

Refugee Rights

28 May 2019

Oslo Diploma Course on Human Rights

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Agenda

- Global
 - The 1951 Convention Relating to the Status of Refugees & 1967 Protocol
- EU
 - Common European Asylum System (CEAS)
- Africa
 - 1969 OAU Convention Governing the Specific Aspects of the Refugee Problem in Africa
 - African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)
- Americas
 - Cartagena Declaration on Refugees
- Trafficking and smuggling

Refugee Convention

Who is a refugee?

A person who:

“owing to **well-founded fear** of being **persecuted** for reasons of **race, religion, nationality, membership of a particular social group or political opinion**, is **outside the country** of his nationality and is **unable** or, owing to such fear, is **unwilling** to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.”

Refugee Convention

Non-refoulement

“No Contracting State shall expel or return (“*refouler*”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

- Should not return
- Entry?
- Chain-*refoulement*?

Common European Asylum System

- No internal borders → asylum needs harmonizing
- Wider scope
 - From entry into EU until final decision
- Additional protection status
 - **Subsidiary protection**

1969 AOU Convention

- Expanded refugee definition
- Responsibility sharing
- *Non-refoulement* includes rejection at the border
- Legally binding, in force 1974

1984 Cartagena Declaration

- In response to the situation in the Central America
- Wider than 1969 OAU Convention
- Not binding

OAU v. Cartagena definition

OAU	Cartagena
<ul style="list-style-type: none">• external aggression• occupation• foreign domination• events seriously disturbing public order	<ul style="list-style-type: none">• generalized violence• foreign aggression• internal conflicts• massive violation of HRs• other circumstances which have seriously disturbed public order

Kampala Convention

- Protection of internally displaced persons (IDPs)
- Legally binding, in force 2012
- “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, **in particular as a result of** or in order to avoid the effects of **armed conflict, situation of generalized violence, violations of human rights or natural or human-made disasters**, and who have **not crossed** an internationally recognized State **border**”

Role of regional HRs bodies/instruments in refugee protection

- African Charter on Human and People's Rights / African Commission on Human and Peoples' Rights / African Court on Human and Peoples' Rights
- American Convention on Human Rights / Inter-American Commission on Human Rights / Inter-American Court of Human Rights
- European Convention on Human Rights / European Court of Human Rights

Trafficking and smuggling

- Palermo Protocols
 - UN Protocol against the Smuggling of Migrants by Land, Sea and Air (2000)
 - UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime
- Focus on crime and immigration control (as opposed to protection)
- Difficulty of distinguishing between the two
 - Transnationality & exploitation & consent

Facts and figures (UNHCR, mid-2018)

- 28.5 million refugees and asylum seekers & 40 million internally displaced persons
- 57% of refugees worldwide come from 3 countries
 - Syria (6.3 million)
 - Afghanistan (2.6 million)
 - South Sudan (2.4 million)
- Top refugee hosting countries
 - Turkey (3.5 million)
 - Uganda and Pakistan (1.4 million each)
 - Lebanon and Iran (1 million each)