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The Development of Refugee Law

Paul Weis*

INTRODUCTION

In the last six decades, refugee law, a new branch of law, has developed both in the field of international law and of municipal law. There is an interrelation between the two, as municipal laws and regulations are frequently designed to implement treaties to which the states concerned are parties.

The main feature of refugee status is that refugees do not enjoy the protection of any government, either because they are, as stateless persons, unable or, having a nationality, unwilling for political reasons to avail themselves of the protection of their country of origin. The link of nationality is either nonexistent or is ineffective. Although one speaks of *de jure* and *de facto* stateless persons, it would be more correct to speak of *de jure* and *de facto* unprotected persons.

In customary international law, nationality provides the principal link between the individual and the law of nations.¹ Refugees are commonly understood to be persons who have been compelled to leave their homes on account of natural catastrophes or because of political events; they may be inside or outside their country of origin. Refugees may be stateless or not; most present-day refugees are not stateless. Only international political refugees—persons who are outside their country of origin for political reasons—are discussed in this article, an overview of sources of refugee law, and a preface to the articles in this volume which take up various transnational legal problems of refugees.

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INSTRUMENTS ADOPTED BEFORE 1950²

The beginning of refugee law is inseparably linked with the name of the Norwegian Fridtjof Nansen, the great Arctic explorer, statesman, and philanthropist who, in 1921, was appointed High Commissioner for Russian Refugees of the League of Nations. His competence was later extended to other categories of refugees.³

The status of persons who do not have the protection of any government—refugees and stateless persons—is anomalous and extremely precarious. The Russian refugees under the High Commissioner's protection had been deprived of their nationality by the Soviet Government and lacked passports. Hitherto refugees had been treated like ordinary aliens; the law made no provision for persons who lacked travel documents. The earliest international instruments dealing with refugees, established at the initiative of Dr. Nansen, therefore provided for the issuance of a travel document to refugees which has become known as the "Nansen passport."⁴

Among the international agreements relating to refugees that deal exclusively with travel documents belongs a later treaty, the Agreement relating to the issue of travel documents to refugees, signed in London on October 15, 1946.⁵ It provides for the issue of travel documents to refugees not benefiting from earlier agreements. This travel document is in booklet form, similar to a passport (the Nansen certificate was a simple sheet of paper), and entitles the holder to return to the issuing country during the document's period of validity (one or two years).

Subsequent agreements regulated the legal status of refugees in general. The task of the High Commissioner in the legal field was described in later resolutions of the League of Nations as "the legal and political protection of refugees."⁶ In this category of instruments belongs a series of agreements dealing with the rights of refugees to work and to receive welfare and relief payments, the personal status of refugees, freedom from expulsion, rights to education, the fiscal regime of refugees, and exemptions from reciprocity provisions.⁷ Unfortunately, the agreements applied only to specific categories of refugees and were ratified, frequently with reservations, by only a few states.

UNIVERSAL TREATIES CONCLUDED AFTER 1950

Most of the treaties discussed above have been expressly superseded by the Convention relating to the Status of Refugees,⁸ adopted on July 28, 1951 by a Conference of Plenipotentiaries held at Geneva under the auspices of the United Nations.

The Convention can be regarded as the most important international instrument relating to refugees. It contains a far more general definition of the term "refugee" than previous international instruments relating to refugees in order to ensure the universal scope of the Convention. For the purposes of the Convention, the term "refugee" applies to any person who

[a]s a result of events occurring before 1 January 1951 and 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 as a result of such events, is unable or, owing to such fear, is unwilling to return to it.⁹

The Convention also contains a far more general catalog of the rights that are to be accorded to refugees than do previous instruments.

The Convention lays down, in the first place, that its provisions are to be applied without discrimination as to race, religion, or country of origin.¹⁰ It stipulates that, except where the Convention contains more favorable provisions, contracting states shall accord to refugees the same treatment as is accorded to aliens generally¹¹—by no means a self-evident rule, considering the precarious status of unprotected persons in international and frequently also in national law. The Convention provides for the exemption of refugees from the requirement of legislative reciprocity after three years' residence.¹² Diplomatic or legislative reciprocity is still a requirement for the treatment of aliens under the law of many countries, but it has no *raison d'être* in the case of refugees. Exceptional measures against the person, property, or interests of nationals of a foreign state may not be applied to a refugee who is formally a national of that state solely on account of his or her nationality.¹³ This provision is designed to prevent the recurrence of practices resorted to during World War II when refugees from Germany and its satellites were subjected in certain Allied countries to internment and other restrictions as "enemy aliens" on account of their enemy nationality, in spite of their opposition to Nazism and Fascism.

The personal status of a refugee is to be governed by the law of the country of domicile or, if he or she has no domicile, by the law of the country of residence.¹⁴ The term "domicile" refers not to the Anglo-Saxon but to the Continental law concept of habitual residence. The Convention embodies here a principle that is increasingly gaining ground in the conflicts rules of private international law.

As to specific rights of refugees, the Convention establishes three standards of treatment: (1) national treatment, which is the same treatment as

is accorded to nationals of the contracting states; (2) most-favored-nation treatment, the most favorable treatment accorded to nationals of a foreign country; and (3) "treatment as favorable as possible, and in any event not less favorable than that accorded to aliens generally in the same circumstances."¹⁵

Contracting states are to grant refugees national treatment with respect to freedom to practice religion and the religious education of their children,¹⁶ and with respect to access to courts, legal assistance, and exemption from *cautio judicatum solvi*.¹⁷ In countries other than the country of habitual residence, refugees are, in the latter matters, to be granted the treatment accorded to nationals of the country of their habitual residence. The same treatment granted to nationals of the country of their habitual residence is also to be granted to refugees with regard to the protection of industrial property such as inventions, designs or models, trademarks and trade names, and to rights in literary, artistic, and scientific works.¹⁸ A refugee who has completed three years' residence in the contracting state, or who has a spouse whom he or she has not abandoned, or two or more children who possess the nationality of that country, is to be accorded national treatment with respect to wage-earning employment,¹⁹ rationing,²⁰ and elementary education.²¹ Refugees are also entitled to national treatment as to the right to public relief and assistance,²² labor legislation and social security (subject to certain qualifications),²³ and, in particular, taxation.²⁴

Most-favored-nation treatment is to be accorded to refugees as to their right to create and to join nonpolitical and nonprofit-making associations and trade unions.²⁵ Refugees who do not fulfill the conditions required for the enjoyment of national treatment as to the right to engage in wage-earning employment are nevertheless to enjoy most-favored-nation treatment.²⁶

Treatment as favorable as possible, and in any event not less favorable than that accorded to aliens generally, is to be granted to refugees with respect to the acquisition of movable and immovable property and rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.²⁷ The right to engage on their own account in agriculture, industry, handicrafts, and commerce is to meet the same minimum standard, as are the rights to establish commercial and industrial companies,²⁸ to practice a liberal profession,²⁹ and, in so far as it is controlled by laws and regulations, the right to obtain housing.³⁰ Access to higher education, in particular, admission to studies, recognition of foreign diplomas, remission of fees, and granting of scholarships, is similarly guaranteed.³¹

As refugees are normally unable to obtain administrative assistance, documents, or certifications of facts from the authorities of their country

of origin, the contracting states undertake to arrange for such assistance to be made available by their own authorities or by an international authority.³² The Convention furthermore provides for the issuance of travel documents to refugees by the state of residence of the refugee.³³ This travel document entitles the holder to return within the period of its validity to the country that issued it. This so-called "Convention travel document," in passport form, has largely superseded the Nansen passport.

Finally, the Convention contains limitations on the expulsion or deportation of refugees, in view of the seriousness of such a measure against persons who are unable or unwilling to return to their country of origin. It contains, in particular, the most important principle of *non-refoulement*: no refugee shall—except in the case of serious criminals or persons constituting a danger to the security of the country—be expelled or returned in any manner whatsoever to the frontiers of territories where his or her life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion. This principle, enunciated in Article 33, can be regarded as the cornerstone of refugee law. It has acquired the character of a general principle of law or of a rule of customary international law; it is, by some, even considered as *jus cogens*.

While the definition of "refugee" in the 1951 Convention is more general than that contained in previous instruments, it is limited in that the person must be outside his or her country of origin "as a result of events occurring before 1 January 1951." Moreover, contracting states may, by an optional declaration, attribute to the words "events occurring before 1 January 1951" the meaning "events occurring in Europe before 1 January 1951," thus limiting the application of the Convention to European refugees.

The dateline of January 1, 1951 excluded from the application of the Convention persons who had become refugees owing to political events that occurred after that date (and that were not after-effects of earlier events, such as the events in Hungary in 1956 and the occupation of Czechoslovakia in 1968)—particularly large numbers of refugees in Africa. This dateline has been removed by a Protocol relating to the Status of Refugees³⁴ of January 31, 1967. Under this Protocol, the contracting states undertake to apply the substantive provisions of the Convention as if the words "as a result of events occurring before 1 January 1951" were omitted from the definition in the Convention.

The Convention, or the Protocol, had been ratified by eighty-three states at the time of writing of this article. Two states—the United States and Swaziland—are parties to the Protocol only. Their obligations are, however, the same as those of parties to the Convention.

While the 1951 Convention and the 1967 Protocol are the most impor-

tant instruments relating to refugees, they are by no means the only ones. Some of the other notable treaties include the following five.

The Agreement relating to refugee seamen,³⁵ was adopted at The Hague on November 11, 1957. Among refugees, seamen are often in a particularly precarious situation, as they are, in the absence of documents, frequently unable to go on land and are virtually prisoners on board the ships on which they serve. The Agreement obliges the contracting states to issue Convention travel documents to refugee seamen who have a link with the state concerned, by virtue of previous residence, previous issuance of a travel document, or service during a specified period on a ship flying its flag. Some 2,000 seamen were thereby issued travel documents by Great Britain alone, even before the entry into force of the Agreement. A Protocol extends the provisions of the Agreement to persons who have become refugees as a result of events subsequent to January 1, 1951.³⁶

The U.N. Convention relating to the Status of Stateless Persons³⁷ of September 28, 1954, applies to refugees who are not considered nationals by any state under the operation of its law. It extends legal protection to stateless refugees who are not covered by the 1951 Refugee Convention. The Final Act contains, moreover, a recommendation to apply the provisions of the Convention to *de facto* stateless persons.

The U.N. Convention on the Reduction of Statelessness³⁸ of August 28, 1961, benefits refugees in so far as it facilitates the acquisition of nationality by refugees, particularly refugee children, who are *de jure* stateless. The Convention provides for the acquisition by a child of the nationality of the country of his or her birth, either at birth or, in *jus sanguinis* countries, at the age of majority (provided the child has habitually resided in that state for more than ten years) or for the acquisition of the nationality of one of the child's parents. The Convention limits, furthermore, the grounds on which a person may be deprived of his or her nationality. The Final Act recommends, moreover, that *de facto* stateless persons should as far as possible be treated as stateless *de jure* in order to facilitate acquisition of an effective nationality.

The U.N. Convention on the Recovery Abroad of Maintenance,³⁹ which is designed to facilitate the establishment and execution of claims for maintenance, is of particular importance for refugees, as members of refugee families are frequently separated from each other.

Protocol No. 1 to the Universal Copyright Convention,⁴⁰ of September 6, 1952, assimilates refugees and stateless persons to the nationals of their country of habitual residence as regards copyright laws.

REGIONAL TREATIES

The Convention of the Organization of African Unity Governing the Specific Aspects of Refugee Problems in Africa of September 10, 1969,⁴¹ is the regional supplement to the 1951 Convention relating to the Status of Refugees. It contains a broader definition of the concept of "refugee" than the 1951 Convention, covering persons outside their country of origin due to external aggression, military occupation, foreign domination, or other events seriously disturbing public order in either part or the whole of the country of origin.⁴² The OAU Convention also addresses matters not regulated in the 1951 Convention, such as asylum, subversive activities of refugees, and voluntary repatriation.⁴³

On the European level, the Convention on Social Security of December 14, 1975,⁴⁴ adopted in Paris under the auspices of the Council of Europe, assimilates refugees to nationals of the party in whose territory they reside with respect to social security laws. A Protocol to the European Convention on Social and Medical Assistance⁴⁵ provides that the provisions of Section I of the Convention (regarding access to social and medical services) shall apply to refugees under the same conditions as they apply to nationals of the parties. The European Agreement on the Abolition of Visas for Refugees⁴⁶ exempts refugees who hold Convention travel documents or travel documents issued under the London Agreement of October 15, 1946⁴⁷ from a visa requirement in the case of visits not exceeding three months. On October 16, 1980 the Council of Europe opened for signature an Agreement on Transfer of Responsibility for Refugees⁴⁸ providing for travel documents to be issued to refugees moving lawfully from one country to another by the second state after two years of lawful residence by the refugee in that state.

While these are the most important instruments of particular relevance to refugees, special provisions relating to refugees have been inserted in numerous bilateral and multilateral treaties, frequently at the initiative of the international agency entrusted with primary responsibility for the protection of refugees.

MUNICIPAL LAW

There has been a distinct trend in the legislation of many countries in the past decades, to take into account, to an ever-increasing degree, the special position of refugees. Previously, the aliens' legislation of most countries did not distinguish between refugees and other aliens; the legislator had the normal, the protected alien in mind. But as mentioned above, the 1951 Refugee Convention and the 1967 Protocol have been widely ratified by

states and they have been incorporated, by direct or indirect transformation, into national laws. (Where the principle of direct transformation applies, a treaty becomes by ratification *ipso jure* part of the law of the land; under the rule of indirect transformation, special legislative measures are needed to effect an amendment of national law.) A number of countries have gone beyond their treaty obligations and have enacted special legislative provisions in favor of refugees. It is not possible to give an exhaustive picture of this legislation; a few examples of provisions exceeding the minimum requirements of the Refugee Convention must suffice at this point, with more detailed accounts found in the Appendix and other articles in this volume.⁴⁹

United States

In the United States there have been several refugee acts, which mainly provided for special quotas for the admission of refugees.⁵⁰ The Refugee Act of 1980,⁵¹ which is treated more amply elsewhere in this book,⁵² constitutes a new departure. While the previous acts had defined as refugees only persons coming from "Communist or Communist-dominated countries and the general area of the Middle East," the 1980 Act contains a definition based on the 1951 Refugee Convention and the 1967 Protocol. In an expansion of the Convention definition, the Act also considers as a refugee any person who, in such special circumstances as the president after appropriate consultation may specify, is still in his or her country of origin and is persecuted or has well-founded fear of persecution. Persons who were themselves engaged in persecution are excluded. The spouse and minor children of a refugee are also to be admitted.⁵³

Austria

The Federal Asylum Act of March 9, 1968,⁵⁴ regulates the procedure for the recognition of refugee status; asylum seekers are entitled to reside in Austria until a final decision is taken on their application. Recognition of refugee status entails the right to permanent residence in Austria.

Belgium

An Act of March 17, 1964,⁵⁵ amending articles 12 and 13 of the Nationality Act of 1932,⁵⁶ *inter alia* reduces the period of residence required of refugees for naturalization (*grande naturalisation*) to five years. The requirement for *naturalisation ordinaire*, a legal status conveying some, but not all, of the political rights of citizenship, is cut down to three years in the case

of refugees. In both cases, the period is half that required of ordinary aliens.

France

Act No. 52-893 of July 25, 1952⁵⁷ established an Office for the Protection of Refugees and Stateless Persons as an autonomous body within the Ministry of Foreign Affairs. Under the Act and the implementing Decree No. 53-377 of May 2, 1953,⁵⁸ the office is charged with determination of refugee status and administrative assistance to refugees. The director of the office is assisted by an interdepartmental council presided over by a representative of the Ministry of Foreign Affairs. Appeals against decisions refusing or withdrawing refugee status may be brought before an Appeals Commission presided over by a member of the *Conseil d'Etat*, which is also competent to advise the minister of the interior on measures of expulsion or restrictions of movement imposed on refugees in lieu of expulsion.

Federal Republic of Germany

The Homeless Foreigners Act of August 25, 1951,⁵⁹ as amended, regulates, in a manner more favorable than that provided for in the 1951 Convention, the status of refugees who had their residence in the Federal Republic on January 1, 1951—*i.e.*, mostly the displaced persons who remained in Germany. To a large extent, the Act mandates national treatment for the civil rights of this group of refugees. The Aliens Act of April 28, 1965⁶⁰ provides that, subject to the exceptions of Article 33, paragraph 2, of the 1951 Refugee Convention, an alien may not be removed to a state where his or her life or liberty is threatened on account of race, religion, nationality, membership in a particular social group, or political convictions. The Act contains a special chapter on the right of asylum, which defines the persons entitled to asylum and regulates the procedure.

In the Federal Republic of Germany there is an exceedingly high number of asylum applications, many of which are manifestly unfounded, and there has recently been legislation to accelerate the asylum procedure.⁶¹

The Netherlands

The Aliens Act of January 13, 1965,⁶² the Aliens Decree of September 19, 1966,⁶³ and the Regulations of September 22, 1966,⁶⁴ issued under the Act, regulate the asylum procedure and recognition of refugee status, and contain safeguards against the refusal of entry or residence, and against expulsion and *refoulement* of refugees.

Portugal

The Act on the Right of Asylum and the Status of Refugees of August 1, 1980,⁶⁵ provides that the right of asylum is granted to aliens and stateless persons persecuted by reason of their activity in favor of democracy, social and national liberty, peace among nations, or the freedoms and rights of the human person in the state of their nationality or habitual residence. It then enumerates the grounds of persecution in the 1951 Refugee Convention. Asylum may also be granted to aliens and stateless persons who are unwilling to return to their country of origin because of insecurity due to armed conflict or the systematic violation of human rights there.

The decision on applications for asylum is taken jointly by the Ministry of the Interior and the Ministry of Justice, after hearing the advice of the Consultative Commission for Refugees. The Commission is composed of representatives of the Ministries of Defense, Interior, Foreign Affairs, Justice, Labor, and Social Affairs, and by a representative of the Office of the UNHCR in the capacity of observer. Appeal against negative decisions may be taken to the Supreme Administrative Tribunal, and against expulsion decisions, to the Supreme Court of Justice.

The Act is to be interpreted and executed in accordance with the Universal Declaration of Human Rights,⁶⁶ the 1951 Refugee Convention, and the 1967 Protocol.

Senegal

Law No. 68-27 of July 24, 1968,⁶⁷ relating to the status of refugees, provides for a Special Commission for the recognition and withdrawal of refugee status; expulsion measures against refugees require the advice of the commission. The Act contains provisions more favorable than those in the 1951 Convention regarding the exercise of the liberal professions, access to education, scholarships, the right to work, and social benefits.

Sweden

The Aliens Act of June 5, 1980⁶⁸ provides that a refugee shall not without grave reasons be refused asylum in Sweden when he or she has need of such protection. The definition of refugee is that of the 1951 Convention, as amended by the Protocol. Moreover, a person who has deserted a theater of war or fled his or her home country to escape imminent military service in time of war shall not be refused permission to stay in Sweden if in need of protection there. Only special reasons can justify a denial of this permission. An alien who, although not a refugee, is unwilling to return to his or her home country on account of the political situation there, and is able

to plead important reasons to this effect, shall not be refused permission to stay in Sweden if in need of protection there, unless there are reasons for such denial.

The decision on entry in such cases is taken by the National Immigration and Naturalization Board. A person who holds a declaration of refugee status, or who is otherwise regarded as a refugee and is in need of sanctuary in Sweden, may not be expelled. An alien may not be sent to a country where he risks persecution.

Switzerland

The Asylum Act of October 5, 1979⁶⁹ provides that Switzerland grants asylum to refugees on their application. Refugees are defined as persons who, in their country of origin, are exposed to serious prejudice on account of their race, religion, nationality, membership of a particular social group, or political opinion, or who have well-founded fear of being exposed to such prejudice. "Serious prejudice" is to be considered, particularly danger to life, body, or freedom, as well as measures that result in insupportable psychological pressure. Spouses and minor children are granted asylum on the same terms as the applicant. Asylum applications are decided by the Federal Department of Police. Appeal lies to the Federal Department of Justice and Police, and ultimately to the Federal Council. The Act also regulates assistance to refugees, which is within the competence of the federal authorities, and contains the principle of *nonrefoulement*.

ASYLUM

Under international law, asylum is regarded as a right of states, not of the individual⁷⁰; the 1951 Refugee Convention does not regulate the grant of asylum. The General Assembly of the United Nations unanimously adopted, on December 14, 1967, a Declaration on Territorial Asylum⁷¹ containing the principle of *nonrefoulement*, including nonrejection at the frontier. This latter principle is not explicitly mentioned in Article 33 of the Refugee Convention; the Convention is unclear on the question of whether the principle of *nonrefoulement* applies to refugees who have not yet been admitted into a country of asylum. The Declaration also calls on all states to share the burden imposed on countries of first asylum. However, the Declaration is not legally binding. A Conference of Plenipotentiaries held under the auspices of the United Nations at Geneva in January and February 1977 considered a draft Convention on Territorial Asylum, but was unable to agree on a final draft within the allotted time.⁷²

Municipal laws, some of which are described above, also provide for

asylum in various states. The constitutions of a number of countries provide for a right to asylum, in particular those of the Federal Republic of Germany, France, African countries whose constitutions are derived from the French Constitution, Italy, Portugal, and several of the Arab countries.⁷³

The constitutions of the socialist countries of Eastern Europe, with the exception of the German Democratic Republic and Hungary, have provisions establishing a right to asylum for certain categories of refugees.⁷⁴ Other countries have provisions in their aliens' legislation that either explicitly or *de facto*, as a result of the prohibition of *refoulement*, including rejection at the frontier, establish a right to asylum. In the Anglo-Saxon countries, the grant of asylum is a matter of executive discretion. In the United States, for example, the 1980 Refugee Act provides that "[t]he Attorney General shall establish a procedure for an alien to apply for asylum and the alien may be granted asylum in the discretion of the Attorney General if he determines that the alien is a refugee within the meaning of the Act."⁷⁵

In Great Britain, under the Immigration Rules of November 1979⁷⁶ an Immigration Officer may not refuse leave to enter to a person who claims or appears to have no country to be removed to other than one likely to persecute him or her for race, religion, nationality, membership in a particular social group, or political opinion. The case must be referred to the Home Office "for decision regardless of any other grounds which may appear to justify refusal of leave to enter."⁷⁷ The issuance of deportation orders is also limited by Convention-like criteria.

The description of international and national legislation shows the importance of refugee character, as the applicability of this legislation depends on the fact that the person concerned meets the definition of refugee in the relevant instrument, normally the 1951 Convention, as amended by the 1967 Protocol. Moreover, a considerable number of countries party to the Convention and Protocol have adopted this definition as the criterion for the granting of asylum, although no such obligation exists under these instruments. This practice enhances, of course, the importance of the decision on refugee character, as nonrecognition may entail forcible return to the country of origin.

The formal recognition of refugee character is of a declaratory nature—whether a person is a refugee depends on his fulfilling the conditions of the definition. For the determination of refugee status, the term "eligibility determination" has become accepted. In view of its importance, special procedures for the recognition of refugee character have been established by legislation or administrative measures in a number of countries party to the 1951 Convention.⁷⁸ These measures provide for the association, to a varying degree, of representatives of the Office of the United Nations High Commissioner for Refugees with the procedure, the determination

normally being made by a collegial body. This cooperation of international officials in a national procedure is, in itself, a unique phenomenon.

CONCLUSION

A considerable body of refugee law has developed, particularly since the end of the second world war, much of it based on the 1951 Refugee Convention. The definition of refugee contained in the Convention, as amended by the 1967 Protocol, has gained wide acceptance. Some states have chosen to expand the definition to embrace persons fleeing a wider variety of unfortunate circumstances in their countries of origin; some have augmented the status and accompanying rights accorded refugees under the Convention. Finally, development and expansion has taken place in another dimension of refugee law as national law systems recognize with increasing frequency a duty to grant asylum to refugees, although no such obligation is imposed by international law.

NOTES

¹ L. OPPENHEIM, *INTERNATIONAL LAW* 640 (8th ed. Lauterpacht 1955).

² See Appendix I, *International Instruments*, this volume, for a compilation of major international and regional instruments regarding refugees.

³ See 13 LEAGUE OF NATIONS COUNCIL 53 (1921) (authorized appointment of a League of Nations High Commissioner for Russian refugees); 14 LEAGUE OF NATIONS COUNCIL, Annex 245, 64 (1921) (appointing Nansen as High Commissioner). See generally, C. CLAUSEN, DR. FRIDTJOF NANSEN'S WORK AS HIGH COMMISSIONER OF THE LEAGUE OF NATIONS (1932); R. RISTELHUEBER, *LA DOUBLE AVENTURE DE FRIDTJOF NANSEN, EXPLORATEUR ET PHILANTHROPE* (1944).

⁴ See Arrangement with regard to the issue of certificates of identity to Russian refugees, July 5, 1922, 13 L.N.T.S. 237; Plan for the Issue of a Certificate of Identity to Armenian Refugees, submitted on May 31, 1924, 5 LEAGUE OF NATIONS O.J. 969 (1924) (C.L. 72(a) (1924)) (extending the benefits of the Nansen passport to Armenian Refugees); Arrangement relating to the Issue of Identity Certificates to Russian and Armenian Refugees, supplementing and amending the previous Arrangements, May 12, 1926, 89 L.N.T.S. 47; Arrangement concerning the Extension to Other Categories of Refugees of certain measures taken in favour of Russian and Armenian Refugees, June 30, 1928, 89 L.N.T.S. 63; Plan for the Issue of a Certificate of Identity to Refugees from the Saar, adopted on May 24, 1935, 16 LEAGUE OF NATIONS O.J. 1681 (1935) (annex to C.L. 120 1935. XII.)

⁵ Agreement relating to the issue of travel documents to refugees who are the concern of the Intergovernmental Committee on Refugees, Oct. 15, 1946, 11 U.N.T.S. 73.

⁶ LEAGUE OF NATIONS O.J., Spec. Supp. 183, at 137 (1938). See LEAGUE OF NATIONS O.J., Spec. Supp. 75, at 145-46 (1929); LEAGUE OF NATIONS O.J., Spec. Supp. 84, at 157-58 (1930).

⁷ See the Arrangement relating to the Legal Status of Russian and Armenian Refugees, June 30, 1928, 89 L.N.T.S. 53; Convention relating to the International Status of Refugees, Oct. 28, 1933, 159 L.N.T.S. 199 (the first legally binding instrument in this field); Provisional Arrangement concerning the Status of Refugees coming from Germany, July 4, 1936, 171

L.N.T.S. 75; Convention concerning the Status of Refugees coming from Germany, Feb. 10, 1938, 192 L.N.T.S. 59 (replacing the Provisional Agreement of July 4, 1936); Additional Protocol concerning the Status of Refugees coming from Germany, Sept. 14, 1939, 198 L.N.T.S. 141 (extending the application of the Convention of Feb. 10, 1938 to refugees from Austria).

⁸ Convention relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137. See generally Weis, *Legal Aspects of the Convention of 25 July 1951 Relating to the Status of Refugees*, 30 BRIT. Y.B. INT'L L. 478 (1953).

⁹ Convention relating to the Status of Refugees, art. 1(A)(2).

¹⁰ *Id.*, art. 3.

¹¹ *Id.*, art. 7(1).

¹² *Id.*, art. 7(2).

¹³ *Id.*, art. 8.

¹⁴ *Id.*, art. 12(1).

¹⁵ See, e.g., *id.*, arts. 13, 14, 15, 16, 17, 18, 19.

¹⁶ *Id.*, art. 4.

¹⁷ *Id.*, art. 16.

¹⁸ *Id.*, art. 14.

¹⁹ *Id.*, art. 17(2).

²⁰ *Id.*, art. 20.

²¹ *Id.*, art. 22(1).

²² *Id.*, art. 23.

²³ *Id.*, art. 24.

²⁴ *Id.*, art. 29.

²⁵ *Id.*, art. 15.

²⁶ *Id.*, art. 17(1).

²⁷ *Id.*, art. 13.

²⁸ *Id.*, art. 18.

²⁹ *Id.*, art. 19.

³⁰ *Id.*, art. 21.

³¹ *Id.*, art. 22(2).

³² *Id.*, art. 25.

³³ *Id.*, art. 28, Schedule and Annex.

³⁴ Protocol relating to the Status of Refugees, *done* Jan. 31, 1967, 19 U.S.T. 6223, T.I.A.S. No. 6577, 606 U.N.T.S. 267.

³⁵ Agreement relating to refugee seamen, Nov. 23, 1957, 506 U.N.T.S. 125.

³⁶ Protocol to the Agreement relating to refugee seamen, June 12, 1973, U.N.T.S. No. 13928. See text in OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, COLLECTION OF INTERNATIONAL INSTRUMENTS CONCERNING REFUGEES 54 (2d ed. 1979).

³⁷ Convention relating to the Status of Stateless Persons, Sept. 28, 1954, 360 U.N.T.S. 117.

³⁸ Convention on the Reduction of Statelessness, *done* Aug. 30, 1961, U.N. Doc. A/Conf.9/15 (1961).

³⁹ Convention on the Recovery Abroad of Maintenance, June 20, 1956, 268 U.N.T.S. 3.

⁴⁰ Protocol I annexed to the Universal Copyright Convention concerning the application of that Convention to the works of stateless persons and refugees, Sept. 6, 1952, 216 U.N.T.S. 176.

⁴¹ OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, *done* Sept. 10, 1969, U.N.T.S. No. 14691. See text in OFFICE OF THE HIGH COMMISSIONER FOR REFUGEES, COLLECTION OF INTERNATIONAL INSTRUMENTS CONCERNING REFUGEES 193 (2d ed. 1979).

⁴² *Id.*, art. I(2).

⁴³ *Id.*, arts. II, III, IV.

44 European Convention on Social Security, Dec. 14, 1972, Europ. T.S. No. 78.

45 European Convention on Social and Medical Assistance and Protocol, Dec. 11, 1953, Europ. T.S. No. 14.

46 European Agreement on the Abolition of Visas for Refugees, April 20, 1959, 376 U.N.T.S. 85.

47 Agreement relating to the issue of a travel document to refugees who are the concern of the Intergovernmental Committee on Refugees, *supra* note 5.

48 Agreement on Transfer of Responsibility for Refugees, *opened for signature* Oct. 16, 1980, Europ. T.S. No. 107. See text in COUNCIL OF EUROPE, EXPLANATORY REPORT OF THE EUROPEAN AGREEMENT ON TRANSFER OF RESPONSIBILITY FOR REFUGEES (1980).

49 See Appendix III, *Review of Foreign Laws*, this volume, for summaries of the refugee laws of 19 countries.

50 See Appendix II, *Review of United States Law*, this volume, for an historical synopsis of U.S. refugee laws.

51 Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102 (1980) (to be codified in scattered sections of 8, 22 U.S.C.). For a supranational perspective on the Act and its implementation, see Goodwin-Gill, *Entry and Exclusion of Refugees: The Obligations of States and the Protection of the Office of the United Nations High Commissioner for Refugees*, this volume.

52 See Martin, *The Refugee Act of 1980: Its Past and Its Future*; Griffith, *Deportation and the Refugee*; Parker, *Victims of Natural Disasters in United States Refugee Law and Policy*, this volume.

53 Refugee Act of 1980, § 201(b) (to be codified at 8 U.S.C. § 1156).

54 Bundesgesetz über die Aufenthaltsberechtigung im Sinne der Konvention über die Rechtsstellung der Flüchtlinge (Federal Law concerning the Right of Residence of Refugees according to the Refugee Convention), Mar. 7, 1968, [1968] Bundesgesetzblatt [BGBl] 742 (No. 126), *amended by* Änderungsgesetz, Nov. 27, 1974, [1974] BGBl 796 (Aus.).

55 Loi relative à la naturalisation, *Moniteur*, March 24, 1964, [1964] *Pasinomie* 329 (Belg.).

56 Loi sur l'acquisition, la perte et le recouvrement de la nationalité coordonnés, Dec. 14, 1932, *Moniteur*, Dec. 17, 1932, [1932] *Pasinomie* 559 (Belg.).

57 Loi No. 52-893 portant création d'un office français de protection des réfugiés et apatrides, July 25, 1952, [1952] Journal Officiel de la République Française [J.O.] 7642, [1952] Dalloz, Législation [D.L.] 784 (Fr.).

58 Décret No. 53-377 relatif à l'office français de protection des réfugiés et apatrides, May 2, 1953, [1953] J.O. 4029, [1953] D.L. 158. (Fr.).

59 Gesetz über die Rechtsstellung Heimatloser Ausländer im Bundesgebiet (The Legal Status of Homeless Foreigners Act) Apr. 25, 1951, [1951] BGBl I 269 (W. Ger.).

60 Ausländergesetz (Aliens Act), Apr. 28, 1965 [1965] BGBl I 353 (W. Ger.).

61 Gesetz zur Beschleunigung des Asylverfahrens (Law for the Acceleration of the Asylum Procedure), July 25, 1978, [1978] BGBl I 1108; and Zweites Gesetz zur Beschleunigung des Asylverfahrens (Second law for the Acceleration of Asylum Procedure) Aug. 16, 1980, [1980] BGBl I 1437 (W. Ger.).

62 Aliens Act, Staatscourant No. 40 (1965), Jan. 13, 1965 (Neth.).

63 Royal Decree, Staatscourant No. 387 (1966), Sept. 19, 1966 (Neth.).

64 Regulations, Staatscourant No. 188 (1966), Sept. 22, 1966 (Neth.).

65 Law No. 38/80, Direito de asilo e Estatuto do Refugiado (Right of Asylum and Refugee Status), Aug. 1, 1980 [1980] Diário da República (Port.).

66 Universal Declaration of Human Rights, G.A. Res. 217, U.N. Doc. A/810, at 71 (1948).

67 Loi No. 68-27 portant statut des réfugiés, July 24, 1968, Journal Officiel [J.O.], Aug. 17, 1968, at 1032 *amended by* Loi No. 75-109, Dec. 20, 1975, J.O., Jan. 22, 1976, at 102 (Senegal).

68 Utlänningslagen (Aliens Act) of June 5, 1980, [1980] Svensk Författningssamling No. 376 (Swed.).

69 Law of Asylum, Oct. 5, 1979, [1980] Sammlung der Eidgenössischen Gesetze (A.S.) 1718,

[1980] Recueil officiel des lois et ordonnances de la Confédération suisse [ROLF] 1718, Raccolta ufficiale delle leggi, decreti e regolamenti della confederazione sizzera [RULF] 1718 (Switz.).

⁷⁰ G. GOODWIN-GILL, *INTERNATIONAL LAW AND THE MOVEMENT OF PERSONS BETWEEN STATES* 137 (1978).

⁷¹ G.A. Res. 2312, 22 U.N. GAOR, Supp. (No. 16) 81, U.N. Doc. A/6912 (1967).

⁷² See Weis, *The Draft U.N. Convention on Territorial Asylum*, BRIT. Y.B. INT'L L. 151 (1979).

⁷³ For lists of constitutional provisions relating to asylum see UNITED NATIONS LIBRARY, *A SELECT BIBLIOGRAPHY ON TERRITORIAL ASYLUM* 68-74 (1979).

⁷⁴ See generally, *id.* at 68-74.

⁷⁵ Refugee Act of 1980, § 201(b) (to be codified at 8 U.S.C. § 1156).

⁷⁶ Statement of Changes in Immigration Rules, Cmnd. No. 394 (1980).

⁷⁷ *Id.*, Rule 64.

⁷⁸ See generally Weis, *The concept of the refugee in international law*, 87 JOURNAL DU DROIT INTERNATIONAL 928 (1960); U.N. Doc. A/AC.96/INF.152/Rev.2 (1980) (describes procedures and cites legal authorities for 32 countries).