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According to Article 1A of the 1951 Convention relating to the Status of Refugees, a refugee is someone who: “is outside his or her country of nationality or habitual residence; has a well-founded fear of persecution because of his/her race, religion, nationality, membership in a particular social group or political opinion; and is unable or unwilling to avail himself/herself of the protection of that country, or to return there, for fear of persecution.”

Governments normally guarantee the basic human rights and physical security of their citizens. When governments are unwilling or unable to do so, individuals may suffer such serious violations of their human rights that they have to leave their homes, their communities and their families, to find safety in another country. Since, by definition, refugees are not protected by their governments, the international community steps in to ensure the individual’s rights and physical safety

Under international refugee law, a refugee is strictly defined as a person who “owing to 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, or owing to such fear, is unwilling to avail himself of the protection of that country”. Persons recognized as refugees under Article 1A(2) of the Convention Relating to the Status of Refugees (Refugee Convention) have no reason to seek protection under the European Convention on Human Rights (ECHR); they are protected against refoulement and they are granted refugee status

in domestic law. In particular, the Refugee Convention provides that refugees should be treated equally “as far as possible” to nationals. The benefit of the Refugee Convention is excluded altogether for persons who fall outside the definition provided in Article 1A(2). This is the case of persons whose claim for protection is based on reasons other than persecution on the Refugee Convention’s grounds. The benefit of the Refugee Convention is also excluded altogether for persons with respect to whom there are serious reasons for considering that they are serious criminals and who therefore do not deserve surrogate protection. Finally, the benefit of the principle of non-refoulement is lost to refugees who are found to be a danger to the security or the community of the country in which they are granted refugee status.

In North America, new laws and procedures have been recently introduced in Canada, the United States and Mexico relating to asylum Immigration authorities in all three countries have begun cooperating on asylum matters, including a proposal by Canadian officials to return asylum seekers from Canada to the United States where they had previously entered and sojourned and the coordination between Mexico and the United States regarding the interception of Central Americans in Mexico. The United States also provides financial assistance to the Mexican authorities to defray the cost of removing aliens, some of whom are asylum seekers from noncontiguous countries. On the other hand, in North American countries, there has been limited coordination between nongovernmental organizations and representatives of intergovernmental organizations and representatives of intergovernmental organizations such as the UNHCR.

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