

Cambridge University Press

978-0-521-88116-6 - Rethinking Asylum: History, Purpose, and Limits

Matthew E. Price

Frontmatter

[More information](#)

Rethinking Asylum

Each year, hundreds of thousands of people apply for asylum in Europe, North America, and Australia. Some fear political persecution and genocide; some are escaping civil war or environmental catastrophe; others flee poverty, crime, or domestic violence. Who should qualify for asylum? Traditionally, asylum has been reserved for the targets of government persecution, but many believe that its scope should be widened to protect others exposed to serious harm. Matthew Price argues for retaining asylum's focus on persecution – even as other types of refugee aid are expanded – and offers a framework for deciding what constitutes persecution. Asylum, he argues, not only protects refugees but also expresses political values by condemning states for mistreating those refugees. Price's argument explains not only why asylum remains politically relevant and valuable, but also why states should dismantle many of the barriers that they have erected against asylum seekers over the last fifteen years.

MATTHEW E. PRICE holds a Ph.D. in Political Science from Harvard University and a J.D. from Harvard Law School.

Cambridge University Press

978-0-521-88116-6 - Rethinking Asylum: History, Purpose, and Limits

Matthew E. Price

Frontmatter

[More information](#)

Rethinking Asylum: History, Purpose, and Limits

MATTHEW E. PRICE



CAMBRIDGE
UNIVERSITY PRESS

Cambridge University Press

978-0-521-88116-6 - Rethinking Asylum: History, Purpose, and Limits

Matthew E. Price

Frontmatter

[More information](#)

CAMBRIDGE UNIVERSITY PRESS

Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore, São Paulo, Delhi

Cambridge University Press

The Edinburgh Building, Cambridge CB2 8RU, UK

Published in the United States of America by Cambridge University Press, New York

www.cambridge.org

Information on this title: www.cambridge.org/9780521707473

© Matthew E. Price

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2009

Printed in the United Kingdom at the University Press, Cambridge

A catalogue record for this publication is available from the British Library

Library of Congress Cataloging in Publication Data

Price, Matthew E., 1975–

Rethinking asylum : history, purpose, and limits / Matthew E. Price.

p. cm.

ISBN 978-0-521-88116-6 (hardback) – ISBN 978-0-521-70747-3 (paperback)

1. Asylum, Right of. I. Title.

K3268.3.P75 2009

342.08'3–dc22

2009004694

ISBN 978-0-521-88116-6 hardback

ISBN 978-0-521-70747-3 paperback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this book, and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

Cambridge University Press

978-0-521-88116-6 - Rethinking Asylum: History, Purpose, and Limits

Matthew E. Price

Frontmatter

[More information](#)

For Becky

Contents

| | |
|--|----------------|
| <i>Acknowledgments</i> | <i>page</i> ix |
| Introduction | 1 |
| Chapter 1 Recovering Asylum’s Political Roots | 24 |
| Chapter 2 Promoting Political Values through Asylum | 69 |
| Chapter 3 What is “Persecution”? | 103 |
| Chapter 4 Persecution by Private Parties | 146 |
| Chapter 5 Asylum, Temporary Protection, and the Refugee Policy Toolkit | 164 |
| Chapter 6 Restrictions on Access to Asylum | 200 |
| Conclusion | 245 |
| <i>Bibliography</i> | 253 |
| <i>Index</i> | 270 |

Cambridge University Press

978-0-521-88116-6 - Rethinking Asylum: History, Purpose, and Limits

Matthew E. Price

Frontmatter

[More information](#)

Acknowledgments

I am grateful to a large number of people for their insight, generosity of spirit, and encouragement over the years. This project began in 2001 as a doctoral dissertation in Harvard University's Department of Government. The chair of my dissertation committee, Dennis Thompson, has been unflagging in his support ever since I stumbled into his office as a sophomore in college. I owe him a deep debt of gratitude for his guidance and mentorship, and for his patient willingness to comment on countless drafts of my writing over the years. Nancy Rosenblum has been a model advisor: her unfailingly wise counsel and warm encouragement have made all the difference to me. Glyn Morgan, with whom I first explored my interest in what we owe to those abroad, has always pushed me to have the courage of my convictions.

Matt Stephenson's insights were critical in initially giving shape to this project and in helping me to crystallize its argument, and Dan Markel offered very helpful last-minute suggestions that markedly improved the manuscript. The writing process would have been much less enjoyable without their friendship and intellectual companionship. Martha Minow generously read the entire manuscript and offered extremely useful suggestions. I am grateful for her sage advice, practical wisdom, and mentorship. The anonymous referees for Cambridge University Press similarly alerted me to holes in my argument and offered helpful suggestions on how to plug them. Judge Michael Boudin taught me to temper abstract theory with sensitivity to practical consequences. His approach to legal problem solving shaped my thinking in profound ways. A number of other teachers, friends, and colleagues generously offered me their comments on parts of the manuscript or engaged in discussion of its themes, including Debbie Anker, Arthur Applbaum, Sandra Badin, Noah Dauber, Christine Desan, Rosalind Dixon, Dan Ernst, Ben Friedman, Bryan Garsten, Yvonne Gastelum, Ryan Goodman, Andreas Kalyvas, Josh Kaul, Meg Mott, Andrea

Cambridge University Press

978-0-521-88116-6 - Rethinking Asylum: History, Purpose, and Limits

Matthew E. Price

Frontmatter

[More information](#)

Sangiovanni, Martin Sandbu, Richard Tuck, Kenneth Winston, Abby Wright, and the 2001–2002 fellows at Harvard’s Center for Ethics and the Professions.

For funding and office space, I owe thanks to Harvard’s Center for Ethics and the Professions, Center for International Development, and Center for European Studies, and to the Harvard Graduate Student Council.

An earlier version of Chapter 1 appeared as “Politics or Humanitarianism? Recovering the Political Roots of Asylum,” in the *Georgetown Immigration Law Journal*, 19 (2005), pp. 277–311 and is reprinted with permission of the publisher, Georgetown Immigration Law Journal, © 2005. An earlier version of Chapter 4 appeared as “Unwilling or Unable: Asylum and Non-State Agents of Persecution,” in *Passing Lines: Sexuality and Immigration*, edited by Brad Epps, Keja Valens and Bill Johnson González, published by Harvard University, David Rockefeller Center for Latin American Studies, 2005, pp. 341–64. An earlier version of Chapter 5 appeared as “Persecution Complex: Justifying Asylum Law’s Preference for Persecuted People,” in the *Harvard International Law Journal*, 47 (2006), pp. 413–67, © 2006 by the President and Fellows of Harvard College and the Harvard International Law Journal, www.law.harvard.edu/students/orgs/ilj. I am grateful for permission to reprint portions of those articles.

To my parents, who were proud instead of worried when I told them that I wanted to study political philosophy, my appreciation is unending.

Lastly, my friends tell me that it is no coincidence that I finally settled on a topic and began to write shortly after meeting Becky Anhang. Without her intellect, support, and patience, this book might never have been written. More importantly, with her partnership, my life while writing could not have been happier.