POST-WAR DISPLACEMENT, CANADA, THE US AND THE EMERGENCE OF THE GENEVA CONVENTION: A BRIEF HISTORY

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INTRODUCTION

Understanding the global movement of refugees and displaced persons in the second half of the twentieth century requires knowledge of the decisions taken by world leaders in the aftermath of the Second World War. It also entails some comprehension of the post-war migration of survivors of the Holocaust as their circumstances contributed to considerable reflection amongst international agencies tasked with the resettlement of displaced persons. That which follows will examine how the displacement of persons in the post-war period informed the articulation and ratification of migrant's rights leading up to the adoption of the 1951 Geneva Convention on Refugees.

DISPLACED PERSONS

By the close of the Second World War there were millions of persons that had been removed from their homelands and brought to Germany by the Nazi regime. While some six million people returned to their native countries after the War there remained an estimated 1.5 to 2 million that did not do so. Amongst them, some one quarter of a million were survivors of the Holocaust largely from Central and Eastern Europe. Although liberation from the death camps brought freedom to those persecuted and imprisoned by the Nazis, it was also a time of confusion and difficulty. For the most part, the Holocaust survivors felt they had little motivation to return home, and no one to return to, as with very few exceptions they lost

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their friends, families and communities. Also, a return to what were once their 'home' towns risked encounters with hostile local populations.

By consequence, many of the Holocaust survivors were designated as displaced persons, (DP's) and resided in camps that were run by the United Nations Relief and Rehabilitation agency (UNRRA) and the IRO (International Refugee Organization). These DP camps were intended to provide temporary accommodations aimed at caring for survivors by offering shelter and food and this included others that were uprooted by the war.

Initially, all DP's (which included military personnel, concentration camp survivors, prisoners of war and slave laborers) were grouped together in the camps according to nationality. This meant that some Jewish survivors found themselves in camps alongside their former oppressors, simply because they both happened to be from the same country.

United States President Harry Truman appointed Earl Harrison, to inquire into the conditions and needs of persons in the DP camps with particular attention directed at the Jewish refugees that might be stateless or non-repatriable. The Harrison Report (1945) pointed out that many Jewish DP's were living under guard behind barbed-wire fences in what were formerly some of the most notorious concentration camps. Too often they had no clothing other than their concentration camp garb. Harrison regarded the treatment of the Jews as appalling. The report recommended the creation of separate camps for Jewish DPs to address their specific needs (in December 1945, the British zone of Germany also created separate camps for Jewish DPs, recognizing their special needs as a result of their traumatic experiences).

DISPLACED PERSONS: THE RESPONSE OF THE UNITED STATES AND CANADA

UNITED STATES

At the end of World War II, Jews comprised two percent of Germany's "displaced persons". By 1947, however, some 20% of DPs were Jewish. Nasaw (2020) points out that the world was finding work permits and resident status for Europe's refugees but many of the Holocaust survivors constituted an exception. In 1948, then United States President Harry Truman and the American Congress adopted the Displaced Persons Act. The legislation enabled European refugees to enter the US as permanent residents — unless they arrived at a DP camp after December 1945. The latter provision effectively prohibited nearly all Holocaust survivors from coming to the United States. Truman recognized the inherent biases underlying Congress' supposedly generous act. In an address to the American people regarding the legislation, Truman denounced its blatant discrimination and xenophobic undertones. Nasaw (2020) described it as a "...shameful moment in our [America's] history".

CANADA

In 1939, some 907 Jewish refugees aboard the MS St. Louis were denied entry to Canada and

had to return to Europe, where many later died in the Holocaust. This was viewed by some historians as an indicator of our lack of readiness to accept refugees. But others have argued that the more likely cause was deep-rooted anti-Semitism (Government of Canada, 2016). In the post war period this antipathy persisted and during the middle of 1946 given the negative state of public opinion towards immigration, the possibility of DP's emigrating to Canada seemed remote.

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Still, the early post war reticence to admit the DP's gave way owing to a rapidly growing demand for workers in the post-War period. Thus, in spite of considerable domestic opposition, the country's Prime Minister Mackenzie King issued emergency orders to bring DP's to Canada. In March 1947 two Canadian resettlement teams were present in the DP camps and the first DP's sailed for Canada in the following month. Canada eventually became one of the major countries receiving DP's and by the end of 1951 an estimated 157 000 settled in the country.

INTERNATIONAL ENGAGEMENT ON DISPLACED PERSONS

While the United States and Canada ended up amongst the two largest recipients of Europe's displaced persons, it became apparent that a broader international strategy was required to address issues of displacement and statelessness. The issue of statelessness arose from modifications to national citizenship legislation that emerged during the Second World War.

The problem of statelessness after World War II was especially acute and demanded international attention. An amendment to Germany's citizenship law that in 1941 deprived all Jews who had taken residence abroad—several hundred thousand—of their citizenship. This occurred regardless of whether they had been forced out of the country by deportation or had chosen to leave voluntarily. By 1948, some 3 percent, or some 10,000 out of 280,000 displaced persons living in Germany, were stateless. Until a law concerning the legal status as homeless foreigners was passed in April 1951, these DPs were defined as stateless foreigners under the auspices of the United Nations High Commissioner of Refugees.

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A CANADIAN CHAMPION FOR THE RIGHTS OF MIGRANTS

The Universal Declaration of Human Rights clearly states that "everyone has the right to a nationality" and that "no-one shall be arbitrarily deprived of his nationality." As the first Director of the United Nations Division of Human Rights, Canadian John P. Humphrey was responsible for drafting the 1948

UN's Universal Declaration of Human Rights. In his memoirs, Humphrey (1983) observed that: "...no article in the Declaration has been more criticized than Article 14, which says that everyone has the right 'to seek and to enjoy' asylum from persecution. This gives no right to asylum but only a right to enjoy it once it has been granted. It was probably too much to expect that governments would give up their discretionary power under international law to refuse to allow foreigners to enter their territories." Ultimately Humphrey admittedly sidetracked the issue saying merely that 'every state shall have the right to grant asylum to political refugees,' a right which was already recognized by international law.

THE 1951 CONVENTION ON THE STATUS OF REFUGEES

At the universal level, the most comprehensive legally binding international instrument, defining standards for the treatment of refugees, is the United Nations Convention relating to the Status of Refugees adopted in July 1951. This Convention was adopted at a time when the refugee problems confronting the international community were mainly those of refugees of European origin. It was for this reason that the Convention contained a deadline which limited its application to the then known groups of refugees, i.e. persons who had become refugees as a result of events occurring before 1st January 1951. Humphrey (1983) notes that the 1951 Convention on the Status of Refugees says that persons entitled to seek asylum are not to be rejected at the frontier, expelled to or made to return to the countries from which they have fled, if this would have exposed them to persecution.

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At the time of its creation, the 1951 Refugee Convention was the most comprehensive codification of the international rights of refugees. The 1951 Refugee Convention legally recognized–for the first time–refugees in the region based on their experience of displacement, rather than their country of origin. However, the Convention was originally limited in scope to persons fleeing persecution in Europe. The Convention is no longer the only international protection regime for refugees, but it established an important moral and legal precedent in global refugee response. It also continues to serve as a reference point for refugee rights agreements around the world.

CONCLUSION

In his book "DP's: Europe's Displaced Persons, 1945-1951" Mark Wyman (1998) notes that the sweep of postwar refugee flows began with East Europeans' refusal to return to their 'former 'home' countries. He maintains that displaced persons of the post-World War II years were caught up inextricably in politics. Despite the horrific tragedy that many displaced persons experienced

during the second World War, many democracies remained reticent to admit them into their countries and this despite growing awareness in the post-War period of what the victims endured. This was also true for Canada. Nonetheless, the arrival of displaced persons in the late 1940's ended up constituting the largest group of twentieth century refugees to come to the country. Their arrival helped sensitize many Canadians to the plight of stateless peoples and ultimately marked a notable chapter in the nation's immigration history.

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