diary, "If they [Vietnamese officials] don't insist on reparations and don't castigate us publicly, I think we can accept some reasonable accounting for the MIAs."[22]

Because of Carter's willingness to accept "reasonable" rather than demand "full" accounting, the question of economic aid remained the biggest potential obstacle to the rapid resumption of official US-SRV ties.[23] In 1973, Nixon secretly promised Hanoi billions of dollars in a classified letter, which Hanoi used to argue that Washington remained legally obliged to pay reparations.[24] Carter rejected this interpretation and insisted, at least at first, that the opening of official diplomatic and economic relations must occur without preconditions. Only thereafter would the United States be willing to provide aid "as a humanitarian gesture rather than a legal obligation."[25] By the end of the delegation's visit, Hanoi agreed to "dropping the term 'precondition' in favor of 'interrelated'" and further acquiesced to framing American aid as "humanitarian" rather than as reparations.[26]

Already in April of 1977, US representatives were also raising the issue of "refugees and family reunification" in their discussions with the SRV officials.[27] In its Final Report to Carter, the US delegation relayed that "the Vietnamese said they would be 'generous' with regard to their citizens wishing to join relatives in the US . . . providing they follow proper procedures." Reframing the nature and timing of US aid, willingness to accept "reasonable" rather than full accounting, and positive signs regarding family reunification inspired policy makers to schedule the first official normalization talks for May 3, 1977, in Paris. Seeking resumption of official diplomatic relations without prerequisites (i.e., aid) served as the basis of the US negotiating position.[28] The NSC and State Department agreed that despite Carter's rhetoric, human rights were one of many bilateral issues to be discussed after official relations resumed rather than serve as preconditions to formal ties.[29]

The Paris talks began auspiciously but quickly crumbled. The US delegation was led by Richard Holbrooke. Holbrooke, a thirty-six-year-old Assistant Secretary of State for East Asian and Pacific Affairs, had spent seven years in Vietnam as a Foreign Service Officer and had ample

experience negotiating with Hanoi during the Paris Peace Talks.[30] Although Holbrooke proposed "establishing relations" and commencing with the "exchange of Embassies," Phan Hien, the lead SRV negotiator, refused to concede on the aid question.[31] Even when Holbrooke went off script and offered something he had no instructions to propose – "to go outside and jointly declare to the press that we have decided to normalize relations" – Hein refused.[32] The magnitude of the devastation wrought by US conduct during the Vietnam War and Hanoi's ambitious plans for national reconstruction made foreign investment, especially that promised by the defeated Americans, financially and symbolically imperative to SRV leaders.[33] After Hanoi publicly insisted that Washington remained obliged to pay reparations, Congress passed a series of resolutions prohibiting the United States from giving the SRV any aid whatsoever.[34]

When the two sides reconvened their discussions in June, Holbrooke reiterated the United States' willingness to immediately establish diplomatic relations and exchange ambassadors on three separate occasions.[35] SRV leaders remained equally resolute in their demand for aid, however, and the talks ended in a stalemate. Despite the impasse, Carter kept his word not to veto Hanoi's admission to the United Nations, and although Washington and Hanoi used the SRV's representation at the UN to have secret meetings in New York throughout the year, ongoing discussions on formal relations proved fruitless.[36]

As the talks dissolved in Paris, high-level discussions about how to address growing migrant departures mounted in Washington. The oceanic exodus, which had begun immediately after the fall of Saigon, continued to escalate. In a June 23, 1977, memo, Secretary of State Cyrus Vance explained to the president that "many Indochinese refugees who are escaping by sea are drowning," not only because their vessels were often unseaworthy and ill-supplied, but for a much more preventable reason: "with no guarantee that they will be accepted by any country, masters of passing ships refuse to pick them up."[37] Instead of rushing to rescue drowning people, in other words, many ships continued full steam ahead. At the same time, the Hmong in Laos, whom the CIA had heavily recruited as part of the "Secret War" in that country, began fleeing in increasing numbers into Thailand.[38] "I believe the United States bears a special responsibility for both groups of refugees," Vance argued, in reference to overland and oceanic migrants.

The Secretary of State's description captured the widening gap between how international refugee accords functioned in theory and how they operated in practice. Although not all of the world's nations were signatories, the

1951 Convention Relating to the Status of Refugees, as amended by the 1967 Protocol Relating to the Status of Refugees, defined a refugee as any individual "outside the country of his nationality" due to "a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion."[39] This definition was further supported by Article 14 of the Universal Declaration of Human Rights, which proclaimed that "everyone has the right to seek and enjoy in other countries asylum from persecution."[40] In theory, then, any nation to which asylum-seekers first arrive – known as a nation of first asylum – is obliged to receive migrants, respect their rights, and provide certain basic material conditions. In practice, however, the unequal distribution of the world's resources makes the implementation of these universal principles extremely difficult and politicized. It is usually the case, for instance, that the same nations repeatedly bear the burden of first asylum (due to the geographic concentration of migrant streams), a reality that exacerbates already tense geopolitical relationships.

These difficulties can be even further aggravated by competing understandings of culpability and responsibility. Most nations of first asylum in Southeast Asia – Malaysia, Thailand, Singapore, Philippines, and Indonesia (the ASEAN or Association of Southeast Asian Nations) – believed that the years of violence and destabilization unleashed by US warfare rendered Washington responsible for creating the migration in the first place. The ASEAN therefore expected the United States to relieve them of the burden of first asylum by resettling large numbers of migrants. When this expected American response did not manifest, the first asylum nations, who were US allies, often closed their borders and refused to assist migrants. As Vance explained to Carter, "the crux of the problem" was the "the logjam on resettlement."[41]

While Southeast Asian nations looked to the United States to craft a bold and comprehensive response to the land and especially seaborne migrant flows, domestic laws hampered American officials' ability to respond. The lack of a comprehensive refugee legislation continued to plague American policy makers. Because of the strict hemispheric limits set by the Immigration and Nationality Act of 1965, the parole power continued to be the only means through which US officials could admit refugees into the United States.[42] The UNHCR, the humanitarian agency the UN had tasked with refugee advocacy and policy coordination was also "woefully unprepared" to handle the crisis and initially took a stance in favor of repatriation, or returning migrants to their home countries, hoping "to avoid open-ended resettlement."[43]

In light of the deteriorating conditions in Southeast Asia, Vance urged Carter to support a 15,000-person parole. This request, if granted, would constitute the fifth parole for South Vietnamese since April 1975.[44] Vance acknowledged that the Ford administration had promised Congress that the previous parole would be the last but explained "that statement was based on calculations which subsequently have proved to be serious underestimations . . . the situation is again urgent."[45] "In my view," the Secretary of State argued, "both the past American role in Indochina and this Administration's deep commitment to human rights requires that we take immediate action."[46]

In August 1977, at Carter's request, Attorney General Anthony Bell approved the parole of 15,000 additional Indochinese refugees. The relative ease of this decision stemmed from two key factors. First, even though past officials had underestimated the magnitude of the migration, the numbers were still low enough that, in Vance's words, "the refugees would go relatively unnoticed."[47] Second, in the summer of 1977, US officials conceptualized the additional paroles as a "cleanup process connected to the 1975 admissions."[48] In this context, Ford's original argument about a "profound moral obligation" to the South Vietnamese remained persuasive enough to prompt action, and Carter's stance that human rights should be a guiding principle of US foreign relations made assisting those in peril an obvious policy choice for the White House.[49]

Among those who arrived in the United States in 1977 was Khuc Minh Tho. Tho was stationed in the Philippines when her country collapsed in April 1975, rendering her both "stateless" and separated from her three children and second husband.[50] All of the men in Tho's family, either through volunteering or conscription, served in the South Vietnamese military. Between her embassy connections in Manila and the information she received from recently arrived migrants, she knew that Hanoi had instilled a mandatory policy of "reeducation" for the RVN's former military and civilian personnel, a policy that involved prolonged imprisonment under incredibly difficult conditions. While in the Philippines, Tho received a letter from a friend in Vietnam, a simple feat which she described in the context of the times as itself a "miracle." The letter acknowledged that things were "very hard" for Tho but added that "all of us think only you" can do something to try to help the reeducation camp detainees. "If you can't do it," Tho later recalled the letter said, "I think one day all of our husbands are going to die."[51]

When Tho arrived in the United States in 1977, she carried two promises that weighed heavily on her heart. She had vowed after her first

husband's death that she would take care of their children, and one can only fathom how Tho, as a refugee in a foreign country halfway around the world, coped with what must have been unrelenting torment at being separated from her son and two daughters.[52] Tho had also decided to accept the charge her friend had given her – how could she refuse? She would somehow find a way to try to secure the reeducation detainees' release before it was too late.

The US government's attention, meanwhile, remained focused on those fleeing Indochina. Carter instructed the State Department to convene an Interagency Task Force "to develop a longer-term program for dealing with the Indochinese refugee problem."[53] The Task Force ultimately recommended that the United States should "(1) continue to admit Indochinese refugees who are either boat cases with no chance to resettle elsewhere or non-boat cases who meet established criteria for admittance; and (2) make a substantial contribution through the ... UNHCR to an internationally supported resettlement program in Thailand for refugees who inevitably will remain there."[54] The Final Report suggested that 25,000–30,000 refugees would arrive in the United States by the end of 1980, and estimated the total costs for both the first and second recommendations would be between $120 and $138 million.[55]

Carter rejected these recommendations. He partially feared political fallout. Poll numbers indicated that 57 percent of respondents opposed the 15,000-person parole in August, and the possibility of increased job competition did not bode well for Democratic Party constituents.[56] Long-standing anti-Asian racism and Americans' antipathy toward Vietnam after 1975 also fomented public disapproval. Repeated requests for increased parole numbers occurred as films like *Coming Home, The Deer Hunter,* and *Apocalypse Now* facilitated a further "dehumanizing of the Vietnamese" in popular perception.[57]

In rejecting the Interagency Task Force's recommendations, Carter not only bowed to popular pressure but also followed the National Security Council's advice. Although the NSC supported the parole, it warned Carter not to implement a long-term solution based on impartial and incorrect information. "We recommend the President not concur in making any such commitments at this time," the NSC argued, because "the report was based on refugee escape rates that have doubled and possibly quadrupled since it was written."[58] Moreover, the memo continued, "authorization and appropriations legislation to fund the current refugee program [the 15,000 parole] encountered considerable opposition in Congress" due to lack of "broad international support" for resettlement

and because "we have not been able to establish any limits on future US commitments."[59]

How is it that the migration figures "doubled and possibly quadrupled" so quickly that the best-informed policy makers in Washington – arguably, some of the best-informed officials in the world – could not keep up with the numbers? Two changes in Vietnam explain the surge. First, it became increasingly clear that the SRV's reeducation camp policy was not as advertised.[60] After its military victory in 1975, Hanoi implemented a broad program to attempt to transform southern Vietnam and integrate it with the north as quickly as possible.[61] Part of this larger program included extending the system of reeducation camps it had previously instituted in the north to the entire country.[62] Hanoi required military and civilian officials of the former RVN regime, more than one million in total, to report for reeducation, a process initially set to last from ten to thirty days, depending on one's former rank.

These terms initially inspired optimism about reconciliation and reunification, at least for some in South Vietnam. Truong Nhu Tang, a high-ranking member of the National Liberation Front and Provisional Revolutionary Government (whose supporters Americans derogatory called the "Viet Cong"), for example, personally drove two of his own brothers to report for their required thirty-day reeducation terms in June 1975.[63] While Hanoi released "approximately 500,000" within ninety days, the government quickly expanded the program's original terms to "until their [detainees'] political loyalty is insured ... or for a maximum period of 3 years."[64] Even this forecast proved to be far too optimistic. Hanoi did not release the last detainees until 1992. While there were undoubtedly differences among the over one hundred camps, each involved armed guards, barely subsistence rations, harsh physical labor, mandatory "confessions," nonexistent medical care, and very little, if any, family visitation. Especially as time went on, the camps regularly drew comparisons to concentration camps and gulags.[65]

Although the military phase of the Vietnam War ended in 1975, prolonged incarceration robbed many South Vietnamese families of any hope for postwar peace. As Tang recalled, "everyone had some family member or other in a camp," and once people realized that reeducation meant ongoing detention and family separation, a "wave of panic" swept through Saigon, which was only made worse by a "continuing flood of arbitrary arrests."[66] As historian Sam Vong explains, "the indefinite imprisonment of ARVN officers was a constant reminder that the Vietnam War had never ended, but continued to wage on in the intimate

sites of the family."[67] Even for the sizable number of lower-ranking individuals Hanoi released after a year or two, life after reeducation included surveillance, lasting social stigmatization and discrimination, and fear of arbitrary arrest.

A second reason migrant numbers surged is that Hanoi implemented sweeping economic changes in the south.[68] This process included mandated relocation to New Economic Zones (NEZs). NEZs were rural areas in the interior, where self-sufficiency was near impossible thanks to infertile land and lack of access to basic necessities. Many of those interned briefly in reeducation camps (and the families of reeducation camp detainees) were among those forcibly relocated to NEZs.[69] Thus, while the two categories were by no means mutually exclusive, former reeducation detainees and those banished to NEZs had, by 1977, multiple incentives to flee.

In retrospect, then, it is easy to see the signs of the brewing "unprecedented human tragedy" in Indochina. The numbers of oceanic and overland migrants were on the rise, with no end in sight. Even at this early juncture, when departure figures were orders of magnitude less than they would become in 1979, first asylum nations lacked the resources to cope with the incoming migrants. The UNHCR, meanwhile, viewed the issue as an American responsibility and doubted migrants' refugee status. At the same time, the parole admission system left US officials able to respond with only inadequate half measures. Despite the obstacles US law erected, however, when reading official documents from 1977, one can also detect a noticeable lack of will. While there were those who supported admitting South Vietnamese, these individuals, without a determined White House orchestrating and supporting their efforts, lacked the organization and momentum to implement policy.

Part of the reason for American inaction during this period also stemmed from the fact that members of Congress remained deeply divided about the wisdom and desirability of expanding US commitments to its former South Vietnamese allies.[70] Congressmen Joshua Eilberg (D-PA), Chairman of the House's Judiciary Subcommittee on Immigration, Citizenship, and International Law, who vociferously opposed the 1976 paroles, continued to object to the practice of using the parole power to bring in large numbers of refugees. Eilberg believed that Ford and then Carter were using the parole authority inappropriately and perhaps illegally, a criticism that reflected a larger aversion among some members of Congress who were concerned about the "overuse" of parole authority, which they argued "was providing a 'back door' to the United States."[71]

To make matters even more complicated, Attorney General Bell agreed with Eilberg and became increasingly reluctant to implement paroles, even at the president's request.[72]

While some congressmen suggested that Carter was doing too much, others argued the president was doing far too little. Congressional activism centered especially on Vietnam's neighbor, Cambodia, where the Khmer Rouge had taken control in April 1975 and quickly perpetuated one of the most brutal genocides of the twentieth century.[73] From mid-1975 to late 1978, the Khmer Rouge killed approximately two million of Cambodia's seven million people.[74] To implement their vision of a pure agricultural society free of corrupting outside influences, the regime and its leader, Pol Pot, maintained a vice grip of control by ruling through fear and brute, unmitigated force. For three years, the Cambodian people endured forced relocations, forced family separations, forced starvation, forced labor, and forced military service. Any dissent from these directives was met with death.[75] Although evidence to demonstrate the full scope of the genocide was not widely available until the end of 1978, by May 1977 the warning signs were dire enough to instigate congressional hearings.[76] In September, the CIA reported that more than 1.2 million had already perished.[77] Senators Bob Dole and Claiborne Pell and Representative Stephen Solarz urged the administration to speak out against the Khmer Rouge and to create a special (additional) parole program for Cambodians.[78] While these calls for action were unsuccessful in 1977, congressmen continued to play a leading role in advocating for an American response to the crisis in Cambodia.[79]

As conditions in Cambodia deteriorated, the US government marshalled little to no response to the growing migration. Carter's refusal to approve the Interagency Task Force's recommendations left those who supported expanding admissions with few options. The 15,000-person parole slots were already depleted by December 1977. This meant that as departures escalated, there was not a single resettlement slot available. These conditions prompted Vance to call for "an additional 7,000 parole of boat people."[80] Brzezinski recommended Carter increase the number to 10,000 to buy more time, a vital necessity given that by year's end migrants were fleeing "at a rate of roughly 1,500 per month – three times the rate estimated as recently as September."[81] Others within the administration agreed, adding, "to fail to respond to the boat cases would be inconsistent ... with our current human rights policies."[82] Even the CIA wrote a report entitled, "Refugees and Human Rights: An Issue in US-ASEAN Relations."[83] Clearly, the administration's initial efforts to

keep these various aspects of its policy in separate lanes proved untenable; human rights, refugee politics, and US foreign relations in Southeast Asia were becoming deeply interwoven.

Carter ultimately approved the additional parole that his Secretary of State and National Security Advisor recommended. The president, however, went with the smaller number, approving 7,000 parole slots, not the 10,000 Brzezinski suggested, and wrote "expedite firm policy" in the margin of the decision memorandum.[84] While Carter proved responsive to pressure, then, mobilizing a response to the growing migration was not an executive priority in 1977. Carter threw his time and energy into other issues, especially work on energy legislation and the Panama Canal treaties. Nonstate actors filled this vacuum and mounted a transnational campaign to garner an accurate picture of on the ground realities in Southeast Asia, rally domestic opinion, and encourage the administration to substantively expand American commitments.

## THE CCIR AND THE POLITICS OF INFORMATION

"By the end of 1977," Leo Cherne later recalled, "the federal government was literally at a dead end, unable or unwilling to risk promulgating a bold, consistent and coherent long-range Indochinese refugee policy" even as "the human tragedy continued to mount."[85] Some refused to accept this status quo, including the members of Congress and State Department officials who emerged during the Ford administration as individuals determined to address the ongoing costs of the war borne by the South Vietnamese.[86] One such individual was Shepard "Shep" Lowman, who was married to a Vietnamese woman, Hiep. Shep Lowman had been among those Americans who returned to Saigon as the country was collapsing to help facilitate the evacuation of South Vietnamese. With the White House unwilling to award the oceanic and overland migrations a high priority in 1977, Lowman called Leo Cherne, head of the International Rescue Committee (IRC).

The IRC, a humanitarian aid organization, began during World War II and in the postwar period gained an international reputation as a leading voice in assisting and advocating on behalf of refugees around the world. By the late 1970s, the IRC and its Chairman had a long history of involvement with Vietnam. In September 1954, for example, Cherne traveled to Saigon at the IRC's behest to explore how the organization might help with the massive displacement the Geneva Accords prompted within Vietnam (900,000 migrated from North to South while 125,000

simultaneously traveled in the opposite direction).[87] During his trip, Cherne personally met South Vietnamese President Ngo Dinh Diem and thereafter persuaded the IRC to establish programs to assist the RVN with its resettlement efforts.[88] Given IRC's standing as one of the premier refugee-focused humanitarian organizations and its history of relief efforts in Vietnam, it is not surprising that when at wit's end, Lowman decided to call Cherne.[89] A week after their conversation, Cherne phoned Lowman to inform him that he established the Citizens' Commission on Indochinese Refugees (CCIR) as a subcommittee within the IRC to gather information and launch a public relations campaign to convince the American public, Congress, and the president to implement and sustain a long-term program for Indochinese refugee resettlement.[90] The CCIR's institutional history and subsequent activism reveal much about the merging of human rights and humanitarian rhetoric and methods in the late 1970s and beyond.

The CCIR's membership read like a list of who's who among powerful political brokers in the United States. Cherne convinced his longtime friend William Casey, former chairman of the Securities and Exchange Commission and future head of the CIA, to co-chair the commission.[91] The Commission also included Monsignor John Ahern, Father Robert Charlebois, John Richardson, Bayard Rustin, Albert Shanker, Rabbi Marc Tannenbaum, and Elie Wiesel.[92] The CCIR's list of notable members did not end there. Robert DeVecchi, Cecil B. Lyon, Thelma Richardson, Louis Wiesner, and Stephen Young also served on the CCIR.[93] From its inception, then, the CCIR had many advantages: bipartisanship, close government contacts, decades of experience working with and pressuring Washington, the ability to raise funds quickly, and vast networks among diverse segments of the American population. The CCIR utilized each of these strengths to successfully advocate for major and long-lasting changes in US policy.

The Commission's first task was to formulate an accurate picture of the situation on the ground in Southeast Asia. Reliable information, while always important, proved especially essential in this case, given the volatility of migrant flows and the reality that communist-controlled governments in Hanoi and Phnom Penh had expelled most Western journalists. More than simply acquiring intelligence, however, the CCIR engaged in a specific type of "politics of information" that came to characterize transnational human rights advocacy in the 1970s: obtaining on the ground information governmental actors were either unwilling or unable to amass and mobilizing that information in an explicit effort to provoke

outrage and incite state action.[94] Amnesty International's 1976 delegation to Argentina and its subsequent report on the *desaparecidos* is perhaps the best-known example of this type of transnational human rights advocacy during this period.[95] The Citizens Commission adopted Amnesty-like methods and immediately conducted a fact-finding mission throughout Indochina and the ASEAN states, planning to conclude their trip with a press conference in Bangkok.[96] The organization pursued these initiatives with Brzezinski's and Vance's blessing.[97] That the CCIR, a subcommittee of a well-known humanitarian organization, used the methodologies associated with human rights NGOs foreshadowed the ways the two movements became linguistically, politically, and institutionally linked.

The Commission members used their domestic clout and the IRC's international reputation to shine a light on the severity of the situation in Southeast Asia. At its February 1978 press conference, the CCIR argued that American inaction was creating a vacuum of leadership that only the United States could fill. The US practice of pressuring its ASEAN allies to act generously even as American policy makers implemented small, inadequate paroles sent a clear message: those to whom first asylum nations granted "temporary" asylum would likely become permanent burdens.[98] The gap between American rhetoric and action, in other words, gave first asylum countries little incentive to receive migrants or to treat those already there humanely. Accordingly, Cherne began the CCIR press conference with an unequivocal call for US leadership, arguing "the US must adopt a coherent and generous policy for the admission of Indochinese refugees over the long range, replacing the practice of reacting belatedly to successive refugee crises since the spring of 1975."[99]

The Commission's members continued to vocally advocate for change when they returned to the United States. They met with Brzezinski and Vance, testified before powerful congressional subcommittees, and even hosted a luncheon for the new United Nations High Commissioner for Refugees, Poul Hartling, in Washington, DC.[100] While the new High Commissioner hailed from Denmark, the new Deputy Commissioner, Dale S. DeHaan, was an American with a long track record of involvement in refugee affairs as an aide to Senator Ted Kennedy and counsel for the Senate Judiciary Subcommittee on Immigration, Refugees, and International Law.[101] De Haan's appointment is a striking example of the deep connections between the US government and transnational humanitarian institutions like the UNHCR. His appointment also symbolized a profound change in the relationship between the UNHCR and the US

government. Although the United States had always provided the majority of the UNHCR's funding, the Indochinese diaspora marked the first time American officials truly embraced the multilateral organization.[102]

Thanks to the networks the Citizens' Commission members posessed, the CCIR's campaign to "change the climate of public opinion" succeeded brilliantly, though not uniformly.[103] To help counter reluctance to accept refugees, the CCIR members mobilized their expansive domestic networks. The administration received letters of support from the AFL-CIO, American Immigration and Citizenship Conference, a coalition of African American leaders, Freedom House, and the Coalition for a Democratic Majority.[104] Other voluntary agencies involved in refugee resettlement like the American Council of Voluntary Agencies and Church World Services also called for greater Indochinese admissions.[105] The avalanche of letters that inundated the White House consistently and vividly used Carter's human rights rhetoric against him. The American Council of Voluntary Agencies suggested, "The present emergency represents the most pressing human-rights problem facing the United States today."[106] As Freedom House put it, "one clear test of America's concrete support of human rights would be our national commitment to deal humanely and speedily with the thousands of refugees from Vietnam, Laos and Cambodia now awaiting resettlement."[107] The Coalition for a Democratic Majority went as far as to cite Carter's campaign promises and observe incredulously that the "failure to adopt a generous refugee admissions policy will undermine the moral authority of your administration's stance on the issue of international human rights. Can we present ourselves to the world as the champions of human rights and at the same time deny refuge to victims of massive, extreme human rights violations?"[108]

This framing made it especially difficult for the Carter administration to maintain its indifference without appearing hypocritical. In March 1978, Carter announced the United States would offer an additional 25,000 parole slots and pursue legislation to help secure a long-term American commitment to refugees.[109] In this quest the administration was aided, indeed, preceded, by congressional activism. Kennedy had been introducing refugee legislation for years with no success. The "cycle of inaction was finally broken in mid-1978" when, Kennedy recalled, "it became clear that I would have the opportunity to become chairman of the full Judiciary Committee at the beginning of the 96th Congress," replacing Senator James Eastland (R-MS), who had actively opposed Indochinese refugee admissions.[110] Eilberg also lost his chairmanship of the House Immigration Subcommittee.[111] These changes precipitated what Kennedy

described as "intensive consultations" between "Congressional Committee staffs and officials in the Executive Branch in an effort to draft consensus legislation."[112]

While support for the largest parole since the fall of Saigon and the announcement of forthcoming refugee legislation hinted at coming transformations in US policy, major battles lay ahead. Attorney General Bell, for example, made it clear that the 25,000-person parole would be his last, and due to budgetary concerns, he dragged his feet in formally approving the measure.[113] Furthermore, although the administration had outlined the basics of what would become the Refugee Act of 1980, various factions within the US bureaucracy disagreed strongly about specific provisions.[114] Significantly, however, the National Security Council and Department of State were of the same mind. Although these two institutions would soon disagree vehemently over the geopolitical stakes (and therefore necessary policy priorities) in Asia, both the NSC and State Department agreed that the United States needed to develop a long-term response to the Indochinese diaspora that involved robust resettlement opportunities for South Vietnamese in the United States.

## CHARTING A NEW COURSE IN SOUTHEAST ASIA

In December of 1977, as the CCIR began its fact-finding mission, Vietnam briefly invaded neighboring Cambodia in response to repeated border clashes. These hostilities resulted in the suspending of diplomatic relations between the two communist countries.[115] Although Hanoi quickly withdrew its troops, the incursion precipitated an increase in the migrant flow in two important ways. First, Sino-Vietnamese relations, which were already precarious, deteriorated further.[116] As Beijing took measures to defend its ally Cambodia, Vietnamese and Chinese troops scuffled along their shared border. In response, Hanoi retaliated against its ethnic Chinese population, the Hoa, who lived predominantly in Cholon (near Ho Chi Minh City) and numbered approximately 1.2 million.[117] The SRV shut down Hoa businesses and forced them to make citizenship pledges; large numbers began to flee.[118] In five months, more than 160,000 crossed into China until Beijing closed the border in July.[119]

The SRV raid also exposed the horrors occurring in Cambodia. As Samantha Power's Pulitzer Prize–winning book on the history of genocide notes, although "inaccessibility is a feature of most genocide, Cambodia was perhaps the most extreme case. The Khmer Rouge may well have run the most secretive regime of the twentieth century."[120] Hanoi's incursion

pulled back the Khmer curtain and allowed survivors carrying stories of Khmer Rouge atrocities to escape. The CCIR and select members of Congress galvanized an American response.[121] Kennedy, Dole, Solarz, and Pell held a series of hearings, published press releases, and sponsored resolutions.[122] Meanwhile, major television networks also began running specials on the issue, fanning the flames of public opinion.[123] When Mondale visited Asia in April 1978, much of his meeting with Thai leaders consisted of providing assurances and promises for future action.[124]

As many Americans came to grips with the "Auschwitz of Asia" for the first time, not a single victim of the Khmer Rouge was eligible for parole into the United States. Technicalities in the wording of the March 1978 parole precluded any Cambodian refugees from using the new slots. In May, many in Congress and the CCIR called for "a special parole for the 15,000 refugees now concentrated in camps next to the Cambodian border where they are in constant danger of Khmer Rouge killings, kidnappings, and other depredations."[125] It took US officials until December to respond to this proposal. In the interim, what American journalist Barry Wain described as a "human deluge ... along with a freakish series of tropic storms" hit Southeast Asia.[126] As floodwaters and migrants "inundated countries of the region," US policy stood at an impasse due to larger clashes about American geostrategic priorities.[127]

As was the case prior to 1975, larger Cold War considerations colored the American assessment of what was occurring in Southeast Asia and imbued the United States' Vietnam policy with heightened significance. In the spring of 1978, relations between the United States and the Soviet Union, after a period of détente, became increasingly hostile.[128] In this context of reinvigorated Cold War animosities, Brzezinski argued that Hanoi was a Soviet proxy that needed to be counterbalanced with increasingly strong US-Chinese ties. He also posited that the deterioration of relations between Beijing and Hanoi made simultaneous diplomatic openings impossible. According to this framing, the United States needed to pick a side, and the choice was obvious: China.[129] Moreover, in keeping with previous practice, Brzezinski refused to ask Beijing to pressure the Khmer Rouge into stemming its massive human rights violations.[130]

Many State Department officials disagreed with the National Security Advisor's approach. Because Vietnam's once significant need for aid grew desperate, throughout spring and summer 1978 Hanoi made it clear that it was willing to pursue rapid normalization without preconditions and, if these statements were not enough, made repeated goodwill gestures to cultivate Washington's favor.[131] When Carter failed to respond, Hanoi

joined COMECON (the USSR led Council for Mutual Economic Assistance) in June, but throughout July and August continued to publicize its willingness to resume official relations on American terms.[132] Vance argued that the United States should seize the opportunity.[133] As late as August 31, 1978, it seemed Carter would side with the Department of State. As the president confided to his diary, "I think we ought to move on Vietnam normalization. Ham [Hamilton Jordan, Carter's Chief of Staff] feels that it might be a serious political problem, but I believe the country is ready to accept it now that they've dropped their demands for reparations or payments."[134]

Ultimately, however, Brzezinski's Cold War logic carried the day. Carter's decision to prioritize US-Chinese relations over US-Vietnamese ties was part of a larger "strategic reorientation of 1979–80" that responded to and precipitated a "resumption of Cold War hostilities" on a global scale.[135] On October 11, Carter postponed talks with Hanoi until after the resuming formal relations with China "provided," in the president's words, "they [the Chinese] didn't deliberately delay."[136] When explaining its decision, however, the administration cited "the situation in Cambodia, the refugee crisis, and Vietnamese-Soviet ties."[137]

Over the summer of 1978, as US bureaucracy clashed over American strategy in Asia, the numbers of oceanic and overland departures from Indochina escalated rapidly. That American officials stalled as the migrant departures surged demonstrates the luxuries US policy makers enjoyed that both first asylum nations and Indochinese migrants did not: time and distance. US officials could afford to be lackadaisical about the escalating diaspora due, in no small part, to geography. But more than literal distance from Southeast Asia, many Americans also enjoyed a metaphorical distance from the Vietnam War. For the majority in the United States who regarded the Vietnam War as over with the withdrawal of US troops in 1973 or the fall of South Vietnam in 1975, a continued focus on Vietnam or South Vietnamese migrants was a choice. For the South Vietnamese people, those watersheds marked turning points but not an end; the Vietnam War remained vividly ongoing for those in reeducation camps, on the high seas, or in refugee camps.

Khuc Minh Tho's lived realities are illustrative of these larger trends. In 1978, Tho's son, her eldest, fled Vietnam by boat. With his mother abroad and would-be stepfather in a reeducation camp, the twenty-one-year-old traveled with family friends who agreed to take him to help prevent the young man from being conscripted into the army and, it was Tho's fear, be deployed to Cambodia. Tho's son and friends landed in Malaysia, as did

75 percent of oceanic migrants that year.[138] The arrival of "staggering" numbers of Vietnamese, the *Washington Post* reported, "has left Malaysia, a small country with monumental poverty problems of its own, in a state of near panic," which prompted violence against the newcomers so severe that the Malaysian government "called up two reserve army battalions to keep peace."[139] Tho's son survived the voyage at sea and the violence ashore. After three months in a refugee camp, Tho was able to sponsor him and bring him to the United States.[140]

He arrived in early 1979, marking the first time Tho had seen any of her children in more than four years. Given that she was stationed in the Philippines since 1972 and separated from her children who were still finishing secondary school in Vietnam, it was the first time she got to see any of her children on a daily basis in seven years.[141] While the copious records Tho left behind and an oral history she gave do not offer comment on their reunion, one can only imagine how she felt upon seeing her son, by then a man, for the first time in years. Later that year Tho also sponsored her brother, a former reeducation camp detainee, and his wife and children after they also completed an oceanic journey that took them from Vietnam to a refugee camp in Malaysia and, eventually, to the United States.[142] Tho's family story illustrates what Varzally describes as Vietnamese families' "commitments to remain connected" using "elaborate strategies of survival and revision."[143] Amid all of the joy that likely accompanied Tho's reunions with her family members in 1979, she still endured ongoing separation from her two daughters and second husband. This painful reality, combined with the knowledge that so many others of her fellow South Vietnamese were experiencing the same thing, drove Tho to do everything in her power to see families reunited. Soon, her efforts produced consequences that reverberated far beyond her own family.

Family reunification remained a priority for US officials as well. Even after Carter formally postponed US-SRV normalization talks in October 1978, representatives from Washington and Hanoi continued to meet in secret.[144] In December, for instance, US and SRV officials met in New York.[145] While the two sides clashed in many respects, migration concerns seemed to be an area where they might make progress. Robert Oakley, the lead US negotiator, expressed American concern "about a situation in which so many people feel they must flee at great danger" and asked Hanoi "to work with the UNHCR to arrange orderly departures." US officials were also pressuring the UNHCR to work with Hanoi, ASEAN, and resettlement nations to facilitate a more coordinated response.[146] "A more orderly and humane manner of departure," Oakley

argued, would help decrease the number who felt compelled to take their chances on the high seas and "facilitate family reunification." This US willingness to meet with delegates from Hanoi and discuss refugee issues and family reunification, even as talks on the status of formal economic and diplomatic ties remained suspended, was a harbinger of things to come.

When assessing the US approach toward the SRV after December 1978, then, a resurgence of Cold War animosities goes a long way toward explaining the American position. Brzezinski's victory in the internal bureaucratic struggle by playing the "China card" clearly grew from a broader resurgence of US-USSR hostilities. Other factors also loomed large, however, with human rights and refugee advocacy foremost among them. Indeed, in nongovernmental advocacy, administration rhetoric, and, ultimately, American law, it became increasingly difficult to disentangle human rights from refugee politics.

A surge in domestic and international awareness of the Holocaust also contributed to and helped solidify the growing linkages between Washington's position on human rights, US refugee policy, and the oceanic exodus. Throughout the summer of 1978, for example, the CCIR argued that an American failure to respond to the Indochinese diaspora would be equal to the country's failure to admit endangered Jews on the eve of World War II. As the CCIR put it, "it is clear that, three years after the evacuation of Saigon, 'our long national nightmare' is not over. Indeed it has assumed a new dimension, requiring swift and generous response. The alternative would be to repress the nightmare. This we did as a nation in the 1930s. The Holocaust has not released its grip on our national conscience to this day, some 40 years later. We must not and we need not repeat this tragedy."[147]

It was no coincidence that the CCIR and other actors frequently invoked the Holocaust. Humanitarian advocates had taken a similar approach with regard to Biafra in the late 1960s, and this trend was amplified by the late 1970s thanks to a surge in "Holocaust memory" facilitated by cultural productions like Aleksandr Solzhenitsyn's *The Gulag Archipelago*.[148] Greater awareness of and interest in the Holocaust provided both a point of comparison and, in Zaretsky's words, an "instantly recognizable vocabulary of evil," a moral rhetoric that did not require explanation.[149] In this context, Phuong Tran Nguyen suggests, "the boat people came to approximate latter-day Holocaust survivors, offering compelling testimony that brought the world to tears and to action."[150]

The moral urgency embedded in this framing had many consequences. First, comparisons to the Holocaust rendered questions about refugee

status all but moot. Although there were those who questioned migrants' motives, once comparisons with the Holocaust became ubiquitous, the pre-existing American practice of labeling all migrants as "refugees" became common practice. References to the Holocaust, in other words, made it seem obvious that migrants were not only outside of their home countries but also had a "well-founded fear" of persecution. In this context, the UNHCR's previous reluctance to get involved withered. So did the organization's belief that the migration was an American responsibility. In addition to quieting questions about refugee status, then, Holocaust comparisons also added pressure for other nations to respond with resettlement opportunities, a trend that was especially pronounced once it became obvious that Washington would accept the majority of the resettlement and financial burden. Ultimately, the UNHCR played a leading role in facilitating Indochinese refugee resettlement into the 1990s.[151]

One individual who personified the connection between the horrors of World War II and the 1970s human rights movement was Ginetta Sagan.[152] Born Ginetta Moroni on June 1, 1925, in Milan, Italy, both of Sagan's parents – her Catholic father and Jewish mother – were doctors. Her parents' financial security ensured that she received a robust private education, including instruction in French, English, Latin, and Spanish and frequent trips throughout Europe and Africa.[153] The outbreak of World War II, however, changed Sagan's life. After the Italian surrender in 1943, the eighteen-year-old Sagan joined her parents in the anti-Fascist movement. She delivered food and clothing to Jews in hiding, guided those in danger to safety through the Italian Alps she hiked as a child, distributed pamphlets for the resistance, and disguised herself as a cleaning lady and nun to gain access to government offices to "pilfer stationery for use to forge papers or to make wax imprints of seals."[154] These exploits earned the less-than-five-foot Sagan the nickname "Topolino," or little mouse. Both of Sagan's parents were murdered as a result of their resistance work and Sagan herself was imprisoned and tortured. She endured, in her own words, "all the usual things – beatings, rape, electric shocks" for six weeks.[155] One night, after weeks of constant abuse, a guard threw a loaf of bread into her cell, and Sagan soon discovered a matchbox baked into the roll with a single word inscribed inside: "corragio [courage]."[156] I knew then I would be all right," Sagan later recalled, "someone knew what was happening to me. Someone cared."[157] On April 23, 1945, two guards appeared to take Sagan to her execution. The men who arrived, however, were resistance sympathizers or were underground members in

fascist uniforms, and they brought her to a hospital instead. Sagan celebrated April 23 as a second birthday for the rest of her life.[158]

She eventually immigrated to the United States, where she founded the West Coast branch of Amnesty International's American chapter (AIUSA) at her home in Atherton, California, in 1968. Sagan thus personifies the connections between the 1940s and the 1970s human rights moments and embodies the reality that Americans "imported," rather than innovated, human rights vernaculars in the 1970s.[159] Sagan also soon became one of the most influential voices in the United States regarding Vietnamese reeducation camp prisoners. Although she had yet to attain this status, growing awareness about the Holocaust in the United States continued to influence the ways US policy makers responded to oceanic and overland Indochinese migrations.

On November 1, 1978, Carter established the President's Commission on the Holocaust. CCIR member and author of *The Jews of Silence*, Elie Wiesel, chaired the Commission and Bayard Rustin, another CCIR member, also served on the committee.[160] The Holocaust Commission also included legislators who became some of the strongest voices in favor of expanding opportunities for South Vietnamese to resettle in the United States in the years ahead: Rudy Boschwitz, Stephen Solarz, and Claiborne Pell.[161] In the late 1970s, Boschwitz was the only refugee serving in the US Senate. His family fled Nazi Germany when he was young, and the Senator from Minnesota advocated on behalf of Indochinese refugee admissions throughout his tenure in Congress.[162] Solarz, a third-generation Jewish American, had a stepmother who was a refugee from Nazi Germany and had "more Holocaust survivors in his district than anyone else in Congress."[163] The New York Congressman took over the influential Subcommittee on Asian and Pacific Affairs in 1980, and in his memoirs, Solarz explains that he advocated so tirelessly on behalf of Indochinese refugees because of "US failure to do more to rescue European Jewry from the growing Nazi threat in the 1930s and the counterproductive consequences of our military involvement in Vietnam in the 1960s."[164] Finally, Pell's motivations for supporting Indochinese refugee admissions, like Sagan's advocacy, linked the 1940s and 1970s in intimate ways. Pell's father had served as the US representative on the UN War Crimes Commission in the wake of WWII.[165] Thereafter, the younger Pell served as Vice President of the International Rescue Committee in the 1950s and played a large role in advocating on behalf of Hungarian Refugees. Although some within Congress and the US bureaucracy continued to oppose refugee admissions, those who

supported admitting large numbers of Indochinese continued to gather allies, moral ammunition, and seats at the head of influential committees and subcommittees where they could translate their priorities into policy.

As 1978 drew to a close and 1979 began, a rapid series of events altered the status quo in Southeast Asia. The departure of oceanic and overland migrants surged dramatically. Nearly 3,000 oceanic migrants reached the shores of first asylum countries in August, and the number jumped to 8,558 by the end of September and 12,540 in October, each month set a record for the largest number of arrivals to date.[166] In response, on November 2, Thailand announced that it would not accept any additional migrants, and Malaysia threatened to follow suit.[167] Drastic measures such as these occurred as regional and global leaders were beginning to recognize Hanoi's complicity in the growing number of departures. SRV officials both extracted exorbitant bribes from migrants and implemented policies intended to force the ethnic Chinese population to leave.[168]

On the same day that Thailand closed its borders, Hanoi and Moscow signed the Soviet-Vietnamese Treaty of Friendship and Cooperation.[169] The promise of substantial Soviet aid emboldened the SRV to respond to repeated Khmer incursions into Vietnamese soil with a full-scale invasion of Cambodia on Christmas day 1978.[170] Vietnamese troops successfully captured Phnom Penh, the Cambodian capital, on January 7.[171] "In the months that followed, sporadic fighting and the ensuing chaos pushed more than half a million peopled toward the Thai border," a migration Aihwa Ong describes as one which "half-dead refugees walked, stumbled, and crawled out of the jungle toward the camps [in Thailand]. They came as straggling bands of families, groups of orphans, Khmer Rouge deserters, and smugglers, preyed upon by both the retreating Khmer Rouge and the Thai soldiers."[172]

The reverberations of the Second and Third Indochina Wars seemed to precipitate migrant flight at every turn. After the resumption of diplomatic relations between the United States and China, for instance, Beijing, with tacit American approval, launched a two-week invasion into northern Vietnam in February to teach Hanoi a "lesson" for invading Cambodia.[173] Tens of thousands of Vietnamese died in the attacks, and "close to a million" were displaced.[174] The United States responded by backing China, if not in word than in deed. American policy makers, Brzezinski's explained, spearheaded an effort to "keep the international heat on Vietnam and to discourage all aid donors to Vietnam from giving aid until Vietnam withdraws its forces from Cambodia."[175] The reasons which Carter cited in October 1978 for the postponement of ongoing US-Vietnamese normalization talks – Cambodia, refugees, and SRV-Soviet

ties – had all, from Washington's perspective, worsened and grown as greater barriers to closer ties. If, in other words, these conditions began at least partially as a cover, they quickly became genuine obstacles.

In the midst of all of the upheaval at the turn of 1978–1979, the administration did not let the thirtieth anniversary of the Universal Declaration of Human Rights on December 10, 1978 pass without mention. It was on this occasion that Carter famously declared, "human rights is the soul of our foreign policy."[176] As departures from Indochina surged, the president also commented specifically on refugees. "Refugees are the living, homeless casualties of our world's failure to live by the principles of peace and human rights. To help them is a simple human duty," Carter argued, "As Americans – as a people made up largely of the descendants of refugees – I feel that duty with special keenness."[177] Although the administration powerfully articulated why the United States should "welcome more than our fair share" of Indochinese migrants, Carter's team had yet to back these words with action.

On January 10, 1979, CCIR members held another consequential press conference. Given that the rate of oceanic departures from Vietnam increased by "more than tenfold ... during the last 11 months" and the number of those fleeing from Cambodia and Laos had more than doubled, the CCIR called international – and especially American – leaders to action.[178] Passionately advocating for a response predicated on robust resettlement, the Commission declared the United States should accept "100,000 for the year 1979" but conceded that "more countries will have to accept a fair share of the Indochinese refugee population." The Commission addressed their last recommendation directly to Carter. While the CCIR conceded that "the time is an awkward and difficult one" given financial difficulties and unemployment at home, it nevertheless argued that because "this is a refugee crises of such compelling humanitarian urgency, a matter of life-or-death for so many thousands of Indochinese, and a human rights issue of such overriding importance" the administration must act.[179] The CCIR surely spoke for many in Washington when it proclaimed before an international television audience: "We urge the President of the United States to take the lead ... to respond quickly and generously to this fundamental human rights emergency ... lest the dismal history of the 1930s repeat itself."[180] This poignant human rights rhetoric, articulated by a humanitarian organization in the wake of increased Holocaust memory, demonstrates the ways the boundaries between human rights and humanitarianism often dissolved in practice in the last quarter of the twentieth century.

The combined efforts of the CCIR and shows of support from key members of Congress prompted the administration to act. In February 1979, Carter created the Office of US Coordinator for Refugee Affairs and appointed former Senator Dick Clark (D-IA) "to bring order and continuity to the handling of refugees and to help shepherd a new refugee bill through Congress."[181] The legislative-executive efforts to produce legislation bore fruit in March 1979.[182] The bill that became the Refugee Act of 1980 proposed to fundamentally alter US refugee policy.[183] First, unlike immigration programs, refugee policy would originate in the White House, a gesture to refugee policy's continued significance in US foreign relations. Nevertheless, the bill required the president to undertake annual consultations with Congress, codifying the recent trend that Capitol Hill would exert an influential voice in refugee issues.[184] Congress' efforts to claim a more assertive role in the nation's foreign policy thus took many forms.

The Refugee Act acknowledged, at least implicitly, that "refugee crises" – so often conceived of as temporary – were becoming permanent fixtures in late twentieth century geopolitics. By creating an annual allotment for the admission of 50,000 refugees, the legislation also revealed that resettlement would be a defining feature of US policy. Pragmatically, this approach would streamline the inefficient, ad-hoc parole process that took place between 1975 and 1978. Clark noted that "if the proposed Act had been in effect since 1975, the emergency group admission provisions would have been employed only" in April 1975.[185] In other words, all of the 1976–1978 "emergencies" would have been handled under the proposed new "normal flow" ceiling of 50,000 refugees, without the need for repeated debates undertaken in a crisis atmosphere. Rather than a firm 50,000-person ceiling, moreover, the act also permitted the president, after required annual consultations with Congress, "to increase the number depending on the international situation."[186] Although the Indochinese diaspora helped dramatize the need for and justify the Refugee Act, the legislation had implications far beyond US-SRV relations.

The law dramatically altered the definition of "refugee" in the United States. The Act enshrined the international definition, as articulated in the 1951 Convention and 1967 Protocol, into US domestic law, a move that Clark explained "reflected the administration's commitment to human rights."[187] This point of consistency also revealed that US and international refugee norms were becoming increasingly linked and mutually reinforcing. For at least a time, officials in the United States and Geneva used the same definition of "refugee" and emphasized resettlement as a primary response to "refugee crises" abroad. The Refugee Act, however, also included an

exception clause, which permitted the president to admit individuals as refugees even if they did not meet the enumerated criteria so long as they were of "special humanitarian concern." By codifying a human rights-based definition of refugee and legally linking the language of human rights and humanitarianism, the law fundamentally altered the legal landscape in the United States and ensured these moral languages would play primary roles in US policy making and nonstate advocacy in the future.

The same month that Congress began debating new refugee legislation, the administration announced its intention to increase Indochinese refugee admissions to 7,000 a month, with a projected total of 120,000 for the fiscal years of 1980 and 1981.[188] In midst of these initiatives, the number of oceanic and overland departures increased exponentially, setting new records for the highest number arrivals each month throughout the spring and culminating with just under 57,000 arriving in June.[189] Amid these staggering departure rates, a CCIR member testified before Congress that "the decisions which US officials in Washington have to make are almost like a medical triage in military field hospitals – determining who can be saved and who will die."[190]

As the number of oceanic departures surged, the UNHCR accelerated its efforts to work with Hanoi to establish an alternative means of departure from Vietnam for would-be migrants. UNHCR representatives and SRV officials signed a memorandum of understanding initiating the Orderly Departure Program (ODP) in May 1979.[191] The ODP was a multilateral initiative whereby individuals would leave Vietnam directly and resettle abroad in countries like the United States, Canada, France, and Australia, obviating the need for dangerous sea journeys and the hardships of protracted stays in refugee camps. The brief, seven-point memorandum began with the proclamation that the "authorized exit of those people who wish to leave Viet Nam and settle in foreign countries – family reunification and other humanitarian cases – will be carried out as soon as possible and to the maximum extent."[192] When Richard Holbrooke met with Ambassador Ha Van Lau in New York soon after the program's implementation, Holbrooke noted that it was "a good agreement" and repeated US desire to see Hanoi "achieve an orderly flow of refugees and family reunions at levels commensurate with the ability of the international community to absorb them."[193]

While a meaningful development that would have major consequences in the long term, the ODP did not resolve the immediate situation, which by the spring of 1979 had turned desperate. The oceanic and overland migrations, simply put, placed demands on first asylum nations that they

were unable or unwilling to meet. Between 1975 and 1995, approximately one-third of all Vietnamese "boat people" landed in Malaysia.[194] Frustrated and desperate, Malaysian authorities began systematically pushing refugees back out to sea, with 400,000 denied the right to first asylum by mid-1979.[195] On June 30, 1979, the ASEAN nations, which were not signatories to the UN accords governing international refugee law in this period, "issued a joint communiqué stating that its member states would not accept new arrivals."[196] The ASEAN also publicly and privately registered their discontent with American policy.[197] As a memorandum prepared by the National Intelligence Office for East Asia and the Pacific revealed, the nations of first asylum were increasingly "annoyed by American criticism of their refusal to accept more refugees ... and all believe the United States should accept the major burden of resettling all the refugees."[198] ASEAN also intensified its criticism of the SRV, most notably in a speech given by S. Rajaratnam, the Minister of Foreign Affairs of Singapore at the twelfth ASEAN Ministerial Meeting. Rajaratnam suggested that the Indochinese exodus amounted to "a military exercise," an invasion intended to destabilize the region to help further Vietnamese "ambitions" for "hegemony in Southeast Asia."[199] The Minister ended his speech with a reference to the Holocaust, noting that Hanoi's "deliberate policy" was more efficient "than gas chambers – the Vietnamese push them out into the open sea. It costs them nothing" and Hanoi gets "money for the boats" by extracting bribes from migrants before permitting them to depart.[200]

This calamitous situation of simultaneous record-breaking departures and border closings prompted US officials to skew available parole slots to oceanic migrants.[201] This decision, however, had the unintended consequence of encouraging other nations to adopt draconian measures to prompt Washington to intervene. Sara Davies argues, for example, that Thai leaders "decided that if this [denying the right to first asylum] is what is necessary to get US attention, they can be just as harsh as other countries."[202] The CCIR was also obviously tired of American inaction. "If the US government does not act dramatically and forcefully to save the tens of thousands who will be cast out to sea or forcibly returned to Indochina and to certain death," a June 1979 press release warned, "American credibility will suffer a blow from which it may take decades to recover."[203] While the CCIR was clearly using inflammatory rhetoric to provoke US policy makers into action, the implication that American credibility could and would sink further from failing to respond to the Indochinese diaspora in 1979 than it had already fallen thanks to US

conduct in the Vietnam War vividly illustrates the lag in American leadership. When examining these years in retrospect, armed with the knowledge that over one million South Vietnamese would resettle in the United States by 1995, it is easy to overlook the uncertainty of 1977–1979. During these contentious years, that the United States would provide significant resettlement allocations and financial support to the UNHCR was far from certain.

The events of spring 1979 upped the ante for the Carter administration. In addition to nongovernmental humanitarian groups, foreign leaders – American allies, no less – were characterizing the diaspora as a deliberate forced expulsion policy and making explicit comparisons to the Holocaust on the international stage. In this context, failure to act amounted not only to a humanitarian failure but a geopolitical liability as well. To add to the criticism coming from the CCIR and ASEAN allies, inaction started to have political consequences for Carter at home. As Ted Kennedy rose to challenge Carter for the Democratic nomination, the Senator from Massachusetts used his long history of supporting humanitarian assistance for Vietnamese refugees to criticize the Commander in Chief.[204] These incentives mobilized the administration into action.

## THE UNITED STATES TAKES A LEADERSHIP ROLE

After years of nonexecutive pressure, the White House implemented major policy changes in the summer of 1979. The administration's first step was to use a pre-scheduled Tokyo Economic Summit in June to make an international appeal for Indochinese refugee resettlement. A confidential memorandum that Dick Clark prepared for Carter prior to his departure read as though it had been written by the CCIR. Clark suggested "the exodus of refugees from Indochina has reached such staggering dimensions as to pose major political and security problems for Southeast Asia as well as a refugee problem of proportions not matched since Nazi Germany in the 1930's."[205] Clark advocated that the administration pursue action on three fronts: "(1) ensure the extension of temporary asylum; (2) to increase permanent resettlement; and (3) to meet the large costs involved."[206] "After the Tokyo Summit," Clark suggested that the president spearhead an effort to condemn the SRV through the UN and also convince the UNHCR to host a conference "aimed at agreement on a program of practical steps to increase temporary asylum, permanent resettlement and financial support."[207] As another aide explained to Carter, "in moral terms, this is an opportunity for

leadership that we should not let slip."[208] At Tokyo, Carter launched all of these initiatives. The president announced that the United States would double its admissions to 14,000 per month and make additional resettlement and financial pledges at the forthcoming UNHCR conference.[209]

It is worthwhile to pause here to recall that as late as September 1977, the most knowledgeable officials in Washington informed Carter that the United States should expect to admit approximately 25,000–30,000 Indochinese refugees by the end of 1980.[210] By June of 1979, US officials supported the entry of 14,000 refugees per month. Not all Americans supported such a dramatic increase. A summer 1979 poll reflected that 57 percent of Americans opposed measures which would "see immigration laws relaxed to ease the admission of the boat people," while 32 percent were in favor.[211] In addition to nativism, economic woes, and compassion fatigue, racism also played a role. As Brzezinski put it, "if the refugees were white Europeans they [Americans] would be much more concerned than they are with yellow people half-way round the world."[212]

Geopolitical, humanitarian, and human rights objectives outweighed domestic objections to refugee admissions, however. Those who emphasized Cold War priorities *and* those who argued human rights should guide US policy found common cause in Indochinese refugees, especially South Vietnamese who fled by boat. That the State Department and NSC, which were so divided on other fundamental issues, were of the same mind when it came to this cohort undoubtedly fueled American policy. This trend of unlikely allies supporting South Vietnamese refugee resettlement was only just beginning.

In July of 1979, Vice President Mondale, who had taken an active role in Indochina issues as a Senator and throughout Carter's term, traveled to Geneva to represent the United States at a UNHCR-hosted conference on Indochinese refugees. That it was Mondale, and not Carter, illustrates that even at this critical moment the oceanic and overland migrations did not top the executive priority list. Nevertheless, the shift from James Wilson heading the US delegation in 1976 as the Coordinator for Human Rights and Humanitarian Affairs to having the sitting vice president in attendance spoke volumes about the relative importance with which Washington viewed the meeting and the UNHCR. As Mondale and his team traveled to Geneva, Americans at home were feeling the effects of an oil shortage, as motorists around the country waited in long lines for the chance to fill their tanks. After an intensive summit with domestic labor and business leaders at Camp David, Carter gave a televised address to the nation that condemned the American tendency to "worship self-

indulgence and consumption."[213] Although prescient in many respects, the speech rubbed voters the wrong way, which did not help the president on the eve of an election year.

The vice president, however, made an entirely different impression at Geneva. His speech opened with a powerful reference to the 1938 Evian Conference. At Evian, thirty-two nations, including the United States, met to discuss the fate of Jews in Germany and displaced throughout Europe. In the midst of the Great Depression and pervasive anti-Semitism, however, the delegates at Evian offered words but no action.[214] As Mondale proclaimed to those sitting before him in Geneva in July 1979: "At stake at Evian, were both human lives – and the decency and self-respect of the civilized world. If each nation at Evian had agreed on that day to take in 17,000 Jews at once, every Jew in the Reich could have been saved. . . . Let us not re-enact their error. Let us not be heirs to their shame."[215] While Mondale's words still resonate decades later, his audience included individuals with living memory of WWII.

In many ways, the vice president told the UNHCR and ASEAN nations what they had been waiting to hear. He argued to the world leaders sitting before him that "we must all be prepared to commit ourselves to multi-year resettlement programs – for the problem will not be solved quickly." Mondale also announced that the United States would lead by example by doubling its contribution to the UNHCR and sending four additional navy ships to help rescue oceanic migrants in peril.[216] The vice president ended his speech the way he began, by invoking the Holocaust and the weight of history: "History will not forgive us if we fail. History will not forget us if we succeed."[217] As Mondale recalled with satisfaction, "the best we expected was a polite applause and some nodding of heads. But the response was electric and when I finished people leaped to their feet for a sustained ovation."[218]

The international community responded with more than applause. The sixty-five nations in attendance pledged a total of $160 million and increased the number of promised resettlement slots from 125,000 to 260,000.[219] The long-term consequences of this approach were historic. Indochinese refugee resettlement continued into the 1990s, making it one of the "most elaborate and expensive" programs in the UNHCR's long history and one of the most consequential, involving, as Loescher explains, "the largest permanent population transfer there has ever been between developing and industrialized program."[220]

In addition to facilitating far-reaching changes in global refugee norms, the Geneva Conference also gave US officials the opportunity to present

their narrative of events to the world. "The fundamental responsibility" for the current crisis, the vice president argued, "must rest with the authorities of Indochina, particularly the government of the Socialist Republic of Vietnam. That government is failing to ensure the human rights of its people. Its callous and irresponsible policies are compelling countless citizens to forsake everything they treasure, to risk their lives, and to flee into the unknown."[221] On the one hand, many of the SRV's policies warranted condemnation, and thereafter Hanoi agreed to prevent boat departures, which amounted to at least an implicit acknowledgment of its role in the forced exodus of the Hoa.[222] On the other hand, however, Mondale's narrative of SRV culpability required a large dose of historical amnesia about the systemic violence the US government unleashed in Vietnam prior to 1975.[223]

Separating the postwar exodus from the war in this fashion permitted much of the historical revisionism that surged during the Reagan years. As Phuong Tran Nguyen explains, the oceanic migration fundamentally altered the position that the government in Hanoi and defeated South Vietnamese occupied in the public imagination: "Vietnam's communist party, once the darlings of the anticolonial movement, were now well-known human rights violators, and the refugees from Indochina, once considered the corrupt losers of a civil war, were suddenly the heroes of the postwar."[224] That the sitting American vice president could criticize Hanoi on the grounds of human rights violations with a straight face at an international conference only four years after the last US helicopters evacuated Saigon demonstrates the extent to which human rights functioned not as a neutral rights discourse but as a language of power in international relations.

The fact that the United States expanded, rather than contracted, its commitment to South Vietnamese, who American policy makers repeatedly characterized as "refugees," is also telling. Ford's original argument about the United States' "profound moral obligation," combined with Carter's human rights rhetoric resulted in a significant, and not at all inevitable, broadening of the precedents set in 1975 and 1976. In 1979, the number of South Vietnamese entering the United States each year exceeded the original 130,000 parolees who evacuated Saigon alongside American personnel in April 1975. Rather than a temporary aberration, the trend of enlarging the number of eligible South Vietnamese individuals eligible for resettlement in the United States continued for another decade.

The position that Washington assumed vis-à-vis Cambodia, however, illustrates that real and important limits existed on American commitments. If the oceanic exodus from Vietnam provided the United States with an

opportunity to chastise Hanoi, the situation in Cambodia did not. While US officials characterized Vietnam's presence in Cambodia as an "invasion," the truth that Hanoi unseated a genocidal regime remained. Officials in Washington, the White House especially, did everything they could to minimize this fact. Indeed, while the 1979 Geneva Conference made great strides toward alleviating the pressures oceanic migrants placed on nations of first asylum, the issue of overland migrants – predominantly Cambodians on the Thai-Cambodian border – went largely unaddressed.[225] While the administration eventually submitted to external pressures to provide food aid to Cambodia, Congress took the lead, sending delegations to visit the border and using its power of the purse to double the administration's request for food relief.[226] As it had done regarding human rights more broadly, Congress used the publicity that hearings could bring and its role in appropriations to point US foreign policy in directions that the president did not want to go.

While Congress injected its priorities into the nation's foreign policy, it could not dictate US diplomacy. In what scholar Michael Haas calls "The Faustian Pact," the United States' determination to condemn Hanoi as part of a larger strategic shift prompted American policy makers to support the exiled genocidal regime in a myriad of ways, including voting to award Cambodia's UN seat to a coalition that included the Khmer Rouge.[227] In an echo of the military phase of the Vietnam War, Washington was fighting Hanoi in Vietnam and in Cambodia. While geopolitical and human rights objectives aligned in Vietnam, in Cambodia they did not, and geopolitics triumphed, despite the objections of many in Congress and the CCIR.

This status quo had lasting implications for US-Vietnamese normalization. In addition to citing the diaspora, poor human rights conditions, and concerns about SRV-Soviet ties, the administration maintained that the withdrawal of Hanoi's troops from Phnom Penh was an absolute minimum condition the SRV had to satisfy before the United States would be willing to resume formal normalization talks.[228] This requirement, in addition to the demand that Hanoi facilitate a "full accounting" of American POW/MIAs, forestalled official US-Vietnamese negotiations until the early 1990s. In the interim, migration programs, along with POW/MIA accounting, became the basis of ongoing US-Vietnamese ties. By the end of his term, the Carter administration linked human rights, refugees, and US-Vietnamese normalization policy in numerous ways, as epitomized in the Refugee Act of 1980, which Carter signed into law on March 17, 1980.[229]

## CONCLUSION

The Carter years established a number of precedents that demarcated American policy toward the SRV for the foreseeable future. The administration initially attempted to establish formal diplomatic relations with the SRV by insisting that official ties should resume without preconditions. A few years later, however, as US-Chinese relations cast a long shadow over US policy in the region, American officials suspended formal talks with Hanoi and stipulated that official diplomatic relations between the United States and SRV could not occur until Hanoi withdrew its troops from Cambodia. In the years ahead, US policy makers insisted that Hanoi had to meet an expanding number of preconditions prior to the resumption of official ties. Despite the absence of official US-Vietnamese relations and the impasse in formal normalization negotiations, however, US officials remained willing to meet with Hanoi to discuss migration issues and family reunification. While condemning Hanoi as a violator of human rights and seeking to isolate the SRV in the international community, US officials simultaneously met with SRV officials to discuss the Orderly Departure Program and refugee resettlement more broadly. These policies all became institutionalized with bipartisan support in the years ahead.

The magnitude of the oceanic and overland migrations also crystalized the linkage of human rights and refugee policy in American thought and law. Indeed, while it took time to hammer out some of the law's procedural elements, the Refugee Act of 1980's codification of a human rights-based definition of refugee encountered almost no resistance whatsoever.[230] Congress's efforts to inject human rights standards to US foreign policy beginning in the mid-1970s, combined with Carter's articulation of a human rights approach to diplomacy and the severity of the Indochinese refugee crisis – especially when described in exigent Holocaust rhetoric – all prompted US officials to perceive the Indochinese refugee crisis through a human rights lens. The urgency that human rights rhetoric and Holocaust comparisons bestowed upon the situation helped create a consensus in favor of blanket refugee status for Indochinese migrants and resettlement as the primary American and international responses. As part of this process, US officials increased their support for and willingness to work through multilateral initiatives organized by the UNHCR.

The timing and nature of the American response to the Indochinese diaspora also revealed the influence nonstate actors could wield. Although

many factors beyond the Citizens Commission on Indochinese Refugees led to the dramatic about-face in US policy, the CCIR played a decisive role in the politics of information. Because the White House remained preoccupied with other issues, the information, pressure, and publicity the CCIR garnered were instrumental in creating a broad base of support for refugee admissions. Indeed, Mondale's speech at Geneva was, in many ways, a formal articulation and adoption of the policies the CCIR had been proposing for over a year.

Even though the CCIR took an expansive view of US obligations, there were still others who escaped the Commission's and administration's attention. As the CCIR and others shed a spotlight on oceanic and overland migrants, two other groups – Amerasians and reeducation camp detainees – languished within Vietnam's borders. Once a new president entered the White House, new advocacy groups moved to the fore to prompt policy makers to negotiate and implement migration programs for both of these cohorts. As formal US-Vietnamese relations stalled, nongovernmental advocacy became increasingly more vital in infusing urgency into ongoing discussions about refugees and family reunification.