

Who is a Refugee?

Written by Phil Cole

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PHIL COLE, MAY 15 2015

As the European Union thrashes out its proposal for member states to accept 20,000 refugees over two years as a response to the growing numbers crossing from North Africa, the response of the new Conservative government in the United Kingdom has been less than enthusiastic. In an interview with the Daily Telegraph the British Home Secretary, Teresa May, argues that most of those fleeing are in fact economic migrants, not genuine refugees.

She makes a distinction between those escaping from Syria, and others from places like Nigeria, Somalia and Eritrea where, she says, lives are not at immediate risk. The suggestion is that these countries are relatively stable, and therefore people fleeing them must be economic migrants.

This raises the issue of the UNHCR's 1951 Refugee Convention, which gives us the following definition of who counts as a refugee — someone who:

Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country.

There have been many critics of the Convention definition, pointing out that it limits refugee status to a narrow group who are being directly persecuted for specific reasons, and so leaves outside of its scope those who are simply fleeing a conflict zone because it is too dangerous. The latter are not being persecuted directly, but they are, if you like, our classic picture of the refugee – someone escaping from an area because it is simply too dangerous for them to be there.

In fact the UNHCR itself recognizes this limitation, and works with a wider understanding of people of concern, anybody fleeing generalized violence which threatens their safety or freedom. This draws on the Cartagena Declaration on Refugees by Latin American states ([pdf](#)) and the OAU Convention on Refugees in Africa, both of which widen the understanding of who is entitled to refugee status.

However, many have argued that it is dangerous to open up a debate around the UNHCR 1951 definition, because rather than it being widened, the state parties to the definition will more likely seek to narrow it. The fact is the UNHCR receives around 86% of its funding from states, and only 2% from the United Nations itself, and so the main stakeholders are not refugees and asylum seekers, nor the UN, but those nation states providing the bulk of the funding.

Indeed, the more pessimistic amongst us have been waiting for those nation states to make that move, with increasing pressure on the international refugee system and states like Australia testing international law on asylum to its limits or, many would say, breaking it.

We should, therefore, see Teresa May's statement as a possible move towards a new understanding of 'refugee'. The irony is that her move reflects the concerns of those critics of the UNHCR definition from the other side, with a similar focus on those who are fleeing conflict and whose lives are in immediate danger. But her version also states that as long as a state is stable, however repressive, those fleeing it must be economic migrants, not genuine

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refugees.

She cites Eritrea in the interview, a country which the Daily Telegraph itself identifies as one of the top ten most repressive regimes in the world. Gaim Kibreab, Professor of Refugee Studies at London South Bank University, describes Eritrea as one of the most militarized states in the world, and explains why so many are fleeing that country.

And so what we must recognise is that amidst all the controversy over the right response to the growing number of people crossing the Mediterranean in search of sanctuary, the very idea of who counts as a refugee is at stake, and that may have dangerous consequences for all those seeking asylum around the world.

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