

THE SCOPE AND ROLE OF MEMBERSHIP OF A PARTICULAR SOCIAL GROUP
AS THE REASON FOR PERSECUTION IN THE REFUGEE DEFINITION

Doctoral Candidate Laurynas Biekša

*Mykolas Romeris University, Law Faculty, Department of International Law
Ateities str. 20, LT-08303 Vilnius
Phone: 271 46 69
E-mail: tek@mrumi.lt*

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Summary. The article consists of four parts. The first introductory part presents purpose, object, methodology of the analysis and the two conflicting approaches to the interpretation of “particular social group” as the main problem to be examined. The second part of the article explores the *travaux préparatoires* of the 1951 Convention relating to the Status of Refugees concerning the category of “particular social group”. In the third part of the article three famous cases in Canada, Australia and the United Kingdom with the following debate in refugee law scholarship providing the interpretations of the category of “particular social group” are examined. The fourth part proposes the role of membership of a particular social group as the reason for persecution in the refugee definition and follows the recent developments of international standards in this field.

Keywords: Refugee law, Asylum, Convention relating to the Status of Refugees, Refugee definition, Membership of a particular social group.

1. INTRODUCTION

The most controversial reason for persecution in the refugee definition is membership of a particular social group. There are two main approaches to the interpretation of “particular social group”. First, a broad interpretation is that the category of “particular social group” prevents any possible gap in the other four categories (i.e., race, religion, nationality, political opinion) and includes every situation of a possible persecution. Second, a narrow interpretation is that the category of “particular social group” has its independent, limited scope, and does not include every situation of a possible persecution.

The answer to the question, as to which approach should prevail, is of crucial importance. If the broad (“catch all”) interpretation prevailed, then the reasons for persecution would lose their independent importance, and would be considered only as examples of possible persecution. In that case, an asylum-seeker

would be required to show only possible persecution without linking it to any special reason. If the narrow (limited scope) interpretation prevailed, then the reasons for persecution would have their independent importance, and would be considered as one of the requirements of the refugee definition. In that case, an asylum-seeker would be required to show both a possible persecution, and at least one of five reasons for persecution.

The **purpose** of this article is to examine the main problems related to the scope of membership of a particular social group as the reason for persecution in the refugee definition, and research whether the gradual development of refugee law may change the role of reasons for persecution in the refugee definition.

The **object** of the analysis is refugee law documents, doctrine and leading cases defining the scope and role of membership of a particular social group as the reason for persecution in the refugee definition.

The **methods** of the analysis are comparative, systemic, analytic, historic and other.

2. TRAVAUX PREPARATOIRES OF THE 1951 CONVENTION RELATING TO THE STATUS OF REFUGEES

The *travaux preparatoires* of the 1951 Convention relating to the Status of Refugees (hereinafter – the 1951 Convention) provide little explanation as to why the category of “particular social group” was included. The Swedish delegate simply stated that social group cases existed, and that the 1951 Convention should mention them explicitly [1, p.46]. A. Grahl-Madsen thinks that the drafters included the category of “particular social group” in order to prevent a possible gap. However, he defines a limited category, which comprises persons of a certain background. On the other hand, he suggests interpreting this limited category liberally [2, p. 219–220]. J. C. Hathaway proposes a clear intent on the part of the drafters. He thinks that the drafters intended to establish a linkage between fear of persecution and civil or political status, and the 1951 Convention was designed to protect refugees from known forms of harm. However, he also supports a liberal interpretation of the category of “particular social group”, which should be sufficiently open-ended to allow for evolution, but not vague [3, p.157–161]. G. S. Goodwin-Gill is of the following opinion about the intent of drafters:

The lack of substantive debate on the issue suggests that contemporary examples of such persecution may have been in the minds of the drafters, such as resulted from the “restructuring” of society then being undertaken in the socialist States and the special attention reserved for landowners, capitalist class members, independent business people, the middle class and their families. The initial intention thus had been to protect known categories from known forms of harm; less clear is whether the notion of “social group” was expected or intended to apply generally to then unrecognised groups facing new forms of persecution. The answer to that question will never be found, but there is no reason in principle why this ground, like every other, should not be progressively developed [1, p.46–47].

In this reasoning G. S. Goodwin-Gill considers “particular social group” as a limited category. On the other hand, he stresses that the scope of this category should be progressively developed.

It should be noticed that a broad interpretation of “particular social group” is also not denied by the *travaux preparatoires*. On the contrary, the lack of substantive debate could suggest that the drafters considered “particular social group” as a flexible category, which prevents any possible gap in the other four categories, and thus there is no necessity for definition or discussion. In addition, even if originally “particular social group” had its limited scope, the progressive development of the term “persecution” could have left the reasons for persecution without an independent importance.

3. INTERPRETATIVE ISSUES

Not having a clear meaning of “particular social group” defined by the 1951 Convention itself, the only way to find it is to apply a general rule of interpretation. According to article 31 of the 1969 Convention on the Law of Treaties, a treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose. Three famous cases in Canada, Australia and the United Kingdom with the following debate in refugee law scholarship present the best examples of such interpretation.

In *Canada v. Ward* (1993) the Court rejected the interpretation of “particular social group” as a “safety net to prevent any possible gap in the other four categories”, because such a broad reading would make other reasons for persecution in the refugee definition unnecessary. The Court limited the scope of “particular social group” taking “into account the general underlying themes of the defence of human rights and anti-discrimination law that form the basis for the international refugee protection initiative”. Accordingly a three-part test to assess whether a group is a “particular social group” was articulated. Eligible groups fall into one of three categories: (1) groups defined by an innate or unchangeable characteristic (e.g., gender, linguistic background, sexual orientation); (2) groups whose members voluntarily associate for reasons so fundamental to their human dignity that they should not be forced to forsake the association (e.g., human rights activists); and (3) groups associated by a former voluntary status, unalterable due to its historical permanence. Ward’s claim on the basis of membership of a particular social group failed and the Irish National Liberation Army to which he had belonged was not considered as constituting a “particular social group” [4, p. 8–9]. The Court concluded that the Irish National Liberation Army was organised for pursuit of political goals by any means, including violence, which could not be considered as fundamental to human dignity (the second part of the test), and neither was his membership an unchangeable historical fact (the third part of the test), or an innate characteristic (the first part of the test).

It should be noted that this test, which is frequently referred to as an “immutability” test, is aimed at defining a limited “particular social group”. This means that it is based on a narrow approach to the category of “particular social group”. Some scholars consider that the obvious value of this test was the attempt to relate the description of social groups to fundamental human rights [5, p. 95], and that a human rights framework of analysis simply frames the issue consistently with the international protection of human rights that underlies the 1951 Convention [6, p. 174].

However, the articulation of the test is not very clear. I would agree with the opinions of G. S. Goodwin-Gill and T. A. Aleinikoff, who find a number of problems in the *Ward’s* test. The first problem is the meaning of “groups associated by a former voluntary

status". One's past is also an unchangeable characteristic. The third part of the test is not necessary, because it is covered by the first part of the test [1, p. 361]. The second problem is the meaning of "association". The former capitalists of Eastern Europe, who apparently intended to benefit from the social group provision, were not necessarily associated one with another. In order to identify the social group of former capitalists, it was important that they were not only internally linked by having engaged in a particular type of economic activity, but also externally defined by perceptions of the new ruling class. Therefore, attention should be paid not only to internal characteristics of a group, but also to external perceptions, i.e., to the attitude to the putative social group of other groups in the same society and, in particular, the treatment accorded to it by state authorities [1, p. 361]. The third problem is the meaning of "groups defined by an innate or unchangeable characteristic". The Court carefully provides its examples of innate or unchangeable characteristics (gender, linguistic background and sexual orientation). This list is clearly illustrative, and it should not be considered as aiming to restrict the meaning of "groups defined by an innate or unchangeable characteristic". Actually, other innate or unchangeable factors relevant to the enjoyment of fundamental rights should also be included, e.g., ethnic or cultural factors, education, family background, property, birth or other status, national or social origin, economic activity, shared values, outlook and aspirations, etc. [1, p. 361] The fourth problem is the Court's opinion that an association of people should not be characterized as a "particular social group" merely by reason of their common victimization as the objects of persecution. It should be noticed that objects of persecution are selected because of a special public policy which contributes to the identification of the group, adding to its pre-existing characteristics. For example, parents with one or more children can be identified as a social group because of their factual situation, and the way in which they are treated by society. The treatment of persecution thus should remain relevant in identifying a particular social group, where it reflects external perceptions towards a particular group [1, p.362]. To summarise, the phrase "voluntarily associate for reasons so fundamental to their human dignity that they should not be forced to forsake the association" is aimed to ensure a limited scope of "particular social group", but such a limitation is not acceptable, because it does not construct a coherent principle that underlies the *Ward's* test [4, p. 11].

In order to avoid those problems, a sociological approach is proposed by G. S. Goodwin-Gill. He stresses that, with respect to a particular social group, there is probably no single coherent definition but rather a set of permissible descriptors, e.g., (1) the fact of voluntary association is equivalent to a certain value and not merely the result of accident or incident, unless this is affected by the perception of others; (2) involuntary linkages, such as family, shared past experienced, or innate, unalterable characteristics; (3) the perception of others. In addition, the principle of non-discrimination, linked

to fundamental rights, serves to distinguish between those deserving protection, because their social origins or situation now put them at risk; and those who do not, such as those who are liable to penalties for breach of the law [1, p. 366]. G. S. Goodwin-Gill's theory initially is based on a narrow approach to "particular social group". He tries to define a limited "particular social group". However, if a sociological approach is adopted to the notion of social groups, then apparently unconnected individuals may satisfy the criteria, e.g., parents of one child, women at risk of domestic violence, capitalists, etc. It means that in the result the category of "particular social group" is virtually unlimited and encompasses all situations of a possible persecution. G. S. Goodwin-Gill also concludes that the notion of social group thus possesses an element of open-endedness potentially capable of expansion in favour of a variety of classes susceptible to persecution [1, p.47-48].

This conclusion can be supported by the *Islam and Shah* case (1999) [7, p. 496-527]. The Court held that women in Pakistan can be regarded as members of a particular social group. In addition, the Court stressed that the category of "particular social group" does not require any element of cohesiveness, co-operation, or interdependence amongst members of the group. The category is applicable to whatever groups might be regarded as falling within the 1951 Convention anti-discriminatory objectives. Therefore, women could constitute a social group if they lived in a county, such as Pakistan, which discriminated against them on the grounds of sex [8, p. 533-536]. It should be noted that the Court could have also invoked the reasons of "religion" and "political opinion". However, G.S.Goodwin-Gill agreed with the decision in *Islam and Shah*, and further developed his sociological approach. He concluded that the exaggerated focus on sub-groups and their identifying characteristics (e.g., women who suffered domestic violence, women who are perceived to have transgressed Islamic mores) might be misleading, because the essential identifying factor is – women in the social context (e.g., women in Pakistan). The perception of the group by others, especially by other dominant groups, is particularly important. For this reason, the group should not be examined apart from society, because it is essentially a group within society which is faced with persecution within the social context of that very society, including its attitudes, prejudices and actions [9, p. 537-543].

The Australian case *Applicants A and B v Minister for Immigration and Ethnic Affairs* (1997) explicitly raised the principal question – whether the phrase "particular social group" should be simply and directly read as "persecuted group" [10, p. 71]. A Chinese couple having one child claimed that one or both of them would be forcibly sterilised if returned to China because of the prevailing "one couple, one child" policy. The Court agreed that such treatment amounts to "persecution" for the purposes of the 1951 Convention. In spite of this, the subsequent finding that the applicants did have a well-founded fear of persecution involving a

breach of fundamental human rights was not sufficient to qualify the applicants as refugees. By a narrow majority of three–two the Court held that the couple did not qualify as refugees because they could not be considered to be members of a particular social group [10, p. 49–50].

Two opposite ways of reasoning presented by the majority and the minority provide a detailed analysis of the phrase “particular social group”. The majority emphasised the restrictive nature of the definition, citing the work of commentators like Hathaway who argued that the 1951 Convention was a compromise document that favoured political fugitives from the “Cold War” that followed World War Two. On this basis the majority concluded that the 1951 Convention was never intended to cover all persons in situations of need, justifying its own restrictive interpretation of the instrument. The majority expressly disagreed with the view that the phrase “particular social group” was intended as a “catch–all” to encompass all persons fearing grossly discriminatory treatment who could not meet the other enumerated grounds. Instead, they concurred with Hathaway’s opinion, that such an interpretation would render the grounds specified not useful as there would be no need to make a linkage between fear of persecution and a person’s civil or political status. Therefore, the majority preferred a narrow interpretation of “particular social group”. The starting point in determining the scope of the phrase was the three–part test proposed in *Canada v Ward*. The majority accepted that social groups can comprise people who identify themselves as a group through voluntary association, or other immutable characteristic. They also went further to confirm that a social group can exist without such an association, it can be enough that a class of persons is perceived to exist – the perspective of the persecutor can be adopted. At the same time, the majority separated strictly the question of a group’s identity from the issue of persecution. They held that for a social group to be cognisable, the group must share immutable characteristics, separate from any common fears, that enable members to either identify themselves as a group, or to be identified externally as such. The conclusion was that the group of Chinese couples having one child does not exist without the persecution. For the majority, the applicants were simply one of any number of disparate couples who do not know each other and may have nothing in common save for the fact that they are parents of one child who do not wish to be forcibly prevented from having more [10, p. 59–67].

The judges in minority examined the Preamble of the 1951 Convention and stressed the importance given to the humanitarian purpose of the instrument. They acknowledged the flexibility of the document, which allows adaptation of the 1951 Convention to new circumstances in order to perform its protective function. Consequently, unlike the majority, the minority accepted that the phrase “particular social group” was intended as a safety net for people who could not demonstrate that the persecution they faced was for one of the other four

enumerated reasons. They also stressed that there was nothing in the 1951 Convention to prevent the identification of a “particular social group” using shared fear of persecution as the identifier [10, p. 59–67].

The Judge Brennan in minority found that a “particular social group” actually means a “persecuted group” in the following way:

By the ordinary meaning of the words used, a “particular social group” is a group identifiable by any characteristic common to the members of the group and a “social group” is a group the members of which possess some characteristic which distinguishes them from society at large... The leading concept in the definition of the term “refugee” is the “fear of being persecuted” for a discriminatory reason. If a putative refugee’s enjoyment of his or her fundamental rights and freedoms is denied by a well–founded fear of persecution for a reason that distinguishes the victims as a group from the society at large, it would be contrary to “the principle that human beings shall enjoy fundamental rights and freedoms without discrimination”. It would therefore be contrary to the object and purpose of the Convention to exclude that putative refugee from the protection which the Convention requires the Contracting Parties to accord. I see no warrant for reading down the categories of discrimination by postulating some *a priori* factor that restricts the denotation of the phrase “particular social group”, ignoring the actual reason for the feared persecution [10, p. 66].

I would agree with this opinion and consider a broad category of “particular social group” as the most persuasive interpretation taking into account the humanitarian object and purpose of the 1951 Convention. If an “imaginative despot” [11, p. 41–42, 45] issued the order to kill one group of people because of some reason and another group of people without any reason, it would be erroneous to use a narrow interpretation and claim that the 1951 Convention is not aimed at protecting the second group. It is submitted that, for the purposes of the 1951 Convention, persecution itself should be considered as having a discriminatory character, even if it were not linked with any other discrimination. Approaching persecution as linked to discrimination can work to advantage, and has been adopted in various courts in various jurisdictions, but it remains a gloss on the original words [9, p. 539]. J. C. Hathaway also agrees that it is simply incorrect to argue that the rules of universal application make refugee protection inappropriate. Refugee law does not purport to protect all persons who live within these societies, but those whose resistance of the generalized rule has placed them at risk of serious harm should be protected [3, p. 42–43]. It could be noted that the majority reasoning for a narrow interpretation of the 1951 Convention runs counter to its humanitarian objectives. M.Crock is of the opinion that, given the many changes that have occurred in both community attitudes and world affairs, the minority approach is more intellectually satisfying than the more mechanistic approach of the majority judges [10, p. 61]. At the same time, it should be noticed that all attempts

to define a limited category of “particular social group” actually examine the question of “persecution”. External perceptions (the perspective of persecutor) or the connection of social groups with fundamental human rights are the characteristics more descriptive of the term “persecution” than the category of “particular social group”. For example, criminals facing prosecution are not protected by the refugee definition, not because criminals do not form a social group (actually, they do), but because a proportional prosecution is not considered as a violation of human rights (a proportional prosecution is a justified restriction of human rights), and thus is not considered as a persecution. J. C. Hathaway sets the following rationale for the reasons of persecution in the refugee definition – so long as victims of human rights violations are not denied membership in the body politic, they are expected to seek effective redress from within the state, and ought reasonably to vindicate their basic human rights against their own state [3, p. 135–141]. It may be noted that such persons are already outside the scope of the refugee definition, because they have state protection, not because they fail to comply the reasons for persecution. Finally, a sociological approach to the definition of “particular social group” leads to the conclusion that the notion of social group possesses an element of open-endedness potentially capable of expansion in favour of a variety of classes susceptible to persecution [1, p. 47–48].

4. RECENT DEVELOPMENTS OF INTERNATIONAL STANDARDS

In spite of the fact, that such a broad interpretation would best comply with the humanitarian objectives of the 1951 Convention, the traditional narrow interpretation still has a very strong influence. The UNHCR Handbook on Procedures and Criteria for Determining Refugee Status accepts a narrow interpretation, providing that a “particular social group” normally comprises persons of similar background, habits or social status [12, §77]. On the other hand, it should be stressed that a narrow interpretation of “particular social group” does not have a detrimental effect, if the other four categories are interpreted sufficiently broadly. For example, an implied political opinion might also cover most situations of state persecution.

However, attempts to define a limited category of “particular social group” currently often refer to the perspective of a persecutor, and thus result in a virtually unlimited category. The Joint Position defined by the Council on the basis of Article K.3 of the Treaty on European Union on the harmonized application of the definition of the term ‘refugee’ in Article 1 of the Geneva Convention of 28 July 1951 relating to the status of refugees [13, §7.5] explicitly provides that membership of a particular social group may simply be attributed to the victimised person or group by the persecutor, and that, in some cases, the social group may not have existed previously, but may be determined by common characteristics of the victimised persons because the

persecutor sees them as an obstacle to achieving his aims.

The perspective of a persecutor is also carefully taken into account by the UNHCR Guidelines on International Protection: “Membership of a Particular Social Group” within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, which provide that the category of “membership of a particular social group” cannot be interpreted as “catch all” that applies to all persons fearing persecution, although persecution may be a relevant element in determining the visibility of a particular social group [14, §2]. In the Council Directive on Minimum Standards for the Qualification and Status of Third Country Nationals and Stateless Persons as Refugees or as Persons Who Otherwise Need International Protection an open-ended sociological approach is included, which provides that a particular social group is the group having distinct identity in the relevant country, because it is perceived as being different by the surrounding society [15, art.10].

In my view, such interpretations will gradually lead to the recognition of a broad category of “particular social group”, which prevents any possible gap in the other four categories, and includes every situation of a possible persecution. It will also result in the reasons for persecution losing their independent importance, and will be considered only as examples of possible persecution.

CONCLUSIONS

In order to interpret the category of “membership of a particular social group” in the refugee definition, the humanitarian objectives of the 1951 Convention should be taken into account. Therefore, membership of a particular social group as the reason for persecution in the refugee definition should be given the broadest scope. The broadest scope of the category of “membership of a particular social group” is understood as an unlimited category, which prevents any possible gap in the other four categories, and includes every situation of possible persecution. If such an interpretation prevailed then the reasons for persecution would lose their independent importance in the refugee definition, and would be considered only as illustrative examples of a possible persecution.

BIBLIOGRAPHY/SOURCES

1. **Goodwin-Gill G. S.** *The Refugee in International Law*, 2nd ed. – Oxford: Clarendon Press, 1996.
2. **Grahl-Madsen A.** *The Status of Refugees in International Law*. – Netherlands: A. W. Sijhoff, 1966. Vol. I.
3. **Hathaway J. C.** *The Law of Refugee Status*. – Canada, Butterworths, 1991.
4. **Aleinikoff T. A.** “Membership in a Particular Social Group”: Analysis and Proposed Conclusions. Background Paper for “Track Two” of the Global Consultations (unpublished).

5. **Dauvergne C.** Chinese Fleeing Sterilisation: Australia's Response against a Canadian Backdrop // *International Journal of Refugee Law*. 1998. Vol. 10. No. 1/2.
6. **Daley K., Kelley N.** Particular Social Group: A Human Rights Based Approach in Canadian Jurisprudence // *International Journal of Refugee Law*. 2000. Vol. 12. No. 2.
7. **Islam v. Secretary of State for Home Department; Regina v. Immigration Appeal Tribunal and Another ex parte Shah (Conjoined Appeals)**, House of Lords, 25 March 1999 // *International Journal of Refugee Law*. 1999. Vol. 11. No. 3.
8. **Vidal M.** 'Membership of a Particular Social Group' and the Effect of Islam and Shah // *International Journal of Refugee Law*. 1999. Vol. 11. No. 3.
9. **Goodwin-Gill G. S.** Judicial Reasoning and 'Social Group' after Islam and Shah // *International Journal of Refugee Law*. 1999. Vol. 11. No. 3.
10. **Crock M.** Apart from Us or Part of Us? Immigrants' Rights, Public Opinion and the Rule of Law // *International Journal of Refugee Law*. 1998. Vol. 10. No. 1/2.
11. **Helton A.** Persecution on Account of Membership in a Social Group as a Basis for Refugee Status // *Columbia Human Rights Law Review*. 1983. Vol. 15.
12. **UNHCR Handbook on Procedures and Criteria for Determining Refugee Status.** – Geneva, January 1992.
13. **Joint Position** defined by the Council on the basis of Article K.3 of the Treaty on European Union on the harmonized application of the definition of the term 'refugee' in Article 1 of the Geneva Convention of 28 July 1951 relating to the status of refugees, 96/196/TVR, 4 March 1996.
14. **UNHCR Guidelines on International Protection: "Membership of a Particular Social Group"** within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, HCR/GIP/02/02, 7 May 2002.
15. **Council Directive on Minimum Standards for the Qualification and Status of Third Country Nationals and Stateless Persons as Refugees or as Persons Who Otherwise Need International Protection**, 2004/83/EC, 27 April 2004.

PRIKLAUSYMO TAM TIKRAI SOCIALINEI GRUPEI, KAIP PERSEKIOJIMO PRIEŽASTIES PABĖGĖLIO SĄVOKOJE, TURINIO APIMTIS IR REIKŠMĖ

Doktorantas Laurynas Biekša
Mykolo Romerio universitetas

S a n t r a u k a

Priklausymo tam tikrai socialinei grupei, kaip persekiojimo priežasties pabėgėlio sąvokoje, turinio apimtis ir reikšmė šiuo metu yra vienas iš problemiškesnių pabėgėlių teisės klausimų. Šis klausimas tampa ypač aktualus, nes besivystanti pabėgėlių teisė reikalauja plečiamojo pabėgėlio sąvokos interpretavimo, o priklausymo tam tikrai socialinei grupei kategorija galėtų užpildyti atsirandančias pabėgėlio sąvokos spragas ir suteikti tarptautinę apsaugą tiems pabėgėliams, kurių apsaugos poreikis dar nebuvo iškilęs rengiant 1951 m. Ženevos konvenciją dėl pabėgėlių statuso.

Šiame kontekste išskiriami du pagrindiniai priklausymo tam tikrai socialinei grupei kategorijos interpretavimo būdai. Tradicinis siauriamasis interpretavimo būdas laiko priklausymą tam tikrai socialinei grupei persekiojimo priežastimi, ne-

apimančia visų persekiojimo atvejų, o persekiojimo priežastis atitinkamai sudaro atskirą atitikties pabėgėlio sąvokai reikalavimą. Plečiamasis interpretavimo būdas laiko priklausymą tam tikrai socialinei grupei neribota persekiojimo priežastimi, apimančia kiekvieną persekiojimo atvejį, o persekiojimo priežastys atitinkamai vertinamos tik kaip galimų persekiojimo atvejų pavyzdžiai, nesudarantys atskiro atitikties pabėgėlio sąvokai reikalavimo.

Pirmoje šio straipsnio dalyje pristatomi tyrimo tikslas, objektas ir metodai. Antroje dalyje siekiant nustatyti priklausymo tam tikrai socialinei grupei, kaip persekiojimo priežasties pabėgėlio sąvokoje, turinio apimtį ir reikšmę nagrinėjami 1951 m. Ženevos konvencijos dėl pabėgėlių statuso parengiamieji dokumentai. Trečioje dalyje tiriama labiausiai šioje srityje išplėtotą Kanados, Australijos ir Didžiosios Britanijos teismų praktika bei pabėgėlių teisės autoritetų interpretacijos dėl priklausymo tam tikrai socialinei grupei kategorijos. Ketvirta straipsnio dalis atkreipia dėmesį į naujausius šios srities tarptautinius dokumentus.

Straipsnio išvadose siūloma interpretuoti 1951 m. Ženevos konvenciją dėl pabėgėlių statuso atsižvelgiant į jos pagrindinį humanistinį tikslą – žmogaus teisių apsaugą bei suteikti priklausymo tam tikrai socialinei grupei kategorijai plačiausią apimtį. Plačiausia priklausymo tam tikrai socialinei grupei kategorijos apimtis reikštų neribotą persekiojimo priežastį, kuri apimtų kiekvieną persekiojimo atvejį. Dėl tokio interpretavimo persekiojimo priežastys būtų vertinamos tik kaip galimų persekiojimo atvejų pavyzdžiai, nesudarantys atskiro atitikties pabėgėlio sąvokai reikalavimo.

Pagrindinės sąvokos: pabėgėlių teisė, prieglobstis, konvencija dėl pabėgėlių statuso, pabėgėlio sąvoka, priklausymas tam tikrai socialinei grupei.