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Refugee Law and Durability of Protection: Temporary Residence and Cessation of Status

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BOOK REVIEW

Maria O'Sullivan. *Refugee Law and Durability of Protection: Temporary Residence and Cessation of Status*. Routledge, 2019, 243 pp. ISBN: 9780367729189 (paper), 9781138303461 (cloth), 9780203731079 (eBook).

HISTORY Published 2023-12-13

Migratory movements are a persistent theme in social science. Asylum seekers and refugees experience restrictive legal norms, which penalize them for seeking humanitarian protection. Drawing on the literature, Maria O'Sullivan's book **Refugee Law and Durability of Protection: Temporary Residence and Cessation of Status** investigates the criteria determining the granting and revocation of refugee status under the 1951 United Nations Refugee Convention. Throughout the book, the author engages in a critical dialogue that juxtaposes three fundamental terms: **protection**, **cessation**, and **integration**.

In the introduction, the author centralizes article 1A(2) of the Refugee Convention as the core aspect of refugee protection in international and domestic law. Article 1A(2) defines the circumstances forcing people to flee their country of origin and stipulates the right of forcibly displaced people to grant refugee status in a host country. The temporary protection is a "response to the

particular exigencies of certain situations" such as mass migration (p. 6). Temporary protection includes time-limited visas and permits (or temporary residence permits in the European context). In this case, the book discusses the case studies of Australia and the European Union (EU), with particular attention paid to the United Kingdom, the Netherlands, Finland, Norway, and Germany. Each chapter juxtaposes temporary protection and the reasons behind the cessation of temporary protection or refugee status applied in both contexts.

In the second chapter, O'Sullivan examines whether protection is a tool that covers "the duration of risk" (p. 18). The EU implements cessation policies through the Qualification Directive (QD), which, under article 24(1), "allows EU Member States to issue three-year residence permits to refugees" (p. 2). Cessation of refugee status does not affect a person's residence permit because a separate decision must be made to revoke it. QD encourages refugee integration but

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does not require EU member states to provide refugees with permanent residence or citizenship based on article 34 of the Refugee Convention.

On the contrary, Australia issues temporary protection visas (TPVs). People who hold a three-year TPV are prohibited from being naturalized. TVPs involve the granting of refugee status, domestic protection, and a residence permit, meaning that refugees are lawfully allowed to settle in Australia. Upon a TVP's expiry or cessation, refugees are subject to deportation unless they file a "fresh application" (p. 29) to obtain a permanent protection visa to remain and to "reprove their refugee status under Article 1A(2)" (p. 194).

In the third chapter, the author analyzes the role of the "ceased circumstances" clause of the Convention (p. 41). Aspects of effective protection such as the role of articles 1C(5) and (6) are investigated. The book criticizes "whether Article 1C(5) is the 'mirror image' of Article 1A(2)" (p. 41), which not only means that cessation is "the mirror of recognition of refugee status" (p. 75) but also specifies the ceased circumstances that revoke people's refugee status due to the circumstances in connection with which they have been recognized as refugees have ceased to exist and may indicate a return to their country of origin.

In the fourth chapter, O'Sullivan addresses an analysis on the "fundamental, stable and durable" changes that may exist in a refugee's country of origin (p. 81). Internal flight alternative (IFA) is a concept that depicts a factual determination in which people excluded from refugee status in situations where they are subjected to persecution related to a region in their country of origin could access protection by relocating elsewhere in that country. UNHCR recommends IFA to be applied in limited asylum cases

in which the applicant's relocation is reasonable. The QD depicts the reasonableness criterion. In 2010, IFA was first applied to the **Abdulla and Others v. Bundesrepublik Deutschland** [the Federal Republic of Germany] case in the Court of Justice for the EU, in which it was examined whether the refugees involved would be exposed to severe persecution upon return to their country of origin.

In the fifth chapter, the author investigates whether non-state actors (NSAs) are considered "actors of protection" for the purposes of cessation of refugee status under article 7 of the QD (p. 100). Concerns arise over the protection that NSAs provide to refugees to whom cessation is applied and who are subjected to persecution upon their return to a country in which armed conflicts occur. NSAs shall not be regarded as actors of protection in a refugee's country of origin because they are incapable of providing protection to persecuted individuals as a state could under the Convention.

In the sixth chapter, "the relevance of past persecution," particularly "the compelling reasons" exception and the role of "burden of proof" to cessation, is examined (p. 134). Past persecution affects cessation decisions in cases where exceptions due to compelling reasons arise out of past persecution. The burden of proof is differentiated into two forms: (a) new applications of protection in which petitioners are required to reapply for refugee status if their circumstances of persecution have changed; and (b) cases of cessation in which a decision-maker in a host country considers whether persecuted people require protection due to well-founded fear of persecution. Both forms refer to new asylum claims related to the grounds on which persecuted people were first recognized as refugees in order for the burden to be placed on the host country.

In the seventh chapter, O'Sullivan recommends integrative links of recognized refugees on temporary residence permits in a host country to be considered before cessation. Therefore, the author introduces the term **social citizenship**, which is influenced by the literature's cosmopolitan sense of citizenship. This term acknowledges the social, economic, and familial links of recognized refugees residing within the host country. This concept may consider an effective means of refugee integration. Social citizenship treats refugees like nationals within a host country, providing them with a bouquet of legal rights, duties, and participation opportunities leading to their socio-political membership within communities.

Refugee Law and Durability of Protection: Temporary Residence and Cessation of Status is a robust study that problematizes some of the issues arising from the 1951 Refugee Convention: protection, cessation, and inte-

gration. The author offers a new perspective in analyzing various immigration policies for asylum seekers and refugees in Europe and Australia. The book aims to define a novel framework for other forced migration scholars to use to interpret protection and cessation of refugee status.

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