UNHCR

Handbook A

Asylum in the practice of Latin America and African States

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“I wish to call on you to join hands in the building of a world in which less people will be forced to flee, and in which refugees are protected until they can safely return home one day.”
Ogata, Sadako

Dear delegates,

The Chair is grateful for your participation in this 11th edition of TAEMUN in this committee: United Nations High Commissioner for Refugees (UNHCR). During these three days, we will be discussing several issues about asylum specially in Latin America and African countries. This is one of humanity’s mayor problems: refugees. This has been a great difficulty, but we expect you to be up to the challenge. You will be cooperating and debating with more than thirty other delegates in order to reach a solution.

We truly hope you enjoy your participation in this committee and learn.

United Nations High Commissioner for Refugees
TAEMUN 2014
A. Asylum on the Practice of Latin America and African States.

Asylum, is understood as ‘the protection that a State grants on its territory or in some other places under the control of of its organs to a person who comes to seek it’. The difference between asylum and refugees status is that asylum constitutes the institution for protection while the latter refers to one of the categories of individuals who benefit from such protection.

Every country has different conflicts and situations that cause the migration of their populations and the seek of a place to be safe. This is where United Nations High Commissioner for Refugees (UNHCR) starts acting. This committee has given people many options to find peace, safeness and a place to stay while their countries are solving their own situations. UNHCR primary purpose is to safeguard the rights and well-being of refugees and immigrants, with the option to return home voluntarily, integrate locally or to resettle in a third country.

In more than six decades, UNHCR has helped people restart their lives. Today, a staff of more than 7,600 people in over than 125 countries continue to help tens of millions of people.

Nowadays, several countries and regions are affected by conflicts and problems in their countries. So, they have the need to be helped by UNHCR. Latin American and African States interfere in this worldwide problem, not just getting asylum but trying to find asylum for their people as well. But each country has their own rules when talking about giving asylum to foreign people.

The Inter-American System of Human Rights to be found in the 1826 at Panama Congress is a system that led to the adoption of the Treaty of Union, League, and Perpetual Confederation. The Treaty plans to establish a Latin American Confederation and it shows a number of principles, including legal equality between nationals and foreigners.
The position of Latin American states on the treatment of foreigners, including the granting of asylum, was reflected in the adoption in the early 20th century of a number of instruments, the 1928 Convention on Asylum, and the 1933 Convention on Political Asylum.

Some of the constitutions of American countries contain a generic recognition of the right to asylum but then refer its development to the law. For example, Article 36 of the Colombian Constitution states that ‘the right of asylum is recognized in the terms established by the law.’

Colombia’s legislation specifically refers to the international treaties that the country is a Party to.

![Image](image.jpg)

The African Charter on Human and Peoples’ Rights, article 12 establishes that:

‘Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with laws of those countries and international conventions’.

Asylum in the practice of African States While current constitutional provisions in Latin American states reflect their own history of independence in the course of the 19th century, and therefore draw from the liberal-democratic tradition that emerged from the French Revolution, African states mostly acquired independence and full membership of the international community in the 20th century, once the international regime for the protection of refugees was already in place.

Together with the consolidated application of the 1951 Refugee Convention on the Status of Refugees, there is also a constitutional tradition of asylum in African States.

The constitutions of Angola, Benin, Burundi, Cape Verde, Chad, Democratic Republic of Congo, Ivory Coast, Egypt, Guinea-Conakry, Mali, and Mozambique all enshrine the right to asylum. Although other African States have enacted legislation on asylum, it is not surprising that the constitutional rank of the institution is to be found
in countries with a cultural and historical link with France and Portugal (whose constitutions also enshrine a right to asylum).

There are some examples of documents and constitutions where you can guide and have an idea of what rules or new proposals your delegation can give regarding this topic. UNHCR invites your delegations to take in consideration the kind of rules your delegation has the power to create and according to this, you can now what law is more suitable for you.

Article 39 of the Constitution of Cape Verde:

Foreigners and stateless persons persecuted for political reasons or under serious threat of persecution by virtue of their activities in favor of national liberation, democracy, or the respect of human rights, have the right to asylum in national territory.

Article 11 of the 1992 Constitution of Guinea-Conakry

Everyone persecuted by reason of his political, philosophical or religious opinions, his race, his ethnic membership, his intellectual, scientific or cultural activities, by reason of his defense of freedom has the right to asylum in the territory of the Republic.

Article 33 of the 2006 Constitution of the Democratic Republic of Congo provides that:

The Democratic Republic of Congo grants [...] asylum in its national territory to foreigners sought or persecuted by reason of their opinion; beliefs; racial, tribal, ethnic, linguistic membership or because of their activities in favor of democracy and the Rights of Man and Peoples, in accordance with the laws and regulations in force.
Questions

- Does your delegation respect Human Rights when giving asylum to the refugees from Latin America and Africa? How does your delegation protect refugees from Latin America and Africa?
- How does your delegation help the refugees in their countries so they can participate in society?
- What is the criteria your country follow in order to accept refugees?
- Are there articles in your Constitution that talk about refugees and asylum?

References