

Annex I

Draft Declaration on the Right of Asylum

(Doc. A/5145), Article 4 :

Persons enjoying asylum should not engage in activities contrary to the purposes and principles of the United Nations.

Charter of the Organisation of African Unity of 25 May 1963.
Article III No. 5 :

Unreserved condemnation in all its forms of political assassination as well as subversive activities on the part of neighbouring States or any other State.

European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November, 1950

Article 16 :

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens. (Articles 10 and 11 deal with freedom of expression and freedom of peaceful assembly, and Article 14 stipulates the principle of non-discrimination in the enjoyment of the rights and freedoms on any grounds as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.)

Resolution of the Institute of International Law of 11 September 1950, concerning "L'asile en droit international public".

Annuaire de l'Institut de Droit International, vol. 43, tome II. 1950, Page 243 :

Article 2

1. *Tout Etat qui, dans l'accomplissement de ses devoirs d'humanite, accorde asile sur son territoire n'encourt de ce fait aucune responsabilite internationale.*

2. *La responsabilite internationale de l'Etat n'est engagee a cause des agissements de l'asile que dans les memes conditions ou elle le serait a cause des agissements de tout autre individu vivant sur son territoire. Cette regle s'applique soit que, le cas echeant, l'Etat soit en mesure d'expulser l'asile, soit que l'expulsion soit rendue impossible du fait que les autres Etats refusent de le recevoir.*

Convention on Territorial Asylum of 28 March 1954

adopted at the 10th American Conference (OAS—OEA)

Article VII

La liberte d'expression de la pensee que le droit interne reconnaît a tous les habitants d'un Etat ne peut faire l'objet d'une reclamation de la part d'une autre Etat, sous le pretexte, fonde sur des opinions qu'expriment, publiquement, centre ce dernier ou son gouvernement, des asiles ou refugies, sauf le cas ou ces opinions constituent une propagande systematique qui incite a l'emploi de la force ou de la violence contre le gouvernement de l'Etat reclamant.

Article VIII

Un Etat a le droit de demander a un autre Etat de priver les asiles ou les refugies politiques de la liberte de reunion ou d'association ou que le droit interne accorde a tous les etrangers sur son territoire, a moins que ces reunions ou ces associations n'aient pour objet d'encourager l'emploi de la force ou de la violence contre le gouvernement de l'Etat requerant.

Article IX

Sur la demande de l'Etat interesse, celui qui a accorde le refuge ou l'asile assurera la surveillance ou procedera a l'internement, a une distance raisonnable de ses frontieres, des refugies ou des asiles politiques connus pour avoir ete les meneurs notoires d'un mouvement subversif, ainsi que de ceux contre lesquels existeraient des preuves qu'ils etaient disposes a en faire partie.

Annex II

Excerpts from "Ethiopian Herald" Addis Ababa, dated July 30, 1965

MEMORANDUM

Following is the memorandum of agreement between the Governments of the Sudan and Ethiopia :

Conscious of the long standing friendly relations between the two countries and the eternal brotherhood among their peoples;

Having in mind the most amicable relations that have enabled them to overcome any and all differences in the past;

Convinced that it is essential for their good neighbourly relations to eliminate all the causes of misunderstanding which may impair their friendly relations;

Desirous to renew and consolidate the historic cordial relations between the governments and peoples of the two countries;

Reaffirming their strong adherence to the Charter of African Unity and the United Nations;

And, further desirous to reinforce the links between the two States by removing all sources of conflict and misunderstanding

Have agreed as follows :

Neither party shall engage itself or allow its own nationals or nationals of the other party or any foreign State or any

other person or institutions within its jurisdiction to engage in any type of activities that are harmful or designed to harm the national interests of the other party.

In particular the parties agree as follows :

1. Subject to the principles of international law and custom, neither party shall allow any hostile propaganda of whatever origin to be disseminated by press, radio or any other media, within its jurisdiction against the national interests of the other party.

2. Neither party shall permit, allow or provide facilities for the transfer of arms and ammunitions or traffic of arms or ammunitions of any type within its territorial jurisdiction, when the arms and ammunitions are designed for use by outlaws, rebels or secessionists within the territorial jurisdiction of the other party.

3. Neither party shall allow the nationals of the other party to engage in or conduct in any type of activities that are directly or indirectly designed to encourage secessionist movements in the territory of the other party.

4. Both parties shall take immediate and effective measures to eliminate all offices that are established by dissident elements or other persons and institutions in the territory of the other party for conducting activities inimical to the national interests of the other party and shall take care that no such offices are established in the future.

5. Neither party shall allow its territory to be used as a training centre for any person or persons who wish to conduct or encourage secessionist movements in the territory of either party and to exert positive efforts to discover the existence of any such training centres and immediately disband the same.

6. Neither party shall allow any person to whom asylum has been granted to engage in any activities hostile or subversive to the national interests of the other party. If

any person or persons to whom asylum has been granted is found engaged in activities inconsistent with the recognised status of a political refugee, such person or persons shall, in accordance with the rules and custom of international law, forfeit the status of political refugee and shall not be allowed to stay in the country.

7. Both parties agree to put into effect the Extradition Agreement signed on March 29, 1964, immediately after ratification by both parties.

8. Without prejudice to the right of political asylum as established by international law, neither party shall, as far as possible, allow nationals of the other party who are not holding a valid passport to establish residence within its territorial jurisdiction, unless the two parties agree otherwise.

9. Both parties, respecting the boundaries are defined in the existing treaties, agreements or protocols, undertake to prevent and bring to an end any incursion objected to by either party.

10. Both parties agree to establish a joint consultative Committee composed on the part of Ethiopia of the Foreign Minister, Finance Minister, Defence Minister, Interior Minister and Information Minister, and on the part of Sudan of the Minister of Foreign Affairs, Minister of the Interior, Minister of Defence, Minister of Finance and any other Minister as the Government of the Sudan may appoint, which shall consult concerning the fulfilment of this agreement and which will consider all problems and difficulties that exist in the relations between the Republic of Sudan and Ethiopian Government.

For the Government of the Republic :

H.E. Sayed Mohamed Ahmed Mahgoub, Prime Minister.

For the Imperial Government of Ethiopia :

H.E. Tsahafe Tazaz Aklilu Habtewold, Prime Minister
28th July 1966. Addis Ababa.

Annex III

ORGANISATION OF AFRICAN UNITY

Secretariat

P.O. Box 3243

Addis Ababa

Assembly of the Heads of State and Government

Second Session

Accra, October 1965

RESOLUTION ON THE PROBLEM OF REFUGEES IN AFRICA

passed at 18.57 o'clock

The Assembly of Heads of State and Government, meeting in its Second Ordinary Session in Accra, Ghana, from 21 to October 1965 ;

Considering that the gravity of the refugee situation in Africa causes many complex problems for their countries of origin as well as for their host countries ;

Recalling the recommendation already adopted by them and the principles laid down in this respect by the Organisation of African Unity ;

1. *Reaffirm* their desire to give all possible assistance to refugees from any Member State on both humanitarian and fraternal bases ;

2. *Recall* that Member States have pledged themselves to prevent refugees living on their territories from carrying out by any means whatsoever any acts harmful to the interests of Member States of the Organisation of African Unity ;

3. *Request* all Member States never to allow the refugee question to become a source of disagreement amongst them ;

4. *Appreciate* the assistance provided by the United Nations High Commissioner to African governments in their programme for refugees ;

5. *Request* the African States that are members of the Economic and Social Council to do their utmost in order to secure and increase in African representation on the Executive Committee of the United Nations High Commission's Programme on Refugees ;

6. *Asks* members of the Refugee Commission established by Resolution OM/REs. 19(II) to provide legal experts at the highest level possible to re-examine the draft Convention on the refugee problem having regard to the views expressed by us at the present session of the Assembly and report back to the Assembly ;

7. *Request* Member States of the Organisation of African Unity, if they have not already done so, to ratify the United Nations Convention for Refugees and to apply meanwhile the provisions of the said Convention to refugees in Africa.

Annex IV

ORGANISATION OF AFRICAN UNITS

Secretariat

P. O. Box 3243

Addis Ababa

Assembly of Heads of State and Government

Second Session

Accra, October 1965

Declaration on the problem of subversion

We, the Heads of State and Government of the Organisation of African Unity, meeting in our Second Ordinary Session in Accra, Ghana, from 21 to 25 October, 1965 ;

Desirous of consolidating the fraternal links which unite us ;

Solemnly pledge :

1. Not to tolerate, in conformity with Article 3, paragraph 5, of the Charter, any subversion originating in our countries against another Member State of the Organisation of African Unity ;
2. Not to tolerate the use of our territories for any subversive activity directed from outside Africa against any Member State of the Organisation of African Unity ;
3. We pledge ourselves to oppose collectively and firmly by every means at the disposal of Africa every form of subversion conceived, organised or financed by foreign powers against Africa, OAU or against its members individually ;
4. (a) To resort to bilateral or multilateral consultation for the purpose of settling all differences between two or more Member States of the Organisation of African Unity ;
(b) To refrain from reacting against any African State by press or radio campaign, but to resort instead to the procedure laid down in the Charter and the Protocol of Mediation, Conciliation and Arbitration of the Organisation of African Unity ;
5. (a) Not to give any cause for dissension within or among Member States by fomenting or aggravating racial, religious, linguistic, ethnic or other differences, and
(b) To combat all forms of activity of this kind ;
6. To observe strictly the principles of international law with regard to all political refugees who

are nationals of any Member State of the Organisation of African Unity ;

7. To endeavour to promote, through bilateral and multilateral consultations, the return of refugees with the consent of both the refugees concerned and of their countries of origin ;
8. To continue to guarantee the safety of political refugees from non-independent African territories, and to support them in their struggle to liberate their countries.

Annex V

Dr. Otto Kimminich : "*Volkerrechtsfragen der exil-politischen Betätigung*", *Archiv fur Volkerrecht* : Volume 10 (1962/63), p. 133 ff.

English translation of conclusions :

The questions which thus appear to be relevant, in the present connection, from the point of view of international law may be answered as follows :

1. Emigrants have no legal right *vis-a-vis* their country of asylum to engage in political activities in exile.

2. Every State has the right to grant asylum to political refugees and in so doing is not responsible to the refugee's country of origin or to a third State. In times of peace, international law does not require a country of asylum to observe "ideological neutrality." The country of asylum is not, however, permitted to support emigrant propaganda which is contrary to international law, nor must it organise or encourage military expeditions by emigrant. Moreover, in time of peace, consent to the establishment by emigrants of an exile government of their country of origin is contrary to international law.

3. A country of asylum is not obliged to prohibit all political activities by exile groups. A State is not responsible for any revolutionary or disparaging propaganda by emigrants which it has not supported but only tolerated. The State must, however, suppress such propaganda if it is part of the preparation for military expeditions or for attempted assassination or outrage, or if it is directed against the honour of diplomats accredited to that State. Emigrant war propaganda must under all circumstances be suppressed by the State of asylum. The State must also prevent any military acts of violence by emigrants.

These conclusions are derived from the basic rule concerning political activities in exile that — except as regards attempted assassination or outrage, acts of violence and war propaganda — according to general international law no State is prevented from suppressing the political activities of emigrants residing in its territory but is not on the other hand obliged to do so.

V
BACKGROUND PAPER SUBMITTED BY
THE OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR REFUGEES
ON THE DEVELOPMENT IN THE LAW
OF REFUGEES WITH PARTICULAR
REFERENCE TO THE 1951
CONVENTION AND ITS
STATUTE TO THE COLLOQUIUM
ORGANISED BY THE CARNEGIE
ENDOWMENT FOR INTERNATIONAL
PEACE

Bellagio (ITALY) - 21 to 28 April, 1965