

# REGIONAL AND GLOBAL INSTRUMENTS

## Regional laws for refugee protection

The conflicts that accompanied the end of the colonial era in Africa led to a succession of large-scale refugee movements. These population displacements prompted the drafting and adoption of not only the 1967 Refugee Protocol but also the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. Asserting that the 1951 Refugee Convention is "the basic and universal instrument relating to the status of refugees", the OAU Convention is, to

date, the only legally binding regional refugee treaty.

The OAU Convention follows the refugee definition found in the 1951 Convention, but includes a more objectively based consideration: any person compelled to leave his/her country because of external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality.

This means that persons fleeing civil disturbances, widespread violence and war are entitled to claim the status of refugee in States that are parties to this Convention, regardless of whether they have a well-

founded fear of persecution.

The OAU Convention makes other important points. It affirms that “the grant of asylum to refugees is a peaceful and humanitarian act” that is not to be considered as an “unfriendly act” by any Member State of the OAU (now the African Union), and it requires States parties to take appropriate measure to lighten the burden of a State granting asylum in a spirit of African solidarity and international cooperation.

How other human rights instruments protect refugees;

1. The rights in the international covenant on civil and political rights: they are to be enjoyed on a non-discriminatory basis, and nearly all of its provisions apply to everyone within a State's territory or under its jurisdiction. It includes the right not to be subjected to torture, cruel, inhuman or degrading treatment, which has been interpreted to prohibit return to such treatment. Other civil and political rights include the right to life; the right to liberty and security of person; to liberty of movement within the State; to protection from expulsion, which shall only be

undertaken pursuant to a decision reached in accordance with law; and to equal protection of the law. are to be enjoyed on a non-discriminatory basis, and nearly all of its provisions apply to everyone within a State's territory or under its jurisdiction. It includes the right not to be subjected to torture, cruel, inhuman or degrading treatment, which has been interpreted to prohibit return to such treatment. Other civil and political rights include the right to life; the right to liberty and security of person; to liberty of movement within the State; to protection from expulsion, which shall only be

undertaken pursuant to a decision reached in accordance with law; and to equal protection of the law.

2. The international covenant on Economic, cultural and social rights: establishes the principle of non-discrimination in the context of economic, social and cultural rights. It commits States to working progressively to realize rights to an adequate standard of living, to the highest attainable standard of physical and mental health, and to education, among others.

3. The international

convention for the protection of all persons from enforced disappearance: requires States parties to make enforced disappearance a criminal offence and bring those responsible for it to justice. The Convention protects individuals from extradition if there are substantial grounds for believing that extradition has been requested with the aim of prosecuting a person on account of their sex, race, religion, nationality, ethnic origin, political opinions or membership of a particular social group, or if compliance with the request would cause harm to that person for any of those reasons. It also protects

people from being forcibly returned to a State where there are substantial grounds for believing they would be at risk of enforced disappearance.

4. The convention on the rights of persons with disabilities: specifically requires States parties to ensure the protection and safety of persons with disabilities in situations of risk, including during armed conflict and humanitarian emergencies.

5. The convention on the Elimination of discrimination against women (CEDAW): requires States parties



to refrain from discriminating against women in any way that directly or indirectly results in denying them equal enjoyment of their rights with men. Moreover, aggravated or cumulative forms of discrimination against women may amount to persecution in the sense of the 1951 Convention.