

**Book Review: *Critical Issues in International Refugee Law*.  
James C. Simeon (ed.)  
New York: Cambridge University Press, 2010.**

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**Roger Rickwood**

**Abstract:** *Critical Issues in International Refugee Law* is a must read for advocates of progressive refugee law. The book offers solutions to prevent the fragmentation and the hollowing out of traditional concepts of refugee protection in an age where, increasingly, refugee applicants are unwanted and seen as economic interlopers and security threats. The author summarizes a 2008 workshop at York University where legal experts, practitioners and adjudicators explored various states' practices in the interpretation of the *International Convention* and complementary protection processes collateral to the *Convention*. The book demonstrates the value of organizing a focused workshop utilizing discussions among expert participants

*Critical Issues in International Refugee Law* edited by James C. Simeon of York University is an informative book of original essays. The book seeks to expand interpretative harmony, to chart the changing the rights of refugees and to explore the standards of proof in complementary protection for refugees under international and national legal instruments to that available under the *International Convention on Refugee Protection*. *Critical Issues* is not an easy book to read as it is intensely packed with factual details, analytic concepts and assertively argued opinions. It is, however, a must read for serious students and advocates of progressive refugee law. Each of the seven constituent essays is examined from a theoretical and a practical perspective in order to find solutions to legal issues and concerns, which now arise in this very controversial area of international law and policy. The book argues forcefully for changes to prevent fragmentation and hollowing out of traditional concepts of refugee protection in an age where refugee applicants are seen increasingly as unwanted economic interlopers and security threats.

The book is the carefully distilled product of two days of intense discussions among diverse participants at the Research Workshop on Critical Issues in International Refugee Law held in early May 2008 at York University. The first series of papers and commentaries presented at this workshop were assigned to legal experts, practitioners and adjudicators to explore the divergence between states' practices in the interpretation of the *International Convention on Refugee Protection* with a view to determining whether uniformity in interpretation was a desirable or achievable goal. The second series examined the allegedly growing area of protection outside the *Convention* in subsidiary and complementary protection processes put forward to meet needs collateral to the *Convention*. The workshop then focused on the impact of the 9/11 incident and international terrorism on the application of the *Convention* and the resulting pressures for more restrictive interpretations of exclusion provisions in Article 1F of the *Convention*. Advocates of progressive refugee protection law will find the trends identified in these discussions disconcerting. They will no doubt be at least pleased with the frankness of collateral discussions held during the workshop that explored "emerging jurisprudence" concerning economic, social

and cultural claims as a basis for refugee protection rather than the limited and more politically driven grounds of the *Convention*.

The workshop benefited from innovative organizational structuring of exchanges among a small number of carefully selected academic, judicial and governmental participants. The format of the workshop provided for substantial time after each presentation for intense conceptual discussion. According to participant Justice Terry North of the Federal Court of Australia, the chair of each discussion session managed the participants so that almost all of them contributed to each session. Justice North believes the high quality of the discussion was facilitated by the decision of workshop organizers to first limit the number of participants to about 30 rather than the more usual conference format of allowing a larger number of attendees and to secondly restrict the participants both to those eminently qualified in their respective fields and to those with an already demonstrated capacity to engage and interact with other participants in a workshop format. Justice North gives the primary credit for making this interaction process work to Professor Simeon, the chief workshop organizer. It appears from background information in the text about Professor Simeon that he was able to orchestrate it by using his multiple experiences as an academic, adjudicator and organizer of international refugee judge conference proceedings. The intense interactive discussion format while commendable may not therefore be translatable to other areas of public policy and law unless the key organizer possesses equivalent expertise and first-hand practical knowledge of the subject area and potential participants. In his "Introduction" article, Professor Simeon advises potential workshop organizers on the proper substantive and procedural steps needed to organize an innovative workshop on public law and policy. He also provides by example a concise interpretation of the findings of such a workshop in a language which non-specialists can understand.

As a former refugee law judge and as a current academic engaged in teaching public law using refugee issues, I was impressed by the concise legal scholarship of each of the essayists contributing articles to this text. I was very impressed by the cutting edge articles by Geoff Gilbert on "Running scared since 9/11: refugees, UNHCR and the purposive approach to treaty interpretation," and by Kate Jastram on "Economic harm as a basis for refugee status and the application of human rights law to the interpretation of economic persecution." My deep and serious concern for the continuing viability of our Canadian and international refugee systems was somewhat relaxed by Nergis Canefe's guardedly optimistic article assessing "The fragmented nature of the international refugee regime and its consequences: a comparative analysis of the application of the 1951 convention." The other articles while technically proficient, with one exception, will only appeal to the most dedicated readers of legal analysis. I refer specifically to articles by Jane McAdam on "Individual risk, armed conflict and the standard of proof in complementary protection claims: the European Union and Canada compared," and by Elspeth Guild on "asymmetrical sovereignty and the refugee: diplomatic assurances and the failure of due process, *Agiza v. Sweden* and *Alzery v. Sweden*."

The one exception is the thoroughly passionate article by South African Justice Albie Sachs "From refugee to judge of refugee law" on the value of a progressive refugee law protection scheme and the need to always be optimistic about the need for a progressive refugee law protection scheme even in times of despair. Justice Sachs told his own story of being a refugee

from South Africa after opposing the apartheid regime and returning years later to be a founding judge of the new Constitutional Court of South Africa. His presentation in the words of Justice North “explored the significant issue of the usually unspoken, and often unacknowledged, influences on the process of judicial and quasi-judicial decision making.” His article alone makes the book edited by Professor Simeon worth buying and reading. Justice Sachs serves as inspiration to us all who believe in the building and maintaining of a progressive refugee protection system at both the national and international levels.

*Critical Issues in International Refugee Law: Strategies Toward Interpretive Harmony*, edited by James C. Simeon, is published by Cambridge University Press, Cambridge, UK, 2010. James C. Simeon is an Assistant Professor in the School of Public Policy and Administration, York University, Toronto, Canada.