U.S. ASYLUM POLICY


The International Migrants Bill of Rights (IMBR) addresses migrants’ rights in a variety of contexts, and this paper looks closely at some of the most crucial rights that apply to migrants, refugees, and asylum seekers who are held in immigration detention.

Migrants, refugees and asylum seekers are entitled to a broad range of rights protections. These protections are spelled out in the provisions of core human rights treaties and regional human rights conventions that apply to all people, as well as in the specific conventions relating to refugees and migrants. While States have the authority to regulate migration, their immigration enforcement policies and practices—including those relating to administrative detention—must comport with the requirements of international human rights law.


Law of Asylum in the United States is a classic and comprehensive presentation of U.S. asylum law. It describes and interprets applicable U.S. laws, as well as numerous international sources, and provides detailed discussions of all aspects of asylum and refugee law, including: The meaning of well-founded fear and persecution; The five grounds (race, religion, nationality, social group membership, and political opinion); Withholding of removal protection and protection under the Convention Against Torture; Claims based on childhood status and gender-based persecution; When non-state actors can be considered agents of persecution; Asylum eligibility for those fleeing gang violence in their home countries; Elements of proof; Credibility determinations and Recent changes in statutory language enacted with the REAL ID Act.


This report examines our asylum system, the increase in applications and approvals, and the erosion of checks and balances designed to prevent fraud that have contributed to that increase.
In recent years, the United States Congress has enacted multiple anti-terrorism laws in its efforts to exclude from the country terrorists and those who associate with terrorists or provide them material support. The anti-terrorism provisions, particularly the material support bar, prevent many individuals with a well-founded fear of persecution based on race, religion, nationality, political opinion, or membership in a particular social group from receiving asylum or protection from refoulement. These statutes deny protection to refugees even though there are no reasonable grounds to consider them dangers to the security of the United States, and, accordingly, these legislative provisions violate International Refugee Law. In apparent recognition that applying the anti-terrorism bars can lead to unjust and illegal results, Executive Branch officials have issued a series of ad hoc waivers of the material support bar. These waivers, though beneficial to the individuals who successfully navigate the waiver procedures, are insufficient to bring the United States into compliance with International Refugee Law. Another avenue of protection, the non-refoulement obligation of the Convention Against Torture, has also been utilised when the material support bar has threatened to deprive refugees and asylum-seekers of protection under the Convention Relating to the Status of Refugees and its Protocol. This is a welcome outcome for the sub-group of refugees and asylum-seekers who fall with its scope, but the Convention Against Torture also falls far short of affording all asylum-seekers and refugees the non-refoulement protection guaranteed by the Refugee Convention. Without new legislation, such as the proposed 2010 Refugee Protection Act, United States anti-terrorism statutes will remain in violation of International Refugee Law.


The notion of America as land of refuge is vital to American civic consciousness yet over the past seventy years the country has had a complicated and sometimes erratic relationship with its refugee populations. Attitudes and actions toward refugees from the government, voluntary organizations, and the general public have ranged from acceptance to rejection; from well-wrought program efforts to botched policy decisions.

Drawing on a wide range of contemporary and historical material, and based on the author s three-decade experience in refugee research and policy, Safe Haven? provides an integrated portrait of this crucial component of American immigration and of American engagement with the world. Covering seven decades of immigration history, Haines shows how refugees and their American hosts continue to struggle with national and ethnic identities and the effect this struggle has had on American institutions and attitudes.


We examine the consequences of hosting refugees for domestic and international terrorism. In line with the old saying, “no good deed goes unpunished”, we argue that the infusion of aid resources provides militant groups with opportunities for looting and for attacking foreign targets. A cross-national, time-series data analysis of 154 countries for the years 1970–2007 shows
evidence that countries with many refugees are more likely to experience both domestic and international terrorism. This finding implies that while the international community should strive to reduce the number of refugees by preventing the eruption of major conflict events, individual countries should find a way of maintaining the balance between humanitarianism toward refugees and providing safe, secure environments for refugees and those that assist them.


U.S. asylum law protects against persecution “on account of . . . religion.” But must the law protect a non-believer seeking religious asylum in the United States? Many may instinctively answer “no,” for a non-believer is by most definitions not “religious.” Such a response misses the mark however — at least in the context of U.S. asylum law, which is subject to the First Amendment. The protection of religious liberty enshrined in the First Amendment embodies freedom from persecution on account of one’s “religion” — in whatever form that religion may take. In the asylum context, then, “religion” must be defined broadly. Protection from persecution on account of one's “religion” must include protection of one’s religious freedom not to believe in deities of any kind. To hold otherwise would be to inhibit the very religious liberty asylum law is intended to protect. Yet under current U.S. law, a non-believer’s claim for asylum may well be denied on the ground that non-belief is not enough for religious asylum. This may serve to dissuade a would-be asylee from even attempting to apply for religious asylum as a non-believer — even when she would undoubtedly be subject to religious persecution if forced to return to her native country. She may thus feel the need to feign conversion to a traditional, mainstream religion. Such a result is unacceptable in a nation founded upon religious liberty. This Note argues that if a non-believer is denied religious asylum in the United States, she can succeed on a claim that the law as applied to her violates both the Free Exercise and the Establishment Clauses of the First Amendment.


Many authors have commented on the increasing resistance of Western States to accepting large numbers of asylum seekers. However, the literature lacks a coherent theory about the specific mechanisms behind the rise of deterrence policies in individual States. Based on 52 interviews and a media database of 444 articles, I examine the arc of American asylum policy over many decades. I argue that when the Cold War ended, the anti-communist hold on the American asylum programme was loosened, and the early 1990s ushered in a flurry of reforms designed to expand the programme and make the decision-making process more rich and transparent. However, these changes coincided with an asylum boom that placed heavy administrative costs on receiving States just as the power of granting asylum to people in exile lost its strategic geopolitical appeal. The regime that eventually developed became closely aligned with the domestic politics of border control, as opposed to either foreign policy concerns or the guidelines of international law. Thus, both institutional and ideological strains led to the sudden demise of the dominant policy-making regime, and made room temporarily for another, only to be quickly trumped by a third – the regime of deterrence.

Why do decision-makers in similar liberal democracies interpret the same legal definition in very different ways? International law provides states with a common definition of a ‘refugee’ as well as guidelines outlining how asylum claims should be decided. Yet, the processes by which countries determine who should be granted refugee status look strikingly different, even across nations with many political, cultural, geographical, and institutional commonalities. This book compares the refugee status determination (RSD) regimes of three popular asylum seeker destinations - the United States, Canada, and Australia. Despite similarly high levels of political resistance to accepting asylum seekers across these three states, once asylum seekers cross their borders, they access three very different systems. These differences are significant both in terms of asylum seekers' experience of the process and in terms of their likelihood of being found to be a refugee.


President Obama’s second term provides another opportunity to address U.S. Asylum policies, and make the United States a leader in protection domestically and abroad. Human Rights First proposes several recommendations in this “blueprint” for the Administration: restore access to asylum and protection; promote fair, timely, and effective adjudication for asylum cases; eliminate unnecessary and inappropriate immigration detention; protect refugees from inappropriate exclusion; improve U.S. refugee admissions program to strengthen protection for vulnerable refugees; strengthen expedited resettlement and expedited protection; and strengthen protection and interagency coordination.


The 56-page report documents the hardships faced by asylum seekers, many of whom suffered egregious abuses in their home countries, as a consequence of being denied work authorization. The Immigration and Nationality Act (INA) should be amended to remove the bar to employment for asylum seekers with non-frivolous claims, the groups said. Specifically, the report concludes that presently there are sufficient deterrents built into the US asylum system to prevent the abuse of employment authorization by asylum seekers without the need for an outright ban on employment. In light of the vulnerability and needs of asylum seekers, the report proposes amending the Immigration and Nationality Act (INA) to remove the bar to employment for asylum seekers and non-frivolous claims for asylum.

The U.S. refugee protection system, while generous in many respects, has become less robust over the last two decades. The unique and often diverse needs of emerging refugee populations have exposed severe limitations in the standard resettlement approach. This report examines U.S. legal and policy responses to those seeking protection and addresses the barriers, gaps, and opportunities that exist.


Factual findings drive asylum adjudication. If immigration judges get them wrong, they risk sending refugees back to persecution. Recent studies have exposed an immigration agency that is prone to inaccurate and ill-considered fact-finding due to its structural problems. Without the political will or the financial capital necessary to fix what many acknowledge as a compromised system of adjudication, the agency may continue to render decisions that cast doubt on its capability and expertise. With an agency either unable or unwilling to ensure an accurate and fair fact-finding process, the first meaningful review of an asylum applicant’s claim happens at the federal courts of appeals, where judges continue to affirm the agency’s decisions under a most deferential understanding of the substantial evidence standard of review. This Article exposes that anomaly and articulates an understanding of the substantial evidence standard that allows reviewing judges more latitude to consider the capabilities and credibility of the agency when they assess agency findings of fact. It argues that, in light of the agency’s severe under-resourcing problems, judges should review the agency’s factual findings less deferentially and exercise their discretion to remand decisions back to the agency if they lack confidence in the accuracy and fairness of the fact-finding process. The price to pay for not doing so is the risk of sending an individual to persecution.


This paper proposes a framework for gender asylum adjudication derived from the case studies. First, adjudicators should recognize that gender persecution merits asylum regardless of its prevalence in the asylum-receiving state or its purported cultural justifications. Second, they should assess whether the applicant’s home state effectively protects against gender persecution, including enforcement of relevant laws. Third, they should consistently recognize “women” as the relevant particular social group, permitting holistic consideration of all relevant gender persecution. Fourth, the individualized internal flight alternative analysis should distinguish refugees who can relocate internally from those who require surrogate international protection because they cannot. Fifth, the United Kingdom should cease — and the United States should not start — requiring gender asylum claimants to prove two failures of state protection: (1) in
their individual case, to establish persecution, and (2) with respect to women generally in their home state, to establish that a particular social group exists.


Forced Migration: Law and Policy includes materials on asylum, refugees, the Convention Against Torture, temporary protection schemes, and a variety of related topics. The principal focus is U.S. law and policy, but the authors have leavened the mix with comparative materials from a variety of countries. This new casebook is based on the chapter on refugees and asylum in the Immigration and Citizenship casebook that three of the authors have co-authored for some time. They have welcomed Maryellen Fullerton to their ranks for this project (and for the next edition of the Immigration and Citizenship casebook as well), and the four authors have drawn on that chapter for the Forced Migration volume. But as the title suggests, this new casebook not only significantly reorganizes and expands that material, but also reflects the authors effort to rethink the evolving conceptual architecture of this field. The book is designed for use in a three-hour law school course, but with judicious paring can be readily used for a two-hour course or as the foundation of a seminar.


The United States provides refuge to persons who have been persecuted or have a well-founded fear of persecution through two programs: a refugee program for persons outside the U.S. and their immediate relatives and an asylum program for persons in the U.S. and their immediate relatives. This Office of Immigration Statistics Annual Flow Report provides information on the number of persons admitted to the United States as refugees or granted asylum in the United States in 2012.


In promulgating the 1990 Policy on Refugee Women and the 1991 Guidelines on the Protection of Refugee Women, the United Nations High Commissioner for Refugees took a universalistic position that gender-based persecution is an abuse of fundamental human rights. The United Nations High Commissioner for Refugees argued that when Governments are unwilling or unable to protect women from such persecution, the international community should provide asylum. This article argues that the position taken by the United Nations High Commissioner for Refugees in the early 1990s was fully consistent with the ways in which the refugee regime had evolved during the 20th century. Moreover, it has paved the way for similar approaches to be taken to new forms of displacement that necessitate protection responses. In this respect, it argues that the absence of meaningful protection by the State should be a core criterion in determining ways in which the refugee regime (meaning both laws and institutions responsible for refugees) can address the likelihood of new forms of displacement.

This Note examines how European Union (EU) expansion affects the ability of persecuted Europeans to seek and receive asylum. Part II of this Note presents the relevant history of international, EU, and United States asylum law. Part III of this Note discusses EU expansion and the consequent changes to the makeup of the Union. In Part IV, this Note analyzes how the existence of the EU affects persecuted Europeans seeking asylum in the European Union and the United States. Finally, Part V of this Note concludes that as the EU continues to grow, the EU and the United States must work to ensure that the human rights of EU citizens fleeing persecution are adequately protected.


The article criticizes the foreign policies observed by the U.S., particularly its anti-terrorism and asylum and refugee protection laws. Under U.S. law, the term "refugee" is defined as a person who is outside of his or her country of nationality and is unwilling or unable to return to his or her home country because of persecution or a well-founded fear of persecution. According to the author, the U.S. is betraying its commitment to provide asylum to refugees with its policy of defining victims of terrorism as terrorists.


The chance of winning asylum should have little if anything to do with the personality of the official to whom a case is randomly assigned, but in a ground-breaking and shocking study, Jaya Ramji-Nogales, Andrew I. Schoenholtz, and Philip G. Schrag learned that life-or-death asylum decisions are too frequently influenced by random factors relating to the decision makers. In many cases, the most important moment in an asylum case is the instant in which a clerk randomly assigns the application to an adjudicator. The system, in its current state, is like a game of chance. Refugee Roulette is the first analysis of decisions at all four levels of the asylum adjudication process: the Department of Homeland Security, the immigration courts, the Board of Immigration Appeals, and the United States Courts of Appeals. The data reveal tremendous disparities in asylum approval rates, even when different adjudicators in the same office each considered large numbers of applications from nationals of the same country. After providing a thorough empirical analysis, the authors make recommendations for future reform. Original essays by eight scholars and policy makers then discuss the authors’ research and recommendations.


What explains variation in U.S. asylum approval rates across countries of origin? Previous research has found that humanitarian factors and diplomatic relations play an important role in
shaping asylum decisions. This article examines the impact of domestic politics. The authors find that media and congressional attention play an important role in influencing how the executive branch makes enforcement decisions. Popular attention to asylum increases the importance of humanitarian concerns relative to instrumental factors. The effect of congressional attention depends on whether asylum is seen as an enforcement or humanitarian issue. The importance of these factors has also changed over time.


Since 1980, the Refugee Act has offered asylum to people who flee to the United States to escape persecution in their homeland. In 1996, however, Congress amended the law to bar asylum—regardless of the merit of the underlying claim—for any applicant who fails to apply within one year of entering the United States, unless the applicant qualifies for one of two exceptions to the rule. In the years since the bar was established, anecdotal reports have suggested that genuine refugees, with strong merits claims to asylum, have been rejected solely because of the deadline. Many scholars and practitioners suspected that this procedural bar had a dramatic effect on the U.S. asylum system. Until now, however, there has been no systematic, empirical study of the effects of the deadline on asylum seekers and the asylum system.

The Department of Homeland Security (DHS), which is the first level adjudicator of affirmative applications for asylum, supplied the authors exclusively with a database of asylum claims that has never before been analyzed. This database includes demographic and other characteristics of all principal applicants for asylum before DHS since September 1998—more than 300,000 cases—and the decision reached in each case. In this article, the authors report, for the very first time, what that database shows about DHS’s application of the one year deadline. The authors conclude that because the costs of the one-year deadline exceed its benefits, it should be repealed, as proposed by several bills that have been introduced in Congress.


In Lives in the Balance, the authors analyze a database of 383,000 cases provided to them by the government in order to better understand the effect on grant rates of a host of factors unrelated to the merits of asylum claims, including the one-year filing deadline, whether applicants entered the United States with a visa, whether applicants had dependents, whether they were represented, how many asylum cases their adjudicator had previously decided, and whether or not their adjudicator was a lawyer. The authors also examine the degree to which decisions were consistent among the eight regional asylum offices and within each of those offices. The authors’ recommendations—, including repeal of the one-year deadline—, would improve the adjudication process by reducing the impact of non-merits factors on asylum decisions. If adopted by the government, these proposals would improve the accuracy of outcomes for those whose lives hang in the balance.

This note critiques the filing deadline for asylum applications in the United States by comparing it to relevant international standards and the practices of other countries. It first looks to international treaties governing asylum procedures and the obligations of the U.S. under international law. It then compares the asylum procedures of three countries that admit similarly large numbers of refugees - Canada, Australia, and the United Kingdom - and discusses the filing deadlines, if any, that they impose on asylum applications in their respective countries. Finally, this note examines the U.S.’s filing deadline for asylum applications (the one-year bar) and the difficulties this deadline presents for asylum seekers in the U.S. The note concludes that the one-year bar violates the U.S.’s treaty obligations and is out of step with common practices of other countries. It also concludes that the one-year bar is both unfair and unreasonable and prevents otherwise eligible refugees from obtaining asylum in the U.S., particularly impoverished asylum seekers. With the possibility of comprehensive immigration reform approaching, this note offers several recommendations for the U.S. government, either to eliminate the one-year bar entirely or adopt other measures to lessen its negative effects on bona fide asylum seekers.


This article reviews and analyses the leading superior court decisions dealing with the exclusion of terrorists under Article 1F of the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol in five common law jurisdictions: Canada, the United States, the United Kingdom, Australia, and New Zealand. It focuses on the key legal concepts of complicity and culpability that are the basis for determining whether a refugee applicant ought to be excluded from Convention refugee status when it is alleged that they are involved in terrorist activities. The article argues that the superior courts in these five common law jurisdictions have followed each other’s judgments in this area closely and have influenced each other’s precedential decisions. The superior courts in these States have also been influenced by the judgments of international courts and especially the Rome Statute of the International Criminal Court. Indeed, the most recent decisions of the Supreme Courts of the United Kingdom and New Zealand draw on the Rome Statute and the concept of “joint criminal enterprise liability” as a basis for determining whether an asylum applicant should be excluded for their alleged involvement in terrorist activities. The article concludes with a call for an internationally accepted definition of what constitutes terrorism. It is argued that if the international community and States could come to an agreement on a common definition of terrorism this would facilitate the purposive and principled application and interpretation of the exclusion clauses under the 1951 Geneva Convention and its 1967 Protocol and the developing jurisprudence in the area of exclusion on the basis of a refugee applicant’s alleged involvement and participation in terrorist activities.

Despite national data trends that appeared to be consistent, approval rates for asylum seekers differ strikingly across regions and jurisdictions. For example, a study of 290 asylum officers who decided at least 100 cases from the PRC from FY1999 through FY2005 found that the approval rate of PRC claimants spanned from zero to over 90% during this period. In a separate study, the U.S. Government Accountability Office (GAO) analyzed asylum decisions from 19 immigration courts that handled almost 90% of the cases from October 1994 through April 2007 and found that “significant variation existed.” At the crux of the issue is the extent to which an asylum policy forged during the Cold War is adapting to the competing priorities and turbulence of the 21st century. Some assert that asylum has become an alternative pathway for immigration rather than humanitarian protection. Others argue that—given the religious, ethnic, and political violence in various countries around the world—it has become more difficult to differentiate the persecuted from the persecutors. Some express concern that U.S. sympathies for the asylum seekers caught up in the democratic political uprisings in the Middle East, northern Africa, and south Asia could inadvertently facilitate the entry of terrorists. Others maintain that current law does not offer adequate protections for people fleeing human rights violations or gender-based abuses that occur around the world. Some cite the disparities in asylum approvals rates and urge broad-based administrative reforms. The Refugee Protection Act of 2011 (S. 1202/H.R. 2185) would make significant revisions to asylum policy.


The article addresses the relationship between gender and government policy concerning political asylum in the U.S. Patriarchal privilege, the lived experience of female refugees, and the differences between the experiences of female and male refugees are examined. Reports from Nongovernmental Organizations (NGOs) and human rights workers are explored. Human rights violations unique to women refugees, grounds for asylum, and problems connected with the examination of private abuses are discussed. A history of political asylum in the U.S. since World War II, the effect of refugee policies on women and children, and the nature of the immigration bureaucracy in the U.S. are also examined.
U.S. REFUGEE RESETTLEMENT


Recognizing the historic relationship between immigration and social work, the present study introduces the basics of U.S. refugee policy history, and provides information about current changes to the U.S. resettlement system, especially with regard to refugee populations and policies since the events of September 11, 2001 (9/11). These changes include new national security policies, shifts in where refugee populations originate and where they are settled, and the challenges related to chronic underfunding and economic recession. This study illustrates these changes with the experience of Catholic Charities in Fort Wayne, Indiana and the intersection between social work practice and the larger complex of human service systems. The conclusion provides recommendations for how social workers can act across practice levels to help shore up local services and supports, while simultaneously coordinating with other concerned groups to transform the resettlement system to better meet the needs of all it was designed to serve.


Of some 2.5 million Iraqi citizens internationally displaced in the wake of Operation Iraqi Freedom, less than 100,000 have achieved permanent international resettlement. This paper compares US and EU policies regulating the selection and admission of Iraqi refugees since 2003, focusing on the divergent political priorities and structural considerations underpinning variations in resettlement levels during this time. I argue that US resettlement of Iraqi refugees is primarily an element of foreign policy, defined by strategic objectives in Iraq and the surrounding region, whereas admissions to the EU reflect ongoing intra-European debates surrounding the construction and modification of the Common European Asylum System (CEAS). Whereas resettlement to the US increased drastically following a "strategic" reframing of the Iraqi refugee crisis in 2007, failures in the implementation of CEAS's "standardization" agenda, compounded by enhanced European restrictions on refugee movement, have limited Iraqi admissions to Europe during this time.


Since passage of the Refugee Act of 1980, the United States has resettled more than two million refugees, providing them with the opportunity to start a new life. Nevertheless, almost as soon as it was established, federal backing for the domestic resettlement program began to erode, placing the program under increasing stress. Financial and programmatic support was quickly reduced because of budgetary pressures and a changing political climate in Washington, DC. Administrative control of the program was assigned to federal agencies that are responsible for
different facets of the process. However, coordination and information sharing between these agencies and with resettlement agencies has been less than optimal. The lack of adequate support for the resettlement program has placed substantial strain on refugee receiving communities and on resettlement agencies. Receiving communities have experienced particular strain as a result of secondary migration and a lack of resources to assist in refugee integration. In light of these issues, this paper highlights specific improvements that could be made to the domestic resettlement program that would ensure that the United States will remain in a strong position to welcome refugees for years to come.


Each year the U.S. Refugee Admissions Program (USRAP) offers tens of thousands of refugees who have fled precarious and often life-threatening situations the opportunity to establish a fresh start in the United States. Despite the essential role that USRAP plays in global refugee resettlement, its effectiveness is undermined by the fact that it has not been comprehensively restructured since it was created in 1980. Increasing demographic diversity among the arriving refugee population and a shifting focus toward resettling the most vulnerable has tested the limits of the U.S. resettlement system and has revealed serious problem areas. The need for change to the system is urgent to ensure that refugees resettled to the United States receive the support necessary to begin to sustain themselves in their new home country. At the request of the International Rescue Committee (IRC), a team of graduate students from Columbia University’s School of International and Public Affairs (SIPA) has produced this report, which is based on extensive research and interviews with key figures in refugee resettlement organizations. The aim of the report is to contribute to the current dialogue among refugee agencies and the National Security Council (NSC) surrounding reform of the resettlement system. To that end, this report identifies strengths and challenges of USRAP and proposes recommendations for change to ensure that the program better serves both current and future resettled refugees.


The United States is home to the largest resettled refugee population in the world, and continues to accept more resettled refugees for admission annually than all other resettlement countries combined. Refugees in the US are resettled through a public–private partnership model that leverages the support of private local community networks, particularly faith-based groups, with public support received from US government agencies. Faith-based organizations and faith communities in the US have a strong legacy of providing support for refugee assistance and protection and advocating for refugees’ access to resettlement as a durable solution. They continue to be instrumental in resettling 70 per cent of all refugees arriving in the US today, from varied geographic, ethnic and faith backgrounds. This article uses the case of Church World Service (CWS) to discuss the historic significance of faith communities and faith-based organizations (FBOs) in refugee resettlement in the United States, their unique contributions to refugees’ local integration, and how they continue to respond to meet the needs of refugees in a changing social and economic context. While reference is made to the contributions of a variety of faith communities, the perspectives and experience of Church World Service staff, affiliates, partners, denominations and refugees resettled through CWS networks are highlighted.

Over the last 60 years, the United States has accepted some two million refugees for resettlement. Standard opinion polls suggest that the American response to these refugees has been mixed. Yet, despite much ambivalence about particular refugees and where they may belong in the grid of American social and cultural categories, the notion of refuge and the imperative toward support and welcome to refugees endure. As an extended example, this paper considers press treatment of refugees in Richmond, Virginia during the last quarter of the twentieth century—before security concerns and surging numbers of illegal immigrants irrevocably changed the nature of American immigration. Unlike the ambivalent response that emerges in national opinion polls and some other venues, in this case the construction of refugees is neither negative nor ambivalent, but is instead solidly positive. This positive construction extends across a broad range of racial and national-origin groups and is conditioned by a peculiarly American notion of how refugees relate to broader American categories, particularly that of ‘immigrant’. In this local story from the United States lies a broader tale of how refugees are woven into the existing social and cultural categories of the countries in which they resettle.


The role of organizations in migration has received less attention than warranted; individual choice has typically been emphasized. As an in-depth illustration, we consider refugee resettlement in the United States, post–World War II, wherein intermediary organizations play(ed) a major role. Central to this system are voluntary agencies (VOLAGs) and community organizations, but secondary migration also is critical. Attention is given to all refugees between 2000 and 2010, and in greater detail to Somalis. The latter provides deeper understanding through state refugee coordinators and case studies of Columbus, Ohio, Minneapolis, Minnesota, and Lewiston, Maine. Aside from process, it is evident that the geography of the foreign-born settlement has been altered. While refugee resettlement and subsequent migration is the example, we broaden that to argue that migration studies have neglected the derived nature of movement via intermediary organizations; directed migrations and/or similar interventions have played a significant, if not dominant, role in population redistribution; and organization-led migration should be considered in terms of general aspects, not simply as discrete case studies.


Voluntary agencies (VOLAGs) have long played a major role in US immigration, acting as intermediaries between government and individuals. This research demonstrates how VOLAGs impact the migration patterns of African refugees directly and indirectly, changing the urban geography of the foreign-born. They play a key role throughout the resettlement process through the determination of resettlement locations; and through the facilitation of monetary, case management, health, education, and career placement services. Together with local social
networks, and employment or educational organizations, they can enhance the likelihood that 
refugee in-migrations succeed. They may also indirectly play a role by compensating for a lack 
of social networks or economic assistance. Conversely, ineffective VOLAG support can 
substantially delay the ability of new refugees to effectively integrate into local communities.
Communities that don't have strong systems of VOLAGs may see refugees migrating away from 
their communities to locales where they can receive this assistance from either VOLAGs; or 
from family, friends, or an ethnic community. In this research two mid-sized communities – 
Columbus, Ohio and Providence, Rhode Island – clarify these issues, highlighting strengths and 
limitations of these forms of resettlement assistance.

practices. Forced Migration Review, (42), 44–47.

Despite this, the number of self-identified lesbian, gay, bisexual and transgender (LGBT) 
refugees entering the US remains much smaller than predicted given that the prevalence of same-
sex orientation is estimated to be about 3.8% in the population as a whole.1 In 2011, 81,372 
refugees and asylum seekers entered the US, of whom as many as 3,000 may eventually identify 
as LGBT.2 Very few LGBT refugees disclose their sexual orientation or gender identity to 
refugee resettlement agencies, other than the limited number granted refugee status specifically 
on this basis. The number of LGBT refugees who disclose their status and who are resettled 
anually on that basis is probably less than 300, and the number of persons granted asylum based 
on sexual orientation or gender identity is probably less than 500.3 Refugees and asylum seekers 
who obtain refugee status as a direct result of persecution based on sexual orientation or gender 
identity often resettle alone and do not arrive with families or friends, and may remain 
segregated from those who share the same country of origin.

Government’s Detention of Asylum Seekers: Further action needed to fully implement 
detention%20reforms%20report%20April%202013.pdf 

USCIRF finds that while ICE has made progress toward implementing the reforms it announced 
in 2009, the U.S. government continues to detain asylum seekers under inappropriate conditions 
in jails and jail-like facilities. The number of years between the announcement of new policies 
and comprehensive implementation has hindered its efforts. There is a need to codify into 
regulations the announced parole process and criteria, under which most asylum seekers found to 
have credible fear of persecution are paroled rather than detained. More needs to be done to 
ensure that, when their detention is necessary, asylum seekers are housed only in civil facilities. 
In addition, USCIRF finds that further improvements are needed to expand detainees’ access to 
legal information, representation, and in-person hearings.

consultation with community stakeholders could strengthen program: report to congressional 
In fiscal year 2011, the United States admitted more than 56,000 refugees under its refugee resettlement program. Upon entry, a network of private, nonprofit voluntary agencies (voluntary agencies) selects the communities where refugees will live. The Department of State’s PRM and the Department of Health and Human Services’ ORR provide funding to help refugees settle in their communities and obtain employment and monitor implementation of the program. Congress has begun to reexamine the refugee resettlement program, and GAO was asked to examine (1) the factors resettlement agencies consider when determining where refugees are initially placed; (2) the effects refugees have on their communities; (3) how federal agencies ensure program effectiveness and integrity; and (4) what is known about the integration of refugees. GAO reviewed agency guidance, monitoring protocols, reports, and studies; conducted a literature review; reviewed and analyzed relevant federal and state laws and regulations; and met with federal and state officials, voluntary agency staff, and local stakeholders in eight selected communities.

GAO makes several recommendations to the Secretaries of State and Health and Human Services to improve refugee assistance programs in the United States. HHS and State generally concurred with the recommendations and each identified efforts they have underway or plan to undertake to address them.

ALTERNATIVE PROTECTION MODULE


The global governance of humanitarianism has historically been state-centric but although a state-led and state-coordinated response is crucial and saves lives, by itself, it has limitations. In response to the challenges faced by the sector, this paper puts forward an alternative vision based on the role of ‘humanitarian innovation’. The paper explores the potential of humanitarian innovation to transform core elements of the global governance of humanitarianism in general and refugee protection in particular. It is structured in three broad sections. The first section provides a background to the work of UNHCR and the way in which the organisation is gradually incorporating a role for the private sector and innovation into its work. The second section explains what innovation is and how and why it is relevant to refugee protection. In the third section, the paper sets out a vision for humanitarian innovation within the refugee context based on integrating a ‘looking inwards’ approach that builds upon refugees own ideas and agency and a ‘looking outwards’ approach that seeks to identify outside partners and solution-holders whose products, processes and mentorship might nurture and incubate innovation emerging at the local and national levels.


There have been three developmental stages in Australia’s refugee visa policy: permanent protection; temporary safe haven; and temporary protection. While the first and last of these three stages have been well documented by historians and other scholars, the second has not. This paper explores the implementation of the Safe Haven Visa policy, shedding light on the ‘turn’ from Permanent Protection Visas (which guaranteed the human rights of refugees) to Temporary Protection Visas (which did not). This ‘turn’ was highly publicised. It was presented to the Australian public as a compassionate response by the Howard Government to the plight of refugees from Kosovo in 1999. As James Jupp commented, the Kosovo refugee crisis not only mobilised the Australian community behind charitable undertakings, it ‘also marked an important shift in refugee policy towards temporary protection rather than permanent settlement’.


Temporary protection is generally associated with protection of limited duration and standards of treatment lower than those envisaged in the 1951 Convention relating to the Status of Refugees (‘1951 Refugee Convention’ or ‘Convention’). In some mass influx situations, Convention rights have been suspended pending the resolution of the cause of such movement. The United Nations High Commissioner for Refugees has both acknowledged and called for temporary protection in such situations,
including in respect of states parties to the 1951 Refugee Convention and thus for persons who would customarily benefit from Convention protection. The Executive Committee of the High Commissioner's Programme recommends it as the minimum protection every asylum seeker should receive. A longstanding question provoked by the granting of temporary protection instead of Convention rights in such situations, which this article seeks to answer, is whether states parties to the 1951 Refugee Convention can justify - as a matter of law rather than pragmatism - suspending Convention rights to asylum seekers and/or refugees in mass influxes? In answering this question, this article examines in particular the technique of derogation. Even though the 1951 Refugee Convention does not include a general derogation clause equivalent to those in international human rights treaties, it is argued that two provisions of the Convention - arts 8 and 9 - nonetheless provide for derogation. In the alternative, it is posited that via subsequent agreement of states parties, implied derogation allowing for temporary protection in mass influx situations is now an accepted feature of the Convention regime. Even in recognising the legal power to derogate from Convention rights in mass influx situations, this article sets out the limits on derogation under international law and argues that these limits equally apply to derogation under the 1951 Refugee Convention.


In the construction of immigration status categories in law and social practice, the power of the nation-state to define migrants’ status is pervasive but far from absolute. In this article, I examine the conditioned legality known as Temporary Protected Status (TPS) in US immigration law through a discussion of legal structures, historical frames, local discourses, and Salvadoran migrants’ lived experiences with liminal legality in rural Arkansas in the first decade of the twenty-first century. I argue that migration policy, though fraught with ambiguity and contradiction functions both to reproduce and to mask the benefits to the nation-state from the ambiguous inclusion and simultaneous exclusion of migrant workers. In spite of the efficacious ways immigration policies discipline and constrain, within these limits migrants, legal practitioners, and others respond as critical agents to the policy structures shaping their lives.


Temporary protection programs can provide haven to endangered persons while states and non-governmental organizations work to create durable solutions in sending, host and third countries. This paper outlines international standards for the design and operation of temporary protection programs, and identifies gaps in protection for de facto refugees and other at-risk populations that seek protection in the United States. Among other policy proposals, it recommends that Congress create a non-immigrant “protection” visa for non-citizens who are at substantial risk of persecution, danger, or harm in their home or host countries.


From a massive typhoon in the Philippines last November to the ongoing civil war in Syria, recent global events demonstrate that natural disasters and political strife occur suddenly and often without warning. This article examines the U.S. Temporary Protected Status (TPS) program that grants humanitarian relief to nationals of certain countries embroiled in violent conflict or recovering from natural disaster.

This report considers the response of European countries to the refugee crisis in the Syrian region. We provide an overview of the European reaction generally, brief summaries of the responses of selected countries (Germany, Sweden, Norway, Bulgaria, Greece and Italy), and a more in-depth case study of the UK. Whilst we applaud both the humanitarian efforts to assist refugees and the resettlement that is ongoing, we believe that the primary aim of the European response – to contain the crisis in the countries neighbouring Syria and to reinforce Europe's borders – is unsustainable. We recommend that European countries implement a Comprehensive Plan of Action for refugees in the countries neighbouring Syria, comprising three main components: activation of a regional temporary protection regime, expanded resettlement, and the development of other legal routes of entry into European countries.


Approximately 300,000 child soldiers currently serve in more than 30 conflicts around the world. The international legal community widely considers these children to be victims of severe human rights violations in spite of the atrocities that many of them commit. Although few of these children will ever make it to the United States, those who do manage to escape and arrive in the U.S. face a number of challenges in achieving immigration status. In general, advocates for child soldiers have focused on how the United States’ asylum laws could be changed to make it easier for former child soldiers to receive asylum status. In particular, the proposals have urged clarification of the definition of “particular social group” and incorporation of duress and infancy defenses into the exclusionary bars to asylum. These proposals, although they have merit, fail to acknowledge the floodgates and national security concerns that have likely stalled these needed changes to the asylum laws. This article offers a solution for child soldiers outside the context of asylum law: a Child Soldier Visa that applies only to former child soldiers and which attempts to reconcile the United States’ humanitarian and national security interests. While acknowledging the need to ultimately reform U.S. asylum laws so they conform to the Refugee Convention and state practice, this article discusses a solution that may be more realistic in the short-term than amending the asylum laws.


The Internal Flight Alternative Practices UNHCR Regional Representation for Central Europe (RRCE) commissioned research on the practice on IFA in Central European countries, covering the administrative and judicial instances conducting asylum practice in Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovakia and Slovenia. Some 609 decisions issued in 2010 and 2011 covering 42 countries of origin were analysed under a uniform methodology and along common guiding principles to produce a set of seven national reports accompanied with practical
guidance materials. The Report centers on providing comprehensive information on the national IFA legal framework, policy and doctrine. The quality of the practical application of IFA is analysed in detail and assessed in light of international standards. A separate section deals with the judicial practice of IFA.


As crime and violence have increased dramatically in Mexico and Central America in recent years, UNHCR has tracked a notable increase in the number of asylum-seekers—both children and adults—particularly from El Salvador, Honduras and Guatemala lodging claims in the region. The number of children from these countries, making the treacherous journey alone and unaccompanied, has doubled each year since 2011, and the U.S. government estimated—and is on track to reach—60,000 children arriving to U.S. soil seeking safe haven in this fiscal year. UNHCR’s latest report, Children on the Run, unveils the humanitarian impact of the situation by analyzing the reasons that 404 unaccompanied children gave to a team of researchers for why they left their homes and makes recommendations for a way forward.


When civil unrest, violence, or natural disasters erupt in spots around the world, concerns arise over the safety of foreign nationals from these troubled places who are in the United States. Provisions exist in the Immigration and Nationality Act (INA) to offer temporary protected status (TPS) or relief from removal under specified circumstances. A foreign national who is granted TPS receives a registration document and an employment authorization for the duration of TPS. The United States currently provides TPS or deferred enforced departure (DED) to over 300,000 foreign nationals from a total of seven countries: El Salvador, Haiti, Honduras, Liberia, Nicaragua, Somalia, and Sudan. Liberians have had relief from removal for the longest period, first receiving TPS in March 1991 following the outbreak of civil war. The devastation caused by the January 12, 2010, earthquake in Haiti prompted calls for the Administration of President Barrack Obama to grant TPS to Haitians in the United States at the time of the earthquake. The scale of current humanitarian crisis—estimated thousands of Haitians dead and reported total collapse of the infrastructure in the capital city of Port au Prince—led the Department of Homeland Security (DHS) to announce on January 13, 2010, that it is temporarily halting the deportation of Haitians. On January 15, 2010, DHS Secretary Janet Napolitano granted TPS to Haitians in the United States at the time of the earthquake. On May 17, 2011, TPS for Haitians was extended until January 22, 2013.
General Resources:

**International Rescue Committee (IRC)**
http://www.rescue.org/resettling-refugees-us

**Office of Refugee Resettlement (ORR)**
http://www.acf.hhs.gov/programs/orr
http://www.acf.hhs.gov/programs/orr/programs/ucs/about

**UNHCR Washington: Resettlement**
http://www.unhcrwashington.org/protecting-refugees/resettlement

**U.S. Citizenship and Immigration Services: Refugees and Asylum**
http://www.uscis.gov/humanitarian/refugees-asylum

**U.S. Committee for Refugees and Immigrants (USCRI)**
http://www.refugees.org/resources/

**U.S. Conference of Catholic Bishops (USCCB): Migration and Refugee Services**
http://www.usccb.org/about/migration-and-refugee-services/

**U.S. Department of State Bureau of Population, Refugees, and Migration**
http://www.state.gov/j/prm/