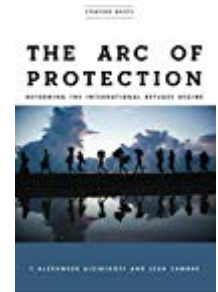


T. Alexander Aleinikoff, Leah Zamore. *The Arc of Protection: Reforming the International Refugee Regime*. Stanford: Stanford University Press, 2019. viii + 169 pp. \$14.00, paper, ISBN 978-1-5036-1141-2.



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In *The Arc of Protection*, T. Alexander Aleinikoff and Leah Zamore take up the dual perennial questions of refugee studies: what should refugee protection consist of, and for whom? The term “arc” of protection refers to the trajectory of refugee protection since the mid-twentieth century, during which time there has been an expansion of the range of actors who provide protection to refugees, the content of that protection, and the categories of people who receive protection. Though the authors are not overly sanguine about the present state of the international refugee regime, they present this historical arc as a progressive one that has moved beyond the overly specific persecution-based regime imagined in the 1951 Refugee Convention. The problem for today’s refugee regime is that as our understanding of who counts as a refugee and how the international community ought to treat them has expanded, powerful states have pushed back with ever more vigorous assertions of sovereignty.

The book begins in chapter 1, “The Inconvenient Refugee,” by examining the idea of refugee

protection contained in the 1951 Refugee Convention and its evolution over time, culminating in the 2016 Global Compact on Refugees. Whereas in the early years of the post-World War II era the imperative for the international community was to guarantee the rights of those who no longer had the protection of a sovereign state, over time it has become increasingly focused on humanitarian assistance for displaced people and the countries that host them, primarily in the global South. This shift from rights to rescue in the mission of the United Nations High Commissioner for Refugees (UNHCR) and refugee advocacy groups has been well documented in the literature, but the authors shed new light on the uneasy relationship between state interests and individual rights that has been its driving force. The Convention itself, they point out, was not written to provide a framework for solving mass displacement but rather to establish a pathway for individuals outside of the system of sovereign nation-states to escape the condition of “rightslessness.” Yet this system was premised on the idea that most displaced people would soon re-

turn to their country of origin or integrate seamlessly into a country of first asylum, so that Western states (as the drafters of the Refugee Convention) would only be expected to absorb the relatively small number of individuals who could do neither. The Convention makes no requirement that states resettle refugees to their territory or support one another in their local protection efforts. As the authors note, this leaves the legal protection of refugee rights contingent on admittance to a state, while also preserving the right of states to regulate entry and stay on their territory. This is a system that privileges state sovereignty over cooperation, though it is worth noting that with the vast majority of displaced people today living either within their country of origin or in neighboring states in the global South, it is primarily the states of the global North that benefit from this arrangement.

Chapter 2, “The International Protection Regime,” illustrates how this system reflects a contested and historically contingent understanding of refugee protection. The legal and conceptual foundations of the regime regard the treatment of refugees by host societies as a stand-in for the protection that should be offered by their countries of origin. Displaced people seeking asylum, particularly in Western countries, must demonstrate that their origin country has failed to protect them from political persecution, which combined with the individual’s flight from home constitutes a person as a legitimate refugee. The authors argue that the stickiness of this focus on persecution is at odds with how the arc of protection has actually progressed, in that the providers of protection have expanded over time to include a wider range of actors than just host states, just as the scope of who can meaningfully be understood to be a refugee has expanded as well.

What then is refugee protection, in theory or in practice? In chapter 3, “Principles of Protection,” the authors offer a theory of protection based on the international responsibility to pro-

vide displaced persons with safety, access to asylum, solutions to the problem of displacement, and opportunities for mobility and voice. This framework helpfully delineates the policy space of refugee protection, which involves everything from patrolling and policing unauthorized border crossings to providing health care and employment opportunities to recognized refugees to addressing the root causes of displacement in origin countries. The authors describe a regime that reflects the key principles of refugee rights contained in international law, refined and restated based on nearly a century of refugee crises. For example, they argue that the principle of *non-refoulement*, the Refugee Convention’s requirement that states not return displaced people to a country where they are likely to face persecution, remains essential to the protection regime but must be understood in an expanded way that acknowledges a range of harms that return might cause beyond targeted political persecution. This is both practical and just, and will strike readers familiar with the often tortured applications of *non-refoulement* in asylum law as a sensible approach.

In general, this effort to articulate the principles of refugee protection in a more general and practical way that takes into account the complexity of contemporary displacement is an enormous strength of this book. But if there is a place where these more generalizable principles may give readers pause, it is in chapter 4, “For Whom is International Protection Warranted?” Here, Aleinikoff and Zamore take up the second perennial question of refugee studies: protection for whom? As they acknowledge throughout the book, the refugee regime’s traditional focus on refugees as people who have fled from political persecution has become almost absurdly inappropriate for the world’s displaced population, many of whom flee generalized violence and instability rather than targeted persecution, or whose experience of persecution is not readily legible to asylum adjudicators as being political. In addition, over half of the world’s displaced people are internally displaced,

excluding them from refugee status altogether. The authors' proposed concept of "necessary flight" speaks to a growing literature seeking to redefine displacement in a way that reflects the manifold valid reasons that people flee their homes. For some refugee advocates, who have invested in the legal process of expanding the traditional refugee definition to include victims of sexual and gender-based violence, gang-related violence, and economic precarity, this is a dangerous move in that it weakens the case for special protections for designated refugees. This is an extremely difficult problem and one that is likely to be the topic of debate for years to come. While Aleinikoff and Zamore's theory participates in this debate, it should primarily be understood as a framework for responding to the global collective action problem of mass displacement, rather than the technical and legal problem of refugee status determination within host countries.

The book's concluding chapter presents a framework for reform, which the authors helpfully contrast to what they see as an existing liberal consensus on how to repair the refugee regime. Chief among these contrasts is the point that even progressive-minded reformers tend to push for incremental changes within a system that preserves state discretion above all else. For Aleinikoff and Zamore, reform ought to prioritize global responsibility-sharing. They make a compelling case that even if such a system asks more of countries in the global North, the current regime is so skewed in terms of the burden placed on less powerful countries that such a shift should not be too much to ask.

Overall, this book is an essential read for scholars, advocates, and students of refugee protection at all levels of knowledge. Readers with a background in international affairs will find the explanation of today's protection system in terms of burden-sharing across states to be a straightforward and accessible introduction to the problem of providing refugee protection in an internation-

al system of sovereign states. Those with a sophisticated understanding of refugee law and the protection regime will find that the propositions for reform speak directly to the ongoing debates around both state responsibility and the definition of "refugee," while all readers will be invited to imagine a more just and efficacious system of protection.

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