



CANADA'S PERIODICAL ON REFUGEES REFUGEE

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Defining Refugees

by Howard Adelman

The nomenclature applied to refugees is very confusing. Lists of refugees include Canadian citizens who have been established for 35 years with a proper legal status in their adopted country. But in world refugee surveys they are still counted as refugees. It is poor taxonomy that does not provide a criterion for terminating refugee status.

Refugees are uprooted people whose status as refugees ends when they become re-rooted; that is, when the state in which they live guarantees their legal rights, and when they regard the nationality of that state as their own even though they may have another nationality. For example, Estonians who are refugees from the Russian takeover of their homeland who have become Canadian citizens and nationals do not thereby surrender their Estonian nationality, but they do surrender any status as refugees.

In addition to time boundaries for the beginning and termination of refugee status, there must also be spatial differentiations among the various types of refugees. This is another type of confusion. The difference between Convention refugees and non-Convention refugees, between refugees within a country and refugees outside, are muddled because they are all simply called refugees.

If Muslims flee the state of Assam to

Bengal *within* India they are referred to as refugees. If a million Ghanians are expelled from Nigeria and return to their home country, they are referred to as refugees. In ordinary language, anyone uprooted because of civil disorder or, sometimes, even natural disaster is referred to as a refugee. But in international law none of these cases qualify the uprooted people for refugee status. The Muslims were given citizenship by India and India sent in the army to provide protection. The returnees to Ghana have their own country to protect them from persecution and to provide material support.

"The main feature of refugee status is that refugees do not enjoy the protection of any government, either because they are, as stateless persons, unable or, having a nationality, unwilling for political reasons to avail themselves of the protection of their country of origin."¹ The

modern concept of refugee emerges in an international context in which the world is divided up into nation-states such that everyone is deemed to belong to one nationality or another (though not necessarily only to one), and members of that nationality enjoy the protection of a specific political state.

The narrowest legal definition of refugee is contained in the United Nations Convention Relating to the Status of Refugees (July 28, 1951) and the subsequent Protocol (January 31, 1967). Such refugees must have a nationality and lack the protection of their country of habitual residence (there is *no* necessary requirement that that country be the individual's country of nationality), but they must be unwilling or unable to avail themselves of the protection of that state by returning to it. The definition is rather

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