

TABLE OF CONTENTS

I.	INTRODUCTION: THE EMERGING CRITERIA FOR REFUGEE STATUS	1
	§ I.1. THE CONVENTION REFUGEE DEFINITION IN THE CONTEXT OF HUMAN RIGHTS AND HUMANITARIAN NORMS	1
	§ I.2. UNIFYING ELEMENTS OF THE GROUNDS OF REFUGEE PROTECTION	7
	§ I.3. PROPOSED TEST FOR ESTABLISHING THE EXISTENCE OF A REFUGEE GROUND	10
	§ I.4. OUTLINE OF THEMATIC STUDY	14
	§ I.5. A NOTE ON THE JURISDICTIONS	15
II.	RACE, NATIONALITY, RELIGION: THE MODEL OF "INTERNAL" CHARACTERISTICS AND BELIEFS	19
	§ II.1. RACE	19
	§ II.2. NATIONALITY	27
	§ II.3. RELIGION	30
III.	THE APPLICANT'S PERSONA IN A POLITICAL AND SOCIAL SETTING: THE REFUGEE DEFINITION AS AN EVOLVING INTERNATIONAL NORM	45
	§ III.1. THE REFUGEE DEFINITION AND "EXTERNAL" PERCEPTIONS OF THE PERSECUTOR	45
	§ III.2. INTRINSIC FEATURES OF THE APPLICANT'S PERSONA: THE EXERCISE OF FUNDAMENTAL HUMAN RIGHTS AND SPECIFICALLY PROTECTED GROUPS	49
	§ III.3. TRENDS IN THE EVOLUTION OF MODERN REFUGEE LAW	52
IV.	POLITICAL OPINION AND ITS RELATIONSHIP TO THE OTHER GROUNDS OF REFUGEE PROTECTION: THE RISE OF ATTRIBUTED CHARACTERISTICS AND BELIEFS	59
	§ IV.1. POLITICAL OPINION: THE ESSENTIAL FRAMEWORK	59

§ IV.2. THE <i>WARD</i> AND <i>ELIAS-ZACARIAS</i> DECISIONS: THE “POLITICAL OPINION” GROUND IN A MODERN CONTEXT	61
§ IV.3. PERSECUTION BASED ON OPINIONS, ASSOCIATIONS, OR ADVOCACY OF THE APPLICANT: INTRINSIC BELIEFS VERSUS THE PERCEPTION OF THE PERSECUTOR APPROACH	66
§ IV.4. CIVIL WAR CASES: IMPUTED POLITICAL OPINION, NEUTRALITY AND OTHER GROUNDS; THE GROWTH OF ATTRIBUTED CHARACTERISTICS AND BELIEFS	82
§ IV.4(a). Establishing Persecutory Animus during Periods of Upheaval: The New Refugee Analysis	83
§ IV.4(b). International Humanitarian Law as the Basis for Resolving Refugee Claims Arising from Conditions of Armed Conflict	116
§ IV.5. PROSECUTION OR PERSECUTION: REFUGEE STATUS IN THE CONTEXT OF THE PURPOSES AND PRINCIPLES OF THE UNITED NATIONS	123
§ IV.5(a). The Refugee Definition in the Context of State Conscription: Avoiding Human Rights and Humanitarian Law Violations as a Basis for Refugee Status	126
§ IV.5(b). The Modern International Law Setting of Conscription Claims: The <i>Jus Ad Bellum</i> and the <i>Jus In Bello</i>	143
§ IV.5(c). The Refugee Definition and Insurgency against the State: Opposition to Coercive Governments as a Basis for Refugee Status	150
§ IV.5(d). The International Framework of Rebellion Cases: The “Democratic Entitlement” in International Law	157
§ IV.6. VIOLATION OF EXIT CONTROL LAWS AS A BASIS FOR POLITICAL OPINION PERSECUTION	162
§ IV.7. “POLITICAL OPINION” PERSECUTION AND COERCIVE FAMILY PLANNING	166
§ IV.8. GENDER-BASED CLAIMS AND THE FIFTH CONVENTION GROUND	175

V.	SOCIAL GROUP PERSECUTION AND THE PARAMETERS OF REFUGEE PROTECTION: THE ROLE OF INTERNATIONAL LAW AND POLICY IN DETERMINING REFUGEE CLAIMS	189
§ V.1.	MEMBERSHIP IN A PARTICULAR SOCIAL GROUP: THE ESSENTIAL FRAMEWORK	189
§ V.2.	THE SOCIAL GROUP GROUND IN A MODERN CONTEXT: THE <i>ACOSTA</i> , <i>WARD</i> AND <i>SHAH</i> AND <i>ISLAM</i> DECISIONS	190
§ V.3.	EVOLUTION OF THE “SOCIAL GROUP” GROUND	195
§ V.4.	COMMENTARY ON THE PROTECTED GROUNDS IN GENERAL WITH SPECIFIC REFERENCE TO THE PARTICULAR SOCIAL GROUP CATEGORY	221
§ V.4(a).	“Policy of Discrimination” Approach	227
§ V.4(b).	Attributed Characteristics and Beliefs and the Expanding Concept of Social Group Protection	231
§ V.4(c).	Intrinsic Characteristics or Beliefs and the Protections of International Human Rights Law	236
§ V.5.	SPECIFIC SITUATIONS INVOLVING THE FOURTH CONVENTION GROUND	240
§ V.5(a).	Particular Social Group Persecution and Coercive Family-Planning Policies	240
§ V.5(b).	Gender-Based Claims: The Social Dimension of Refugee Status	254
§ V.5(b)(1).	The International Law Context	257
§ V.5(b)(2).	Claims Based on Opposition or Perceived Opposition to Gender-Based Cultural, Social or Governmental Norms	260
§ V.5(b)(3).	Claims Based on Serious Bodily Mutilation or Other Physical Harm	272
§ V.5(b)(4).	Claims Based on Serious Harm Inflicted in a Family Setting	278
§ V.5(c).	International Protection and the New Humanitarian Order	298

VI.	CONCLUSION: HUMAN RIGHTS, HUMANITARIAN NORMS AND THE SCOPE OF THE PROTECTED GROUNDS	313
	§ VI.1. HUMAN RIGHTS AND HUMANITARIAN NORMS IN THE CONTINUING EXPANSION OF THE CONVENTION REFUGEE DEFINITION	313
	§ VI.2. PRACTICAL EXAMPLES OF HUMAN RIGHTS VIOLATIONS IN RELATION TO THE REFUGEE DEFINITION	314
	§ VI.3. ENHANCING INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW AS A GOAL OF REFUGEE PROTECTION	317
	ACKNOWLEDGEMENTS	321
	INDEX	323