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978-0-521-86888-4 - The Refugee in International Society: Between Sovereigns

Emma Haddad

Excerpt

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1 The refugee 'problem'

Unaccepted where they are, unable to return whence they came.
Leon Gordenker¹

The 'problem' of refugees in a world of states is important in the real world, consequential for our understanding of a current issue that significantly affects lives. Refugees are individuals fleeing their homes due to conditions that exceed those considered 'normal', and policies formulated in their regard and attitudes towards them will in some cases mean the difference between life and death. The evolving international legal regime that surrounds the refugee highlights the continued importance of the issue to the international community. And the study of refugee issues is essential to our understanding of the significant impact the 'problem' now has on aspects of international and national politics, policy-making processes, human rights and development.

This book examines the concept of the refugee and demonstrates how she is an inevitable if unintended consequence of the international states system. It begins from the hypothesis that there is a fundamental and mutually constitutive link between the refugee concept and international society and then seeks to unravel their relationship. Analysing the articulation mechanisms employed in regard to the refugee over three periods, the book looks at how such mechanisms impinge on national and international politics, the idea of refugee protection and the discourse itself that surrounds the refugee and 'refugee studies', and argues that this conceptual and historical elaboration has important implications for our understanding of responses to the refugee.

¹ Leon Gordenker, *Refugees in International Politics* (Beckenham: Croom Helm, 1987), p. 213.

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Much of the growing field of refugee studies tends to see the existence of the refugee as a sign of the international system going wrong. She is portrayed as a given, known concept who is created by illiberal governance in contrast to the 'normal', rooted citizen. The international context in which the refugee emerges as a 'problem' is not questioned. This book maintains, instead, that the existence of modern political borders will ensure the constant (re-)creation of refugees. Accordingly, it regards the refugee as a contemporary concept that was made a permanent feature of the international landscape with the consolidation of the modern system of nation-states.² It therefore disputes the much-favoured assumption that there has only been a refugee 'problem' in the post-war years and, similarly, that an international protection regime was instituted only with the formulation of the Geneva Convention Relating to the Status of Refugees in 1951.³

The refugee domain is a highly politicised and internationalised area. Mass movements of refugees are the result of various political and social changes that affect the entire international states system and not just developments within individual countries. Since it emerged as a modern 'problem' it became clear that the refugee issue was beyond the capacity of any one government to deal with effectively. As such the discipline sits between domestic and international politics and brings to the fore the interdependence between the two. How one country deals with the problem will have consequences for others and influence future relations between states. The term 'refugee' itself acknowledges the fact that, due to some kind of adverse conditions, home is no longer a safe place. This in turn implicates the home government, which should be responsible

² At times this book refers to a 'states system', at other times a 'nation-state system'. Indeed, it is generally understood that the prevailing rule of legitimacy of European international society has been national self-determination. However, it is evident that there are some states, such as the United Kingdom, Belgium and Spain, that do not necessarily see their existence as being based on national self-determination. Further, the complexity of the composition of some of the successor states of Yugoslavia and the Soviet Union, for example, defy the simple label 'nation-state'. In other words, it is acknowledged that there are other possible origins of legitimacy and that the 'nation-state' idea is not always applicable as a descriptive tool. In this regard, this book tends to use 'nation-state system' when it aims to make a specific point about identity in relation to the 'national citizen', and 'states system' more generally. This is broadly in line with the shift from and distinction made between the inter-war ideal of 'national self-determination', based largely on an ethnic concept of the nation, to the post-1945 principle of 'self-determination of peoples' that rests on a more civic understanding of the nation.

³ United Nations Convention Relating to the Status of Refugees, done at Geneva on 28 July 1951 (189 UNTS 137), hereinafter 'the 1951 Convention'.

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for protecting those who fall under its jurisdiction. Refugee status shows that the government is no longer able or willing to provide such a safeguard and the refugee must find an alternative source of protection. Hence in granting refugee status a host state automatically makes a statement about the country of origin, recognising a failure that could have serious political or economic repercussions between states. Morally speaking, the humanitarian demands of offering international protection to the refugee should override any other concerns, but reality shows that it is impossible to divorce the ethical and the political in the modern world of inter-state relations. The failure to respond adequately to refugee movements is largely influenced by the political and international nature of the problem.

Refugees represent a permanent feature of the international landscape. They are the human reminder of the failings of modern international society. Much has been written about the domestic concerns refugees raise, the potential burden on national economies that they pose and the threat to national identity and security that they can invoke, but the international aspect is frequently overlooked. It is important to understand how the refugee is located at the intersection between the international and the domestic, since in this respect the refugee acts to challenge not only questions of belonging and identity, but also disciplinary distinctions. Within an international system made up of dichotomies and grey areas between the internal and the external, the refugee brings to the fore the clash between pluralism and solidarism, communitarianism and cosmopolitanism, sovereign rights and human rights. According to Dowty and Loescher, refugees illustrate the thin boundary between the national and the international: 'A large-scale movement of people across national borders, under duress, internationalizes what might otherwise be purely domestic issues related to the causes of that movement.'⁴ Although evidence of something 'going wrong' internally, the refugee's situation is of great international concern. Conceptually the individual should belong to a state. Once she falls out of the state-citizen relationship, the individual becomes an international individual and ward of the international community:

There is no way of isolating oneself from the effects of gross violations abroad: they breed refugees, exiles, and dissidents who come knocking at our doors – and we must choose between bolting the doors, thus

⁴ Alan Dowty and Gil Loescher, 'Refugee Flows as Grounds for International Action', *International Security* 21, 1 (1996), 44.

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increasing misery and violence outside, and opening them, at some cost to our own well being.⁵

Not only is the international flavour of the refugee often obscured, so too is the environment in which refugee flows take place. Many studies examine the causal factors that instigate displacement, but this is done without taking into consideration the very set-up and workings of the states system in which such factors operate. Refugee flows are too often seen as isolated events, removed from the context which gives rise to them. This gives the impression that refugees are only created when things go wrong. However, what in fact is 'going wrong' when refugees appear is that the theory and practice of the international states system and the concept of sovereignty on which it relies are failing to coincide. It is a fundamental assumption of international society that states possess positive sovereignty and are therefore good for their citizens, yet these obligations are far from always met. When a gap is created between the positive sovereignty of the individual state and the negative sovereignty of international society in which this state is situated, the discrepancy causes a failure both domestically and internationally, and this leads to the creation of refugees. In other words, much of the literature fails to examine the relationship of the refugee with the very workings of international society. But without an international states system there would be no refugees; thus the one cannot be divorced from the other.

Further, many books tend to portray the refugee issue as a purely recent, post-Cold War phenomenon, different and distinguished from previous refugee movements. Certainly the issue is topical and timely, but it is not new. Those authors who do take an historical approach tend to start from the 1951 Convention 'moment', as if this marked the beginning of both contemporary refugee flows and any kind of formal international protection regime. The fact that the way an issue is understood cannot be divorced from history or the political environment is frequently overlooked. When one takes a critical look at the dynamics of different refugee episodes over the years, one is faced with an overwhelming sense of history repeating itself. There is no conceptual difference between the Russian refugees of the 1920s, the Jewish refugees of the 1930s, the Hungarian refugees of the 1950s, the Vietnamese refugees of the 1970s, the Rwandan refugees of the 1990s and the

⁵ Stanley Hoffmann, *Duties Beyond Borders: On the Limits and Possibilities of Ethical International Politics* (New York: Syracuse University Press, 1981), p. 111.

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Zimbabwean refugees of the dawn of the twenty-first century. Of course, contemporary refugee movements do have certain unique characteristics. As Miller rightly points out, 'international migration has significantly affected international relations from time immemorial, but its saliency has increased in the post-Cold War period'.⁶ In this vein Gordenker notes the unprecedented and unparalleled flows of refugees we now witness, both in aggregate and in number of occurrences, the fact that large-scale migration often takes the form of permanent immigration with fewer and fewer refugees able to return home, the growth of transnational networks and the elaborate international framework that has developed so as to deal with the issue, and the definitional insufficiencies that have come to be associated with the problem.⁷ Yet this is not a contemporary 'problem' that has emerged from nowhere. Past refugee flows were not completely unrelated.

Nor have the actors involved in any refugee movement changed: each episode still needs a home country, a displaced individual and a host country. Other actors may come and go, such as non-state actors in the role of persecutor or non-governmental organisations in the role of protector, but the three core actors remain constant. Different refugee movements have, however, met with differing responses from the international community, and while certain refugee movements have made the headlines and attracted assistance from the international community, others have not – for every refugee there is always a non-refugee who could be a refugee were the political circumstances and priorities different. Thus what has evolved and continues to evolve would seem to be the normative understanding of refugees, as shaped in part by shifting realpolitik, in part by the transforming and constructed nature of international politics which affects states' interests and identities. There have been three main phases in dealing with the issue of refugees in the twentieth century – the inter-war, the Cold War and the post-Cold War. Each reveals different ways of coping with the contradictions inherent in the nation-state system. But if new groups of people from different regions are now becoming refugees, normative understandings of who the refugee is and how to deal with her have not developed in a vacuum. Rather, we can distinguish a continuum from

⁶ Mark J. Miller, 'International Migration in Post-Cold War International Relations', in Bimal Ghosh (ed.), *Managing Migration: Time for a New International Regime?* (Oxford University Press, 2000), 27.

⁷ Gordenker, *Refugees in International Politics*, pp. 49–59.

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the early inter-war days. Comparing and contrasting state responses to the refugee in these periods allows for a better understanding of the refugee question.

Much research in the refugee studies field sets out, quite justifiably, to contribute to better policy. Indeed, where is the justification or purpose in pursuing academic work in refugee studies if the end result is not to offer something, sooner or later, for the benefit of those we are studying? Working towards 'solutions' to the refugee 'problem' would seem the obvious ultimate goal in a field that so directly impinges on people's lives. But research that proposes a fairer asylum determination procedure, a better aid distribution system or a fairer arrangement of responsibility-sharing is not the only valuable type of research. One cannot hope to improve protection mechanisms if the roots of the refugee 'problem' are not accurately grasped. As has been said, 'we cannot develop good policy without good theory and these are turbulent times for both'.⁸ To adequately grasp these roots we must at times take a step back from what is generally taken for granted and considered normal, and question what it is we are really trying to study, how we perceive the object of study, and how exactly it has become an object of study. This means making room for research that both complements and challenges mainstream approaches. Attempting to provide a better grasp of some of the complexities behind the refugee label, to point at how it has been twisted, turned and shaped over the years and how the refugee identity has evolved accordingly, could be a step in the right direction to determining whether general understandings of how to 'deal' with current refugee movements are really the best ways of approaching the issue. Reconsidering the interplay between the refugee and her surroundings and how the two define and redefine one another is therefore crucial not only for academic research but also, hopefully, for future policy considerations. In particular, if by suggesting a mutually constitutive relationship between international society and the refugee we can begin to understand the inevitability of refugee flows, then the ad hoc nature of each experience could perhaps be avoided. Instead we could increase our understanding more generally regarding where and why refugee movements occur and, accordingly, be better prepared to deal with them.

⁸ Jon Bennett, 'Internal Displacement in Context: The Emergence of a New Politics', in Wendy Davies (ed.), *Rights Have No Borders: Worldwide Internal Displacement* (Geneva and Oslo: Global IDP Survey/Norwegian Refugee Council, 1998), 15.

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Refugees are not the consequence of a breakdown in the system of separate states, rather they are an inevitable if unanticipated part of international society. As long as there are political borders constructing separate states and creating clear definitions of insiders and outsiders, there will be refugees. Such individuals do not fit into the state–citizen–territory hierarchy, but are forced, instead, into the gaps *between* states. Indeed, it is the somewhat imperfect mixture of sovereignty, borders and territory that makes the state system responsible for the creation of refugees, rather than other systems generated by the complex interactions of human communities under the condition of late modernity. States can be differentiated from other forms of belonging by their attachment to sovereignty, borders and territory. Refugees therefore pose a problem for the international community quite different from that of other foreigners. National minority groups may strive to achieve their own state in accordance with the principle of national self-determination, thus challenging the territorial sovereignty of the state in which they find themselves. But they continue to belong to a political body and, accordingly, leave the states system itself untouched. Refugees, on the other hand, highlight that deviations from the 'normal' model of international society are in fact a possibility. They are misfits whose identity fails to correspond to that of any established nation-state,⁹ having been pushed into the gaps in the system. The refugee's identity is forged precisely by her lack of belonging, her status as an 'outsider' and her position between, rather than within, sovereign states.

Other foreigners such as migrants and immigrants may of course present a challenge to the identity or ethnic make-up of a community. Yet their transnational movement has been one of choice and they remain rooted in the 'normal' state–citizen relationship. The refugee, in contrast, has had no choice in leaving her country of origin. She has been forced outside the domestic political community of her state of origin and arrives at the borders of a host state requesting entry. Thus there is an added moral obligation imposed on states by the existence of refugees – the humanitarian demand to admit outsiders into their territory and allow them to belong, at least in part, to their political community. Further, since the decision to leave her home has been taken for her, the refugee may wish to retain her original identity to a

⁹ Aristide R. Zolberg, 'The Formation of New States as a Refugee-generating Process', *Annals of the American Academy of Political and Social Science* 467 (1983), 31.

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greater degree than other 'outsiders'. She may have less of a desire to reinvent or reimagine a new identity or to adopt that of her host state; rather, she remembers her home with nostalgia and may try to act to ensure her ties with her native culture and identity survive. In this way the refugee lives between her country of origin and her host country, trapped by definition in a no man's land of hope and memory.

The refugee's marginal position also forces us to question ideas of identity and belonging in the international states system, and of the distinction between inside and outside. In her liminal position,¹⁰ the refugee is part of the system yet excluded from it, an integral element of international society but denied full access to it. In this way she is both an insider and an outsider, existing at the borders and between sovereigns. She is a challenge to conventional conceptions of membership in political communities. As Rajaram has noted:

Consideration of the way refugees are consigned to the margins, and the reasons for this, throws into stark relief notions of home, culture, identity, space and time that, in one way or another, are the raw material for outlining and reinforcing the theory and praxis of ethics and politics in international relations.¹¹

Whereas traditional books in the 'refugee studies' field have overlooked this potentially illuminating nature of the refugee figure, recent work has begun to approach the field with a more critical eye, and it is in this vein that this book begins. Refusing to understand the concept of the refugee as a pure, given, uncontested figure, it maintains instead that the refugee is considered as such – a moving, exceptional figure – due to the way in which we imagine political life and our way of belonging to it. Indeed, there is a growing literature in the field covering a wide range of disciplines.¹² But it is really only when we start to

¹⁰ Liisa H. Malkki, *Purity and Exile: Violence, Memory, and National Cosmology among Hutu Refugees in Tanzania* (University of Chicago Press, 1995), p. 1.

¹¹ Prem Kumar Rajaram, 'Exile and Desire: Refugees, Aesthetics and the Territorial Borders of International Relations', unpublished Ph.D thesis, London School of Economics (2002), p. 17.

¹² There are many different domains that fall into the 'refugee studies' category. For law, see for example Guy Goodwin-Gill, *The Refugee in International Law*, 2nd edn (Oxford: Clarendon Press, 1996); James C. Hathaway, *The Law of Refugee Status* (Toronto: Butterworths, 1991); Chaloka Beyani, *Human Rights Standards and the Free Movement of People Within States* (Oxford University Press, 2000); and Atle Grahl-Madsen, *The Status of Refugees in International Law*, volumes I and II (Leiden: Sijthoff, 1966 and 1972); for European asylum policy, see for example Sandra Lavenex, *The Europeanisation of Refugee Policies: Between Human Rights and Internal Security* (Aldershot: Ashgate, 2001);

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venture out of the traditional refugee literature that we can begin to understand the inter-disciplinary nature of the subject and the complexity of the issues involved. Until recently there has been a bias towards the policy-analytic tradition and empirical case studies which, although interesting and important, fail to provide a theoretical background to the domain. Three key authors have attempted to cross bridges between the disciplines that impinge upon 'refugee studies', as well as to force an expansion of the field away from the case study bias, and this book takes their work as its starting point. It sets out to fill the gap between the main assumptions of Gil Loescher, Liisa Malkki and Nevzat Soguk, all of whom ask fascinating questions and bring to light many important issues and ways of understanding the refugee issue, but stop short of the line of this thesis: that the refugee is an inevitable if unanticipated part of international society, and that the conceptual elaboration of this idea is important for our understanding of the refugee and responses to her.

Malkki's work is highly constructive in opening the way for refugee studies that move beyond the one-dimensional acceptance of the dehistoricised, depoliticised, standard refugee figure. She notes:

Nationalism and racism, xenophobia and immigration policies, state practices of violence and war, censorship and silencing, human rights and challenges to state sovereignty, 'development' discourse and humanitarian interventions, citizenship and cultural or religious identities, travel and diaspora, and memory and historicity are just some of the issues and practices that generate the inescapably relevant context of human displacement today.¹³

Malkki makes these kinds of 'background information' and 'root causes' her concern, showing the impossibility of discussing the

for anthropology, see especially the work of Liisa Malkki, in particular *Purity and Exile* and 'Refugees and Exile: From "Refugee Studies" to the National Order of Things', *Annual Review of Anthropology* 24 (1995), 495–523; for international security, see especially Gil Loescher, *Refugee Movements and International Security*, Adelphi Paper 268, International Institute for Strategic Studies (London: Brassey's, 1992); and Myron Weiner (ed.), *International Migration and Security* (Boulder, Colo.: Westview Press, 1993); and for historical overviews of the refugee in the twentieth century, see Michael R. Marrus, *The Unwanted: European Refugees in the Twentieth Century* (Oxford University Press, 1985); Gil Loescher, *Beyond Charity: International Cooperation and the Global Refugee Crisis* (Oxford University Press, 1993); Claudena Skran, *Refugees in Inter-war Europe: The Emergence of a Regime* (Oxford: Clarendon Press, 1995); and Aristide R. Zolberg, Astri Suhrke and Sergio Aguayo, *Escape from Violence: Conflict and the Refugee Crisis in the Developing World* (Oxford University Press, 1989).

¹³ Malkki, 'Refugees and Exile', 496.

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refugee in isolation without taking into consideration surrounding, influencing factors. She notes how the refugee is outside the state–nation–territory trinity, an exception and anomaly in relation to the national citizen. Soguk’s work follows a similar thinking. In analysing how the refugee has always been an expression of statist politics, he forces us to question the constructed nature of the discourse surrounding the refugee figure.¹⁴ Meanwhile, Loescher’s work, although more in line with that of the so-called ‘conventional’ refugee studies literature in providing somewhat factual, empirical accounts, opens up the third space for this study. Loescher has demonstrated the refugee’s place in international relations, her link to international security issues and the need to understand the refugee as an issue of international politics ‘beyond charity’.¹⁵ That which all three authors point towards but fail to enunciate and take to its logical conclusion, however, is the fact that the refugee is tied up in and with international society and that the two cannot be separated. The refugee is the outsider in Malkki’s ‘national order of things’,¹⁶ constructed by Soguk’s statist politics and needing Loescher’s international and political response to even begin to be understood. But the authors fall short of demonstrating the consequences of their claims – that the refugee is an inevitable if unanticipated side-effect of the international states system at work, since there is a mutually constitutive relationship between the refugee’s identity and the identity of international society.

With all this in mind, this book sets out to answer three interrelated questions – the why, the when and the how:

(i) *Why do we get refugees?* In a world of labels, where did the refugee label come from? What had to occur for the definition to be born? What are the conditions needed for the refugee to be created? Can these conditions be eliminated or is there some underlying factor that makes refugees a continual possibility? How does the refugee fit into an international system made up of paradoxes, contradictions and ambiguities?

(ii) *When did the refugee ‘problem’ emerge?* Is the contemporary refugee related to earlier exiles, migrants and other groups of displaced persons,

¹⁴ Nevzat Soguk, *States and Strangers: Refugees and Displacements of Statecraft* (Minneapolis: University of Minnesota Press, 1999).

¹⁵ See respectively Gil Loescher, ‘Introduction: Refugee Issues in International Relations’, in Gil Loescher and Laila Monahan (eds.), *Refugees and International Relations* (Oxford University Press, 1989); *Refugee Movements and International Security: Beyond Charity*; and *The UNHCR in World Politics: A Perilous Path* (Oxford University Press, 2001).

¹⁶ Malkki, *Purity and Exile*, p. 2.