CHAPTER-IX

CONCLUSION
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RECOMMENDATIONS
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CONCLUSION AND RECOMMENDATIONS

Refugees are a matter of global concern and it is the responsibility of the entire international community to make sincere efforts to resolve their problems, both legally and politically. In the aftermath of the Second World War, the United Nations was confronted with the tragedy of the uprootedness and exile. This led to the creation of the office of the United Nations High Commission for Refugees (UNHCR) in 1950.

Several significant events in subsequent decades in Europe, Africa and Asia resulted in millions of refugees stagnating in overcrowded camps in countries which had no capacity to absorb these growing numbers. As for the international community, with little hope for pursuing either repatriation or integration of refugees, the best that could be done in most cases was to provide humanitarian assistance to meet basic needs.

The Partition of India resulted in one of the greatest mass migration of modern history. It is estimated that at least 15 million people migrated. Dislocation of population between the two countries following independence from colonial rule is symptomatic of the paradox in which they lived together in tolerance for several centuries. The refugees had to make multiple efforts to deal with new situations and negotiate a new complex arena of societal relations and new initiatives to become self-reliant. Refugees who are outcome of a complex articulation of colonial and national power are inevitable victims of change. Their rehabilitation and assimilation in the national, political, social, economic and cultural mainstream is one of the greatest success stories of modern India.
As civil conflict, political persecution and natural disasters continue to plague many countries, millions of people are forced to live outside their countries of origin. Women and children make up the majority of the world's refugee population.

The challenge is not how to manage the refugee movements so as to balance the rights of the refugees as well as the interests of the host State in a just and humane manner. This delicate balance can best be observed by the eternal vigilance of sensitive and dedicated human rights organizations.

International protection is guaranteed to refugees for reasons of humanity. Basis of protection of refugees is found in the statute of the office of the UNHCR and the Refugee Conventions.

UNHCR was established by Genera' Assembly of United Nations as a subsidiary organ under Article 22 of the United Nations Charter and the body continues to play an active role and expanding the mandate of the office. UNHCR does enjoy international personality. As a subsidiary organ of the General Assembly, its "Personality" can be traced to the United Nations at large. Moreover, its statute shows that the office was entrusted by the General Assembly to act on the international plane.

Its standing in regard to protection has been further re-enforced by successive General Assembly resolutions urging all states to support the High Commissioner's activities. The UNHCR's statute mandates that, it has to work with non-government agencies. It works with hundreds of NGOs throughout the world like CARE and Save the Children.

Over the past six decades, UNHCR's traditional protection role has become much broader in scope and significantly more operational. At the
same time, its focus is equally on protection in States of asylums of refugees and the activities in countries of origin.

Human instincts undoubtedly propel people to assist others in need since the dawn of civilization. Today the process of providing humanitarian assistance has become a highly organized enterprise involving law and regulations, defined roles and vested interests, major political implications, international organizations and large sums of money.

Nevertheless, refugee assistance efforts remain heavily imbued with idealism and humanitarian motivation, particularly noticeable in private religions and charitable agencies. The concept of rescuing victims of persecution and violence is central to this motivation.

It is estimated that South Asia has over 1.3 million refugees. Though these regions have been following a generous tradition of receiving refugees and looking after them, none of these countries is a party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. At the end of 2000; over 3.6 million Afghans were living as refugees in other countries. Over 13,000 Afghan refugees were in India. At the end of 2000, Bangladesh hosted over 1,21,600 refugees. An estimated 1,44,000 persons from Bhutan were living as refugees in neighbouring countries including 1,29,000 and more than 13,000 in India.

At the end of the year 2000, more than 300,000 refugees were living in India. This included 110,000 from Tibet, 110,000 from Sri Lanka, 42,000 from Bhutan, 30,000 from Afghanistan and more than 300 from another countries. Another 40,000 Afghans were living in India in refugee-like condition.
Over 500,000 people were internally displaced in India because of political violence including 3,50,000 Kashmiris and more than 1,57,000 others in North-East India. The 17 years conflict between Sri Lanka Sinhalese - Buddhist majority and Tamil-Hindu minority has resulted in over 110,000 Sri Lankan Tamils fleeing into India. The number of Tibetan refugees in India keeps fluctuating because of deaths, births and arrival of an additional 2000 to 3000 refugees from Tibet each year. More than 40,000 ethnic Chin and 1000 ethnic Naga refugees from Burma were living in North Eastern States of India. None of the South Asian countries have any national laws on refugees. Governments have dealt with refugee problems though bilateral negotiations.

Refugees and asylum seekers in the region are treated like any other foreigners and are subjected to the laws and regulations governing entry, stay and departure of foreigners. Obviously the provisions of the Foreigners Act will not be adequate to meet the humanitarian and basic need of refugees. The seminar organized by SAARCLAW in collaboration with the UNHCR examined the situation of refugees in the region. Most participants supported the need for refugee laws. They also acknowledged the need for finding a humanitarian solution. As observed by the Chief of Mission, UNHCR, New Delhi, the fundamental legal issues concerning the rights and obligations of both refugees and governments need to be addressed concurrently with the political aspects of a refugee problem. International refugee law was concerned both with protecting the rights of refugees as well as solving refugee problems.

While the country of asylum had the obligation to protect refugees, the country of origin had the obligation to create conditions so that refugees can return to their homes in safety. The lack of a legal procedure to
distinguish between illegal immigrants and refugees had resulted in increasing confusion of the two in the popular mind, thus straining the tradition of hospitality in the region. There is a close relationship between the violation of human rights and the refugee situation. In addition to persons who fled their homes because of violation of human rights, others who were forced to leave on account of man-made disasters, conflict situations, and poverty should also be classified as refugees.

India was not a signatory either to 1951 UN Convention or its 1965 Protocol, obviously because these conventions stressed on the rights of refugees only, thus placing disproportionate obligations on refugee-receiving States. India has offered safety and security to hundreds of thousands of victims of ethnic conflict in the last 55 years. Most of the causes for mass exodus are due to human rights violations and such mass migration gave rise to human rights problems. Hence, it has to be borne in mind that refugee law was part of the broader spectrum of International Human Rights Law. Refugee legislation is imperative to avoid adhoc and delayed decisions. Such legal framework has to reconcile the conflicting interests of the receiving countries and the refugees. As Pandit Jawaharlal Nehru once said, "The Rule of Law must strengthen the Rule of Life."

While asylum may not be a final solution to problems of refugees it was an essential component of refugee protection. One of the reasons for some Asian countries not being signatory to 1951 convention or its 1961 protocol is that these countries are not in a position to guarantee all the socio-economic rights of refugees as granted by these instruments. However, India has always supported the basic principles that UNHCR stands for. This is obvious in-the way India treated Tibetan, Sri Lankan and Chakma refugees.
The Supreme Court of India has played a singular contribution in extending the rights of both citizens and aliens by imposing corresponding obligation on the state. A common refugee legislation of SAARC region would also need to be accompanied by clear citizenship laws for the region.

Social, economic and ethnic tension caused by their presence in areas where life is a perpetual struggle for existence by the locals themselves, result in widespread demands for expulsions of refugees and sometimes even for crossing of borders. India has the problems of Chakma refugees from Bangladesh, Tamil refugees from Sri Lanka, Tibetan refugees, Bhutanese refugees, Arakanese refugees from Myanmar and refugees from some other countries as well. Virtually no country in South Asia has been free from the problem of the refugees. When large number of people move across an international border, it is not usually possible to ascertain whether every person involved strictly meets the criteria of refugee status. Low-income countries simply do not have the logistical and administrative resources for such demanding and delicate tasks.

Countries of asylum have an obligation to ensure that the refugees are assured of the widest possible exercise of all basic human rights affirmed in the UN Charter, the Universal declaration of human rights and the terms of the 1951 conventions. The Refugees in turn are required to abide by the laws and regulations of the country which has granted them asylum and conform to any measures taken for the maintenance of public order. The problem of forced displacement has become considerably larger and more complex over the last decade. But the number of refugees has actually declined in recent times; from 18.2 million in 1993 to 213.3 million at the beginning of 1997. Reduction in refugees number can be attributed to the succession of large-scale repatriation movements which have taken
place since 1990s. Article 1 of the statute provides that UNHCR "Shall Assume the function of providing international protection under the auspices of the United Nations to refugees who fall within the scope of the present statute." Besides the Refugee Convention of 1951 and additional protocol of 1967, there are a number of regional conventions further expanding the definitions and rights of refugees to meet the peculiar regional conditions.

Prevention of migration of refugees does not mean building barriers to stop refugees from entering the country but tackling the causes, which compel people to move. In seeking to prevent refugee movements, equal emphasis must also be placed on the economic and social conditions in which people live. Meeting priority human needs, introducing job criteria, poverty alleviation, education and health, can help to reduce some of the pressures, which lead to unrest, and social upheaval, which in turn may result in refugee flow.

Given the reality, most refugees both originate from and seek refugee status in some of the poorest parts of the world. Neither the country of origin nor the 'country of asylum can be expected to discharge their respective responsibilities without the political and financial support of the international community'.

In the final analysis, refugees are symptoms of the deeper social, economic and political problems. The challenge is not how to keep people away but how to meet the needs of the victims and communities which receive them, how to manage refugees in a way which have all basic human rights while addressing the concerns of the State of asylum.

Solving refugee problem involves aspects of human rights, charity, immigration services, religious services, developments, education, advocacy and a host of support and other functions. Thus, the NGOs including human
rights organizations play a crucial role in understanding, dealing with and solving the refugee problems at every stage. No element has been more vital to the successive conduct of the programmes of the UNHCR in resolving the refugee problem than the close partnership between UNHCR and the voluntary agencies. Such agencies act as agents of private conscience and have become a permanent factor in refugee work since the last eight decades. The growing recognition of the role of NGOs and other human rights organizations in protecting and resolving the refugee problems requires their enhanced participation in dialogue with governments and national and State level Human Rights Commissions.

In dealing with refugee problem, the Human Rights Organizations and Human Rights Commissions have a vital role to play. It is both in the sphere of preventing exodus of the refugees from the home state and also in looking after the essential needs and welfare of the refugees in the asylum States.

According to the United Nations High Commission for Refugee (UNHCR) - "Human Rights violations are a major factor in causing the plight of refugees as well as an obstacle to their safe and voluntary return home. Safeguarding Human Rights in countries of origin is therefore critical both for the prevention and for the solution of refugee problems. Respect for Human Rights is also essential for the protection of refugees in countries of asylum".

Even in the absence of specific legislation refugees are entitled for enjoyment and protection of human rights, a large number of which are enshrined in major International and Regional Human Rights instruments and national constitutions. For instance is the right of religious freedom - the
freedom to hold and express opinions - the freedom to organize and participate in public gathering.

Under International Human Rights Law, all of these rights are guaranteed to both citizens and non-citizens. The Human Rights committee has explicitly stated that "Aliens have the right to freedom of thought, conscience and religion and the right to hold opinions and to express them. Aliens receive the benefit of the right of peaceful assembly and of freedom of association. Of course all these rights are subject to certain limitations."

Some of the international instruments constituting International Human Rights Law are –

5. American declaration of the igli1s and the duties of men.
6. Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion and Belief.

India has been a receiving State since centuries and has throughout its history welcomed all to come to its land and absorb them and refugees as part of the people of India. They have mingled, merged and got lost in one common humanity. But all this has been done as a matter of policy without any specific legislation. Even in the absence of legislation, India has always respected the Principle of Non-Refoulment. It is only when the security of the State is threatened or law and order is endangered that India
has been compelled to impose some restrictions on refugees. However, bona fide asylum seekers have always been recognized and protected.


However, there is no specific legislation dealing with the problems of refugees. These problems are dealt with by India and all other countries of South Asia on a purely ad hoc basis. This is purely due to a growing concern that persons who may have committed crime against humanity, war crimes or other acts which are incompatible with the humanitarian nature of refugee status, may enter and remain on the Indian soil under the pretext of being refugees. There is real concern that persons who may have committed crimes against humanity, war crimes or other acts which are incompatible with the humanitarian nature of refugees status, may be able to enter and remain in an asylum country. It is necessary to emphasize that the absence of specific refugee laws and procedures may put the state at a disadvantage in reaching a proper decision regarding determination.

Role of Judiciary

Despite the absence of a formal legal instrument, the Judiciary in India has played a major role in safeguarding the rights of refugees and
asylum seekers. Indeed, some Indian Judicial pronouncements have enshrined principles on the right to seek asylum, Non-Refoulment and Voluntary Repatriation. The courts have arrived at their decisions without specifying or entering in a discussion on International Refugee Law. They have relied on applicability. Article 21 (Right to Live and Liberty) of the Indians constitution and have held that Article 21 is applicable to refugees. The decision of the apex court regarding the treatment of foreigners enunciated that foreigners are entitled to protection under Article 21.

Article 51C in Part IV of the Constitution provides that the state was enjoined to foster respect to International law and treatment applícations. The apex court does require the governments and courts to apply principles of interpretation that promote further and not hinder the aspirations Part IV of the Constitution.

The courts in India have laid down guidelines in the area of refugee protection by reading Article 21 in its expansive signification in the light of the Directive Principles of State Policy.

As the foundation of the refugee problem rested on human rights violations in the home country, appropriate measures are required to address these problems and to restore normalcy for ensuring effective repatriations. Minimum standards of treatment should be prescribed, a mechanism for redressal should be created. When these standards are not met, the country of origin should be held accountable for any refugee exodus.

There is a need for promoting awareness of international refugee laws and standards. To ensure clarity, certainty and uniformity in substance and procedure, the several refugee related ordinances issued from time to time should be codified, complied by the authorities, the human rights
organizations and the public should be sensitized on various issues pertaining to the refugees.

Clear provisions should be included on the protection of refugee women and children as well as their safe and voluntary repatriation. For a human problem, the solution has to be one of humanism. Hence, the legal framework has to be found from human rights. In any civilized society, any human problem or any number or group of humanity is a matter of common concern. Hence the problem of refugees cannot be viewed in isolation. Therefore, the legal framework which has got to be built not only should take care and provide for the protection, welfare, rehabilitation and repatriation of the refugees, but also reconcile the conflicting interests of the receiving country. The basic cause for this problem is human rights abuse. Human rights are claims, which every individual has, or should have upon the society in which he or she lives. They are universal and are the due of every human being in every society.

They do not differ with the country, culture, ideology or with any political or economic systems. They do not depend on gender, race, class or status. They need not be earned or deserved. They are claims as of rights, not merely appeals to grace or charity or brotherhood or love. They are claims of entitlement and the corresponding obligation is on the political and administrative institutions.

The basic human rights being inherent, they need not specifically be conferred by any constitution or an act or law. What the constitution or any specific law does is merely to recognize its existence and provide the machinery for protection of these rights and enforcement, whenever there is need for it. The 1951 convention relating to the status of refugees and the
1961 protocol have to be given legal sanction by enacting domestic laws which can be enforced in national courts.

Mere enactment of a law is not enough. Enactment of a law which is more readily acceptable is more effective. The existing position is that it is only to the extent that national courts can provide relief that it has been possible to do it. The premise on which the judiciary has been acting to protect the interest of the refugees so far is that the basic human rights are supposed to be implied in every civilized system, and therefore unless there is an inconsistent provision in the domestic laws, basic human rights have been read into the provisions of the constitution and other enacted laws.

Therefore, it is as a result of judicial creativity, certain basic rights of the refugees have been taken care of through the medium of the courts. In India the apex court has held that certain basic rights like the right to equality (Article 14), right to life and liberty (Article 21), and freedom to practice and propagate own religion (Article 25), are available to non-citizen refugees as well. Due to the creativity and humanistic interpretation, the rights of citizens as well as non-citizens have been expanded by the courts.

The new world Human order is holistic in vision and operation and therefore, in the larger semantic sweep of human rights, humanitarian jurisprudence and refugee rights are also included. The Geneva Conventions and The Hague jurisprudence have collectively brought into play a sense of humanization even amidst the mad savagery of belligerency. After the Second World War, which witnessed brutality the like of which has never happened in history, the United Nations decided to affirm the dignity and worth of the human person and to save mankind from the scourge of war. Thereafter, the merciful jurisprudence of Human Rights
combined human rights law and humanitarian law on the common basis of humanism. Today the United Nations also cognizes the just obligation of Nations towards the wounded and the sick, the refugees and stateless victims. Thus we have a global law, which governs the conduct of states in peace, and in war the root principle governing the legal regime being human dignity and the ultimate value being reverence for the worth of the human person.

The Indian Constitution, in enacting fundamental duties in Article 51-A has cast on every citizen the duty to promote harmony among all the peoples of India, to have compassion for living creatures and to develop humanism and abjure violence. Thus humanitarian legality and concern for refugee status are writ large in the India ethos. Its noble tone and temper is in keeping with the Delhi Declaration signed by Rajiv Gandhi and Gorbachev (1989) expressing the finest sprit of India’s composite cultural heritage as it advocates a non-violent world order and war free global humanity.

The World needs a spiritualized democratic order where the wounded soldier, the civilian victim, and the fleeing refugee are treated as belonging to a global brotherhood. That is the finest hour of International Humanitarian Law and Refugee Law.

A brief description so some of the key aspects and developments do the refugee definition in international Law, in addition to looking at how the refugee definition can be interpreted in light of corresponding developments in the field of human rights. The Refugee problem today is a central issue in international affairs. It is a growing concern that has assumed a truly global dimension.
The Reception of refugees worldwide is an age-old problem; the legal framework of international refugee law is only fifty-six years old. In fact that the statute of the office of the United Nations High Commissioner for Refugees, for the first time, provided a definition of a refugee on a universal and comprehensive basis to whom the High Commissioner's competence extended. This definition in the UNHCR statute in United Nations General Assembly Resolution 42 8(v) of 1950.

Refugee Protection as Human Rights Protection

It has been mentioned that international human rights standards provide an analytical framework within which to judge whether the forced nature of migration would fall within the remit of international refugee law and the regime of international protection. For example, the 1948 Universal Declaration of Human Rights and the 1966 Covenants on civil and political Rights and Economic, Social and cultural rights - collectively known as the International Bill of Rights - Provide a wide range of human rights which states are obligated to fulfill on behalf of citizens or others persons, including refugee or would be refugees. These rights include: the right to life, freedom from torture, inhumane or regarding treatment; freedom from slavery; post facto prosecution; recognition as person; freedom of thought, conscience, and religion; non-subjection to arbitrary arrest or detention; equality before the law; fair criminal proceedings; freedom of movement; right to personal and family privacy; trade union membership; the right to work; and the right to education. The fundamental rights of individuals, either in their breach or in their protection, are a basic element in any refugee situation.
The United Nations and refugees

Revolutionary technological developments in transportation and communications have led to the mass flows of people, goods and information across frontiers throughout the twentieth century.

However, not all human movements of the century have been voluntary. Modern technology has also brought about the development of weapons of mass destruction. As a result, violence has become the greatest factor in instigating involuntary departures from homelands. Two World Wars, and some 130 armed conflicts since 1945 have given rise to millions of mass displacements and exoduses in the world. Those who drafted the Charter of the United Nations had in mind the painful memories of generalized violence and mass sufferings and called upon its signatories to save succeeding generations from the scourge of war.

They asked the United Nations to help achieve "international cooperation in solving international problems of an economic, social, cultural, or humanitarian character" and to promote and encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion". One of the first issues on the agenda of the United Nations was the fate of refugees, displaced persons, stateless persons and "returnees," all uprooted by war and in need of assistance. The problem was clearly both international and humanitarian.

International Refugee Organization

At its second session in the latter part of 1946, the General Assembly established the International Refugee Organization (IRO). The Organization took over the tasks of the United Nations Relief and Rehabilitation Agency (UNRRA). It received a temporary mandate to register, protect, resettle, and
repatriate refugees. The refugees came from some 30 countries mainly Eastern European. From July 1947 to January 1952, the IRO helped to resettle over million refugees in third countries, repatriated 73,000, and made arrangements for 410,000 who remained displaced in their home countries. As a result of post-war political tensions, IRO operations were both controversial and inadequately funded.

Only 18 of the 54 member States contributed to the budget of the Organization. In addition, the cost of financing operations was rapidly increasing and by 1951 had reached US$ 400 million.

It soon became evident that the responsibility for refugees deserved further international effort under the auspices of the United Nations itself. Consequently, discussions about the establishment of a successor organization began long before the expiration of IRO's mandate.

United Nations High commissioner for Refugees (UNHCR)

In its resolution 319, A (TV) of 3 December 1949, the General Assembly decided to establish the Office of the United Nations High Commissioner for Refugees. The Office was set up as a subsidiary organ of the General Assembly on 1 January 1951, initially for a period of three years.

The mandate of UNHCR has since been routinely extended for successive periods of five years and the current term ends on 31 December 1993. It now cares for over 17 million refugees around the world. The Office is located at Geneva, Switzerland, and is represented in over 100 different countries. In 1991 it had a staff of about 2,300 persons and an overall expenditure, under general and special programmes, of some US$ 862.5 million.
According, to article 1 of the Statute of the Office, the main task of the High Commissioner is to provide international protection to refugees and to seek durable solutions for refugees by assisting Governments to facilitate the voluntary repatriation of refugees, or their integration within new national communities. The High Commissioner's function is qualified as "entirely non-political" and "humanitarian and social."

In fulfilling its protective function, the tasks of the High Commissioner as set out in the Statute, include:

(a) Promoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments;

(b) Promoting measures to improve the situation of refugees and to reduce the number requiring protection;

(c) Assisting efforts to promote voluntary repatriation or assimilation within new national communities;

(d) Promoting the admission of refugees to the territories of States;

(e) Facilitating the transfer of the assets of refugees; obtaining from Governments information concerning the number and conditions of refugees in their territories, and the relevant laws and regulations;

(f) Keeping in close touch with Governments and intergovernmental organizations;

(g) Establishing contact with private organizations dealing with refugee questions;
(i) Facilitating the coordination of private efforts. Protection tasks have diversified even further over the years since the drafting of the Statute.

**International refugee law**

A number of international instruments establish and define basic standards for the treatment of refugees. The most important are the 1951 United Nations Convention relating to the Status of Refugees, and its 1967 Protocol relating to the Status of Refugees.

**International Instruments**

Other Conventions and Declarations, some of which are mentioned below, contain provisions which may be relevant to refugees.

The 1949 Fourth Geneva Convention Relative to the Protection of Civilian Persons in time of War: article 44 of this Convention, whose aim is the protection of civilian victims, deals with refugees and displaced persons. Article 73 of the 1977 Additional Protocol stipulates that refugees and stateless persons shall be protected persons under parts I and III of the Fourth Geneva Convention.

The 1954 Convention relating to the Status of Stateless Persons defines the term "stateless person" as a person who is not considered as a national by any State under the operation of its law. It further prescribes the standards of treatment to be accorded to stateless persons.

The 1961 Convention on the Reduction of Statelessness: a State party to this Convention accords to grant its nationality to a person born in its territory who would otherwise be stateless. The State also agrees,
subject to certain conditions, not to deprive a person of his nationality if such deprivation would render him stateless. The Convention specifies that a person or groups of persons shall not be deprived of their nationality on racial, ethnic, religious or political grounds.

The 1967 United Nations Declaration on Territorial Asylum: this Declaration of the United Nations General Assembly lays down a series of fundamental principles in regard to territorial asylum. It states that the granting of territorial asylum "is a peaceful and humanitarian act and that, as such, it cannot be regarded as unfriendly by any other State." It upholds the basic humanitarian principle of non-refoulement and recalls articles 13 and 14 of the Universal Declaration of Human Rights, which spell out, respectively, the right to leave any country and to return to one's country and the right to seek and enjoy asylum.

Regional instruments

Africa

The growing number of refugees fleeing wars and internal conflicts in Africa, starting in the late 1950s, led to the adoption of what is generally considered the most comprehensive and significant regional treaty dealing with refugees. The Organization of African Unity, on 10 September 1969, adopted the OAU Convention governing the specific aspects of refugee problems in Africa. The primary importance of this Convention is its expanded definition of the term refugee. African States felt that "well-founded fear of persecution" was not sufficiently wide a criterion to cover all the refugee situations in Africa.
The second paragraph of article 1 of the African Convention provides that "the term 'refugee' shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality".

The OAU Convention complements rather than duplicates the 1951 Convention. Apart from the broad refugee definition, the OAU Convention regulates the question of asylum (art. II). It also contains important provisions on voluntary repatriation (art. V) and on the prohibition of subversive activities by refugees (art. III).

As of February 1992, the OAU Convention had been ratified by 42 States.

Europe

The Council of Europe has adopted several instruments concerning refugees. Some of the most important are:

(a) European Agreement on the Abolition of Visas for Refugees 1959);
(b) Resolution 14 (1967) on Asylum to Persons in Danger of Persecution;
(c) European Agreement on Transfer of Responsibility for Refugees (1980);
(d) Recommendation on the Harmonization of National Procedures Relating to Asylum (1981);
(e) Recommendation on the Protection of Persons Satisfying the criteria in the Geneva Convention who are not Formally Refugees 1984);

(f) Dublin Convention (1990), which lays down criteria for determining which member State is responsible for examining an asylum request when the applicant has filed an application for asylum with one or more member States of the Community.

European Conventions on extradition and social security also contain provisions on refugees. Other instruments concluded by European Community member States are listed below.

Latin America

Latin America has a long tradition of asylum. The Montevideo Treaty on International Criminal Law, signed in 1889, was the first regional instrument which dealt with asylum. It was followed by the Caracas Convention on Territorial Asylum, signed in 1954, and other instruments on asylum.

In the 1980s, the outbreak of civil strife in Central America resulted in massive exoduses of close to a million persons; posing serious economic and social problems for the countries towards which this massive flow was directed.

In 1984, these "host" countries adopted the Cartagena Declaration on Refugees which laid down the legal foundations for the treatment of Central American refugees, including the principle of non refoulement, the importance of integrating refugees and undertaking efforts to eradicate the causes of the refugee problem. The definition of "refugee" in the Declaration
is similar to that of the OAU Convention-including, as it does "persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence. In particular, Palestinian case is one of the most dramatic and controversial. Palestinian population was refugee since 1948, when was started the Nakba or Palestinian Exodus during the First Arab-Israeli War in 1948, with the creation of Israeli State. This is a cornerstone to help to understand the conflict in its present’s terms. In the current moment exist over 4 million of Palestinian refugees.