

Canadian policy on this question is based on the definition of different kinds of asylum:

- 1) Territorial asylum;
- 2) diplomatic asylum; and
- 3) temporary safe haven.

All of these involve different legal considerations.

Territorial asylum is the term used to describe the form of asylum which a country may be obliged to provide to persons seeking either to enter it by crossing its frontiers or to remain in it, in accordance with the provisions of the 1951 Refugees Convention and 1967 Protocol, to which Canada is a party.

Territorial asylum for refugees is applicable to cases in which the persons concerned have well-grounded fears of persecution in their countries of origin; a prerequisite to acquisition of that status is that the applicant must be physically present outside the alleged country of persecution. Problems relating to the provision of territorial asylum are the only ones to which the word "refugee" really applies and they should, therefore, by definition ordinarily not be of direct concern to our posts. Instead, they are matters for the immigration authorities at Canadian border entry points.

Diplomatic asylum is the term used to describe the process whereby an embassy provides shelter, which can turn out to be protracted in time, to persons seeking refuge on its premises in a foreign country in order to avoid the jurisdiction of the local authorities.

Diplomatic asylum, as distinct from territorial asylum, has been defined as involving a derogation from the sovereignty of the state in whose territory the embassy is situated. It withdraws the offender from the jurisdiction of the territorial state and constitutes an intervention in matters which are exclusively within the competence of that state. This conception is essentially a Latin American one. Canada does not recognize a general right of persons to such diplomatic asylum and does not participate in this practice, even in Latin America.

Diplomatic asylum is not a generally-recognized conception. Therefore, a state whose embassy may shelter a political refugee may simply risk the rupture of relations and the seizure of the persons seeking asylum.

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