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Paula Rhodes

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## Refugee Law and Policy: International and U.S. Responses

### Keywords

National Security, Refugees, International Law: History, Constitutional Law, Federalism, Human Rights Law, Immigration Law, State and Local Government Law

# BOOK REVIEW

## Refugee Law and Policy: International and U.S. Responses

REVIEWED BY PAULA RHODES\*

REFUGEE LAW AND POLICY: INTERNATIONAL AND U.S. RESPONSES, edited by Ved P. Nanda, Greenwood Press (1989); ISBN 0-313-26870-3, 209 pp.

*Refugee Law and Policy: International and U.S. Responses* is a collection of concise essays exploring a wide range of issues relating to a major global problem (i.e., the creation and treatment of refugees). The book accepts as its point of departure the post World War II definition of refugee embodied in the Convention Relating to the Status of Refugees,<sup>1</sup> but also discusses other classes of displaced persons and documents the need to expand upon that definition to include these classes. Topics span international, national, state, and local issues. They focus on root causes, including interventionist policies, deterrence of refugee generating conduct, responsibilities of receiving country governments, sanctuary, and the roles of non-governmental organizations. Some essays address issues that are very broad in scope, such as the relationship between ethics and government policy; others address narrower issues, such as the treatment of deposed dictators. The unifying approach to this collection is the focus on human rights, human needs, and humanitarian concerns in all of the contributions.

A unique contribution that this book makes to the literature on refugees is its interdisciplinary approach to the subject matter. The book not only contains essays written by eminent international legal scholars — such as Ved Nanda and Richard Falk — and practicing attorneys, but

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\* Associate Professor, University of Denver College of Law.

1. Entered into force April 22, 1954, 19 U.S.T. 6260, T.I.A.S. No.6577, 189 U.N.T.S. 137. The convention defines a refugee as a person who has a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, [and] is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it." *Id.* art.1.

also essays by authors who are scholars or practitioners in other ethical and social science disciplines. The varied non-legal professions represented include political scientists, directors of state refugee/migrant programs, human rights activists, international studies scholars, and theologians. Because of this combination, the book as a whole does achieve its stated objective of analyzing refugee problems from legal, political, economic, and social perspectives.

*Refugee Law and Policy* is divided into five major parts. Parts I and V are both written by the book's editor, Ved Nanda, which adds to the collection's unity. In Part I, Nanda gives a summary of the origin, nature, and extent of the post World War II refugee problem and briefly describes the major international legal doctrines and treaties which relate to the treatment of refugees. He also draws attention to the root causes of refugee flows which is an important theme that runs throughout the book.

Part II focuses on a variety of issues relating to international responses to the plight of refugees. One author explores the topic of deterrence of refugee generating conduct through the development of standards for compensation, criminal liability, and orderly departure. Another outlines a framework for advocating protection of aliens through the use of both human rights and humanitarian law, with special attention being given to the principle of non-refoulement. A third author raises issues relating to the moral foundations of the political order using as his vehicle a discussion of deposed dictators as a limited class of refugees. Conflicting trends among France, Germany, the United Kingdom, and the European Economic Community in West European treatment of refugees are also explored; the effect of non-legal factors on legal enforcement and interpretation is a highlight of this exploration.

Part III consists of five chapters which generally address issues relating to the U.S. responses to refugee problems. One chapter looks at the general political issues involved in immigration law and policy, including the distinction between asylum and refugee applicants; the impact of the lessening of super power tensions; the need to eliminate causes for fear; and the links between refugee issues, foreign policy, economic assistance, and global economic relations. Another focuses more narrowly on the issue of whether U.S. courts have undermined Congressional intent in their interpretation of the Refugee Act of 1980. Two chapters focus on U.S. responses to Central American Refugees — particularly from Guatemala and El Salvador — and to African refugees; the latter chapter also contains useful information about the overall African refugee situation and international efforts in general. The final chapter in this Part addresses issues related to state, specifically Colorado, governmental formulation and implementation of refugee policy.

Part IV explores the roles of citizens and church related groups in responding to the refugee crisis. One particularly intriguing discussion in this Part is the exploration of the realistic relationship between ethics, morality, and foreign policy. It contains some pragmatic suggestions regarding ways in which citizens' groups can use the media to publicize

their views on peace and justice issues. Part IV concludes with an essay on the sanctuary movement, particularly as it relates to Guatemalan and El Salvadoran refugees.

The final Part of the book summarizes the complex challenges involved in averting refugee flows, providing effective protection to refugees and providing durable solutions to the refugee crisis. It acknowledges the need for responses at all levels of society and specifically suggests a framework for responses at the international and national levels. It highlights the necessity for widespread dissemination of information as well as useful roles for non-governmental organizations.

The individual essays in this collection are compact discussions and succinct impressions of different aspects of the global refugee problem. They whet the reader's appetite for more details. Therefore, an important contribution of the book is the reference to additional materials contained in the endnotes to each chapter and in the Selected Bibliography compiled at the end of the book.

Collectively, the essays in *Refugee Law and Policy* provide a good overview and introduction to the issues, laws, and policies involved in the treatment of the global refugee crisis. It provides a body of background information and sets forth probing questions which must be answered if viable short and long term solutions to this complex problem are to be fashioned. Additionally, it advocates solutions, or at least a framework for solutions, which are grounded in a concern for fundamental human rights and human needs.

*Refugee Law and Policy* is a very readable interdisciplinary exploration of the refugee crisis. It should not only prove useful to lawyers, policy makers, and professionals working on refugee issues, but also to any citizen who wishes to become more informed about a major global problem which will continue to affect everyone.

