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CANADA'S PERIODICAL ON REFUGEES

# REFUGEE

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## CURRENT ISSUES IN REFUGEE AND HUMAN RIGHTS POLICY AND RESEARCH

### Introduction

Sharryn Aiken

This issue of *Refuge* is intended to provide a forum for both the participants and faculty of the 1998 Summer Course on Refugee Issues to discuss and elaborate upon the topics addressed in the course. Throughout one intensive week in June, the Centre for Refugee Studies hosted 52 participants and 34 faculty who came together to share insights on refugee protection and related human rights issues. Due to the enthusiastic response we received to our call for papers, the forthcoming issue of *Refuge* will include additional Summer Course contributions.

The papers presented here touch on a diversity of seemingly unrelated themes: an analysis of genocide and humanitarian disaster in Acholiland in northern Uganda, an examination of the theoretical basis for establishing an international mechanism to promote accountability for international crimes, an overview of the recently negotiated *Rome Statute* for an International Criminal Court and its potential for reducing human rights violations, a study of how

the "language of law" serves to justify asylum decisions that defy both common sense and logic, and finally, an exploration of the ethical challenges faced by researchers conducting interviews with refugees and refugee service providers. Yet the articles all speak to a shared commitment to the struggle for

justice and human rights, for a world in which global initiatives to eradicate the root causes of forced migration are supported and complemented by efforts to enhance genuine protection for refugees and the internally displaced.

Ogenga Otunnu's article on genocide in northern Uganda examines the

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systematic and gross human rights violations that have been perpetrated upon the Acholi people by both the state and its challengers over the past twelve years. These ongoing atrocities have received scant attention on the part of the international community despite the magnitude of the crisis. Otunnu documents the plight of over 470,900 Acholi who have been violently and involuntarily uprooted from their homes to squalid conditions in "protected camps" in the Gulu and Kitgum districts. International support for the Museveni regime based on regional, economic and political interests has led to the characterization of Uganda as a peaceful, democratic country that protects human rights. Through the words of an Acholi refugee woman we learn how this support has translated to the denial of asylum by western, industrialized states to Acholi who have fled persecution.

From a discussion of the experience of the Acholi in northern Uganda, we move to an examination of the role of international criminal tribunals in promoting human rights by combating impunity for the perpetrators of genocide and war crimes. Both Iris Almeida and William Schabas acknowledge the deficiencies of newly minted plans for a permanent International Criminal Court but remain optimistic about the promise of the *Rome Statute*. Schabas questions whether a Hitler, Pol Pot, Karadzic or Bagosora would actually be deterred by the threat of punishment but concludes that the most significant contribution of an International Criminal Court may be in establishing the truth of major atrocities in circumstances where domestic courts have failed. From the perspective of refugees who have been the victims of these atrocities, perhaps the most serious flaw in the *Rome Statute* is the absence of universal jurisdiction over offenders. For the Court to exercise jurisdiction, either the state of nationality of the accused or the state where the crime took place must have ratified the statute. The problems many countries face are not problems of crimes committed on their soil but of dealing with suspected war criminals who have fled to a

perceived "safe haven." The Court will only assume jurisdiction in these cases if the state of nationality of the accused and the state where the crime has been committed agree. The jury is still out as to whether the long-awaited International Criminal Court represents a disappointing step backwards or as Almeida and Schabas suggest, a historic opportunity.

Departing from the theme of enhancing accountability mechanisms for the perpetrators, the final two papers in this issue of *Refuge* explore important dimensions of the refugee experience in asylum states. Anne Triboulet recounts the story of Mariama and her daughters, refugee claimants from Guinea. Two disparate decisions on the merits of Mariama's claim underscore the inherent dangers of the juridical language that is used to define a "well founded fear of persecution." In a broader context, Triboulet highlights the subtextual messages communicated through positive characterization of the free flow of goods and capital in contrast to the emphasis on security in regard to the movements of people. An implication of Triboulet's observations is the need for a critical examination of the extent to which refugee law and its application are shaped and conditioned by these popular metaphors.

Through participant observation and direct interviews with refugees and refugee service providers in the United States and Canada, Claudia Maria Vargas exposes the ethical challenges of doing qualitative refugee research in schools, hospitals and community clinic contexts. After outlining the issues specific to a variety of service environments, Vargas emphasizes the need for researchers to understand their personal location and the importance of preserving a balance between the intertwined roles of advocate and critical theoretician. An ethical framework for the researcher must incorporate historicity, cultural sensitivity, trust, empathy, protection for the privacy and confidentiality of refugees and refugee service providers as well as respect for their human trauma. To the extent that refugee policies in countries of asylum

and resettlement appear to be increasingly shaped by popular myths and misconceptions about refugees rather than reliable social science data, the need for sound refugee research is greater than ever. Adopting the principles identified by Vargas should ensure that the research does not undermine the interests and needs of refugees themselves.

In a world in which there are an estimated 17 million refugees and 27 million internally displaced people, a world in which one person out of every 120 is uprooted, the face of contemporary refugee issues is both complex and multifaceted. Questions of social science, law and morality converge in efforts to enhance international refugee protection. We hope that the articles contained in this issue of *Refuge* will contribute to the ongoing discourse on these themes. •

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## **Breaking Ground: The 1956 Hungarian Immigration to Canada**

Edited by Robert H. Keyserlingk

Toronto: York Lanes Press, 1993; ISBN 1-55014-232-1;  
117 pages, \$6.99

This book is a collection of personal and archival-based memories on the selection, transport and settlement of about 40,000 Hungarian refugees in Canada in one year. It is a source of primary record as well as scholarly reflection on one of the most significant refugee movements to Canada after World War II the 1956 Hungarian refugee movement.

Based on papers that were presented at a 1990 conference, the authors touch on the unique political, administrative and settlement features of this movement. The resulting work, edited by Professor Keyserlingk, is a unique mix of personal reminiscences and academic scholarship.

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## **Legitimate and Illegitimate Discrimination: New Issues in Migration** Edited by Howard Adelman

Toronto: York Lanes Press, 1995; ISBN 1.-55014-238-0; 287 pages, indexed; \$22.95

Freedom of movement: If the members of a state are forced to flee, the legitimacy of that government is questionable. On the other hand, if members cannot or must leave, again the government is not democratically legitimate. Immigration control: While limiting access and determining who may or may not become members of a sovereign state remains a legitimate prerogative of the state, the criteria, rules and processes for doing so must be compatible with its character as a democratic state.

*Legitimate and Illegitimate Discrimination: New Issues in Migration*, edited by Professor Howard Adelman, deals with the question of legitimacy with cases studies from the Developing World, Europe, Australia, the United States, and Canada.

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