

Against the Alienage Condition for Refugeehood

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Abstract: Under the 1951 Refugee Convention, there are two necessary conditions for refugeehood: (1) a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion and (2) alienage – that is, being outside of one’s country of nationality or habitual residence. In 1985 Andrew Shacknove famously argued that both of these conditions should be rejected. Shacknove’s paper prompted much debate about the suitability of the persecution condition, but his rejection of the alienage requirement has received significantly less attention. In this paper I argue, against some recent defenders of the Convention, that Shacknove was right to claim that the alienage condition should be rejected. On my view, people who would be granted refugee status if they crossed a border, but who remain in their country of nationality, should also be eligible for refugee status.