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Arthur C. Helton 1949–2003

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Through his advocacy, teaching and scholarship, Arthur Helton enabled some of the most vulnerable people on earth, as well as those who work to advance their rights, to ensure that governments strive to live up to their legal and moral obligations to protect and assist the displaced.

I was fortunate to meet Arthur at the very beginning of my career. When I asked for a pro bono project one summer at a New York law firm, I received vintage Arthur: an attempt to stop the federal government from building the Oakdale Detention Facility. Here was the realist and the dreamer in this action. Congress had appropriated funds for an INS detention facility in Oakdale, Louisiana. The closest city with an active bar, Baton Rouge, was hours away from this rural Louisiana location. As a practitioner, Arthur knew that the asylum process could not be meaningful for those detained at a serious distance from counsel, so he contested what became a model for the detention of asylum seekers in the US and Australia. Of course, there was no way that anyone could prevent the government from building this prison.

Arthur was a Renaissance man in our field, both in terms of roles and substance. He did it all: practitioner, advocate, educator, and scholar. Substantively he took on all of forced migration. Initially focusing on the protection of asylum seekers in the United States, he gradually built on that foundation to address the complexities of forced migration in all parts of the world.

Arthur always thought of the big picture. That's how he approached the representation issue. Right after law school, Arthur practised criminal law at Legal Aid and then immigration and labour law at Mailman & Ruthizer. So when he joined the Lawyers Committee for Human Rights in 1982, he understood from practice the major role that representation plays in a system where it is, unfortunately, not mandated. That year the Lawyers Committee argued before a US District Court Judge for the release of some 2,000 detained asylum seekers from Haiti. The judge made it clear to Executive Director Mike Posner and Arthur that the asylum seekers would only be released from detention if counsel were secured. Arthur convinced Mike to promise the judge that the Lawyers Committee would find volunteer lawyers for every Haitian. At this date the Refugee Act that established an asylum law based on the international obligations of the US was brand new. Training materials did not exist, and case law based on the international refugee definition was minimal. Working with the American

Bar Association, Arthur recruited local lawyers in 20 states, trained them and connected them to these asylum seekers.

For Arthur, this wasn't just a case or a particular population. This was a systemic problem that needed to be addressed. As Director of the Lawyers Committee's Refugee Project, Arthur and his small staff built a programme of pro bono counsel from major law firms to help meet the needs of the increasing number of asylum seekers coming to the US. Today, that programme ensures the representation of more than 1,000 asylum seekers each year, winning more than 90 per cent of those cases. Equally as important, this Pro Bono Representation Project has served as a model to other organizations as they try to meet the needs of asylum seekers in various parts of the US.

Arthur advocated for refugees in the US in every available forum: before the Executive branch, the Congress, and the Supreme Court. Borders did not confine him. While at the Lawyers Committee from 1982 to 1994, he headed missions of inquiry to Central America, the Caribbean, the Middle East, Europe, Africa and Asia. At the Open Society Institute from 1994–1999, he established a project to monitor, respond to and prevent forced migration in the 15 countries of the former Soviet Union. He played a key role in connection with the international conference on migration-related issues in that region. He advocated before senior government and international organization officials around the world, so of course, when he and our colleague, Gil Loescher, began a mission to Iraq in August 2003, their first stop in Baghdad would be with Sergio Vieira de Mello, the UN Special Representative in Iraq.

Arthur educated in many ways. Training that first group of volunteer attorneys back in the early 1980s helped develop training on asylum law in many organizations. But he was also a formal educator at numerous institutions. He taught immigration and refugee law and policy on an adjunct basis at New York University Law School for many years and more recently at Columbia Law School. He was a Visiting Professor at the Central European University in Budapest for several years, teaching courses on the legal dimensions of preventing forced migration in transitional societies. He taught courses on refugee law in Canada, Europe, Asia and Australia.

Arthur's scholarship covered everything from US refugee law to the international humanitarian regime and its institutions. Always thinking ahead of most of us, he wrote about persecution on account of membership in a social group in 1983. The ink on the 1980 Refugee Act was barely dry, Immigration Court was about to come into existence, and very little US law existed at the time on this and most other aspects of refugee law. But Arthur understood the importance of this ground in the development of contemporary asylum law. In 1986, he addressed the legality of detaining refugees in the US. Indochinese refugees attracted Arthur's scholarship in an article about the Comprehensive Plan of Action. He wrote as well on the role of refugee, humanitarian and human rights law in planning for the repatriation of Kampuchean asylum seekers in Thailand. Forced migration in the former Soviet Union, displacement and human rights, establishing a comprehensive scheme for refugee and migration emergencies in

the Caribbean region, humanitarian intervention, Palestinian refugee property and the Arab–Israeli conflict, humanitarianism in crisis: these were some among the subjects of his scholarship.

And then *The Price of Indifference*, where Arthur laid out the case for international policies, mandates and institutions to prevent displacement and provide meaningful protection and needed assistance to forced migrants. Big ideas, of course, that he developed because of his experience with displaced people. For example, this is how he relates an exemplary failure of our humanitarian regime to prevent or mitigate forced migration:

It was a late Sunday evening in November 2000 when our plane landed in Nairobi, Kenya. As I walked on the runway through the sultry air to the airport arrival hall, I became an unintended witness to the conclusion of the infamous journey of the ‘lost boys of Sudan’, some of whom I had visited in 1993 at the Kakuma refugee camp in northwestern Kenya. There, a remnant of some 17,000 children had come to rest after fleeing in 1988 from fighting in Sudan to Ethiopia, where they were attacked again after the regime of Mengistu Haile Mariam fell in 1991. This prompted a harrowing 600-mile trek by foot to Kenya, with many dying from attacks by wild animals and exposure.

Dissatisfied with the administration of misery, with poorly thought out, unsystematic, and ad hoc solutions to forced migration crises, Arthur offered far-reaching proposals for institutional change at the national and international levels. His goal was to create a humanitarian regime capable of preventing mass displacement and of being proactive in mitigating such displacement when prevention is impossible or inappropriate. To accomplish this, he envisioned the creation of a consolidated UN humanitarian agency with a fully integrated programme and budget capable of deploying well crafted policies to the range of complex emergencies. Within the US government, he called for a new Agency for Humanitarian Action, reporting to the Secretary of State, to do the same. Arthur focused on major problems and recommended solutions capable of addressing the basic human needs and rights of forced migrants.

Finally, in his capacity as Director of Peace and Conflict Studies and Senior Fellow for Refugee Studies and Preventive Action at the Council on Foreign Relations, Arthur, together with Gil, travelled to Baghdad to assess humanitarian conditions in Iraq. It was a crisis that had to be attended to. Arthur and Gil had just greeted the head of the UN in Iraq at the beginning of their first in-country meeting when the bomb exploded.

And so this great realist and dreamer has been taken from us. I am sure that his work that touched so many will carry on. But our community—the displaced, the exiled, practitioners, advocates, government officials, international organization representatives, educators and researchers—has lost someone who cannot be replaced. Let us try our best, then, to achieve the goals that he strove for and honour him with our action.