

## Commentary

By G.J.L. Coles

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Mr Coles expressed appreciation for the interesting and stimulating paper by Professor Feliciano. It was a valuable contribution to a better understanding of a major humanitarian problem.

Mr Coles agreed fully with the view of Professor Feliciano that involuntary movements of people across boundaries are most appropriately viewed as comprising a process, taking place over time and in space and within the context of particular social, political and economic conditions. Also the dimensions and gravity of the problem today required an overall international response to the situations in the country of origin, as well as to the situation in the country of refuge, and this response had to have a preventative as well as a remedial aspect. He also considered that experience had shown that most new situations of mass flow presented new problems or a new combination of problems, requiring that a general approach at the legal level for universal application possess a breadth and flexibility sufficient to cope adequately with widely varying circumstances. Professor Feliciano's approach was particularly interesting in that it took account of the particular experience in South East Asia in recent years which had shown that international refugee law required considerable further development to deal adequately with all the problems of today. It was especially valuable to have a contribution from an eminent international lawyer from the region.

Mr Coles recalled that Professor Feliciano has been an active participant in the recent meetings at the International Institute of Humanitarian Law in San Remo and he welcomed his latest contribution as providing valuable conclusions which he had drawn from the discussions there. He found himself in general agreement with most of Professor Feliciano's analysis and he hoped that his paper would receive the attention it deserved.

Mr Coles questioned whether the view expressed by Professor Feliciano, although with considerable caution, that soldiers fleeing capture enjoyed a right of admission into another State could be considered a legal principle. Past practice had suggested that armed combatants were in a special category and, unlike civilians, had no legal right of admission. National security factors could be more serious in the case of the admission of retreating or defeated armies than in the case of fleeing civilians. However, Mr Coles acknowledged that Professor Feliciano had drawn attention rightly to the humanitarian considerations in such situations which could provide a significant counterbalance to political concerns.

Finally, Mr Coles stated that a reading of Professor Feliciano's paper as a whole provided a general framework within which many refugee problems of today could be helpfully analysed. In effect, Professor Feliciano had drawn attention to the importance of responding honestly and responsibly to problems, thereby avoiding a disastrous divorce of individual and social factors, with all the adverse consequences for individuals and societies resulting from such a divorce.