



Introduction

A General Framework

This book concerns voting rights of persons recognised as refugees based on the criteria set in Article 1A(2) of the 1951 Geneva Convention Relating to the Status of Refugees (CSR1951 refugees).¹ It is assumed that, following their recognition, they reside in a CSR1951 Contracting State²

¹ Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137. While the book concerns refugees recognised according to art 1A(2), it should be noted that the provisions of CSR1951 also apply to ‘any person considered a refugee under earlier international arrangements’; Ibid, art 1A(1). The United Nations Economic and Social Council appointed the Ad Hoc Committee on Statelessness and Related Problems to, *inter alia*, ‘consider the desirability of preparing a revised and consolidated convention relating to the international status of refugees and stateless persons and, if they consider such a course desirable, draft the text of such a convention’; ECOSOC Res 248 (IX) of 8 August 1948, [a]. Following the conclusion of the work of the Ad Hoc Committee, the General Assembly decided to convene a Conference of Plenipotentiaries to complete the drafting of a Convention; GA/Res/429 (V) of 14 December 1950 [1]. The Conference met in Geneva (2–25 July 1951), culminating in the adoption of CSR1951. For a historical account of CSR1951, see Guy S Goodwin-Gill, *The United Nations Audiovisual Library of International Law*, http://untreaty.un.org/cod/avl/pdf/ha/prsr/prsr_e.pdf.

² The scope of the CSR1951 was limited to those who had become refugees as a result of events occurring in Europe before 1 January 1951. Subsequent developments have demonstrated that movements of refugees were by no means confined to the Second World War and its immediate aftermath. As new refugee groups emerged, it has become increasingly necessary to adapt CSR1951 to make it applicable to new refugee situations. With this aim in mind, States have ratified the subsequent Protocol relating to the Status of Refugees (adopted 31 January 1967, entered into force 4 October 1967) 666 UNTS 267. Art 1 thereof extends the substantive provisions of CSR1951 (‘Articles 2 through 34 inclusive’) to all recognised refugees ‘as if the words . . . 1 January 1951 . . . were omitted’. See also Paul Weis, ‘The 1967 Protocol Relating to the Status of Refugees and Some Questions Relating to the Law of Treaties’ (1967) *British Yearbook of International Law* 39, 60 (maintaining that ‘[w]ith the entry into force of the Protocol there exist, in fact, two treaties dealing with the same subject matter’). There is almost a full overlap between State Parties to the 1967 protocol and State Parties to CSR1951 (Madagascar has only ratified CSR1951, while Cape Verde, the USA and Venezuela are only parties to the 1967 Protocol). In addition, Turkey, Congo, Madagascar and Monaco have kept the geographic limitation to Europe, in accordance with art 7(2) of

which aims to comply with its treaty obligations in good faith.³ The book explores the unique *political* predicament of recognised CSR1951 refugees in the period following their recognition, when they reside in their states of asylum as *non-citizens*.⁴ It appraises the legal obligations of states of asylum towards ‘their’ recognised CSR1951 refugees, with particular emphasis on their voting rights therein.

The United Nations High Commissioner on Refugees (UNHCR)⁵ asserts that CSR1951 and the 1967 Protocol ‘continue to serve as the cornerstone of the international refugee protection regime’.⁶ The Executive Committee of UNHCR (an advisory body currently composed of representatives of ninety eight contracting states) has affirmed that ‘[t]he 1951 Convention Relating to the Status of Refugees and its 1967 Protocol are the foundation of the international refugee protection regime and have enduring value and relevance in the Twenty-First century’.⁷

the 1967 Protocol. See declarations and reservations to CSR1951 and the 1967 Protocol, www.unhcr.org/3d9abe177.pdf, and www.unhcr.org/4dac37d79.html, respectively.

³ Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331 art 26 (‘every treaty in force is binding upon the parties to it and must be performed by them in good faith’). Cf. Jack L Goldsmith and Eric A Posner, *The Limits of International Law* (Oxford University Press 2005) 193 (juxtaposing international and domestic laws, situating compliance with the former in the claim that individuals would be better off in a world in which states had an obligation to comply with international law).

⁴ NB CSR1951 art 1C(3). James C Hathaway, *The Rights of Refugees under International Law* (Cambridge University Press 2005) 916 (noting that ‘[i]f a refugee opts to accept an offer of citizenship [in the state of asylum], with entitlement fully to participate in all aspects of that state’s public life, his or her need for the surrogate protection of refugee law comes to an end. There is no need for surrogate protection in such a case, as the refugee is able and entitled to benefit from the protection of his or her new country of nationality’). See e.g. the Court of Appeal decision in *DL (DRC) v the Entry Clearance Officer, Pretoria* [2008] EWCA Civ 1420 [29].

⁵ The UNHCR began operating on 1 January 1951, following the adoption of its Statute as an annex to UNGA Res 428 (V) of 14 December 1950. Its mandate was initially set for three years (Statute [5]), and was subsequently extended several times for fixed periods. The mandate was extended in 2003 until ‘the refugee problem is resolved’; UNGA Res 58/153 of 22 December 2003 [9]. UNHCR’s task is [1] to provide ‘international protection’ to refugees’ and seeking ‘permanent solutions for the problem of refugees’. According to CSR1951, art 35(1), ‘[c]ontracting States undertake to co-operate’ with UNHCR, which has assumed the ‘duty of supervising the application of the provisions of this Convention’. UNHCR was preceded by the International Refugee Organisation; UNGA Res 62 (I) of 15 December 1946.

⁶ UNHCR EXCOM Conclusion No 103 ‘Provision of Diplomatic Protection including through Complementary Forms of Protection’ (7 October 2005).

⁷ UNHCR EXCOM ‘Note on International Protection’ (1–5 October 2012) Annex Ministerial Communiqué [2].

Notably, CSR1951 attends to the protection needs of a defined group. According to Article 1A(2), CSR1951 refugees are persons who have crossed an international border and are outside their state of origin and have a well-founded fear of persecution in *that state* for reasons of race, religion, nationality, membership of a particular social group, or political opinion; they are either unable or, owing to their fear of persecution, unwilling to avail themselves of the protection of their state of origin. CSR1951 refugees are entitled to a host of social, economic, and civil rights in their states of asylum. However, CSR1951 is silent regarding their political rights, including their *voting* rights.

CSR1951 was drafted shortly after the adoption by the UN General Assembly (UNGA) of the Universal Declaration on Human Rights (UDHR).⁸ The CSR1951 protection regime is rooted in general principles of human rights; it aims to ‘assure[s] refugees the widest possible exercise of [their] fundamental rights and freedoms’.⁹ Hence, the CSR1951 drafters envisaged that additional protection may be granted to CSR1951 refugees.¹⁰ Article 5 stipulates that ‘[n]othing . . . shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention’. Indeed, it has been suggested that contemporary refugee status is ‘an amalgam of principles drawn from both refugee law and the human rights Covenants’.¹¹

The leading international treaty in the area of political rights is the International Covenant on Civil and Political Rights (ICCPR)¹² to which 168 states have acceded to date, including nearly all Contracting States of CSR1951 and the 1967 Protocol.¹³ Article 2(1) of the ICCPR requires Contracting States to respect, protect and promote a range of rights, including some political rights, of all persons in their territories and subject to their jurisdiction, including CSR1951 refugees. However, the ICCPR draws distinctions along (political) membership lines regarding

⁸ UNGA Res 217 (III) of 10 December 1948.

⁹ CSR1951 Preamble §2. See also Erika Feller, ‘International Refugee Protection 50 Years On: The Protection Challenges of the Past, Present and Future’ (2001) 83 (843) *International Review of the Red Cross* 581, 582.

¹⁰ Representatives of the following states participated in the drafting process (alongside representatives of Non-Governmental Organisations): Belgium, Brazil, Canada, China, Denmark, France, Israel, Sweden, Turkey, the UK, the USA, and Venezuela.

¹¹ Hathaway Rights (n 4) 9.

¹² (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

¹³ Of State-Parties to CSR1951 and 1967 Protocol, only Antigua and Barbuda, Fiji, the Holy See, St. Kitts and Nevis are *not* also parties to the ICCPR, <http://treaties.un.org/Pages/ParticipationStatus.aspx>.

two rights. Article 12(4) enunciates that ‘no one’ shall be ‘arbitrarily deprived’ of the right to enter ‘*his own country*’,¹⁴ endorsing sovereign exercise of migration control. In turn, Article 25 stipulates that ‘every citizen’ shall ‘without unreasonable restrictions’ have the right to vote in ‘genuine periodic elections . . . by universal and equal suffrage’.¹⁵ Hence, enfranchisement of non-citizen residents is treaty-compatible but is not required.¹⁶

Indeed, all democratic states set eligibility criteria for elections of their institutions of governance notwithstanding the appeal of the principle of universal suffrage. Broadly speaking, such criteria fall into two categories: The first, falling outside the remit of this book, concerns individual competence, primarily age, mental capacity, and conviction of a criminal offence.¹⁷ The second, lying at the heart of this book, is (full) membership of a political community, connoted commonly though not exclusively by (state) citizenship.¹⁸

¹⁴ See Human Rights Committee, General Comment No 27: *Freedom of Movement* (Article 12) (2 November 1999) [20] (positing that ‘[t]he scope of “his own country” is broader than the concept “country of his nationality”’. It is not limited to nationality in a formal sense, that is, nationality acquired at birth or by conferral; it embraces, at the very least, an individual who, because of his or her special ties to or claims in relation to a given country, cannot be considered to be a mere alien’); Human Rights Committee, *Stewart v. Canada* (1996) Comm No 538/1993 [12.4]. See also Marc J Bossuyt, *Guide to the Travaux Préparatoires of the International Covenant on Civil and Political Rights* (Martinus Nijhoff Publishers 1987) 261. Cf. UDHR art 13(2).

¹⁵ Emphasis added. See also UDHR art 21(3) (pronouncing the right of ‘everyone . . . to take part in the government of his state’).

¹⁶ See Guy S Goodwin-Gill, ‘Migration: International Law and Human Rights’ in Bimal Ghosh (ed), *Managing Migration* (Oxford University Press 2000) 160, 167 (postulating that human rights treaties acknowledge the continuing authority of the state to maintain distinctions between citizens and non-citizens in certain areas of activity). Cf. Rainer Bauböck, ‘Rights and Duties of External Citizenship’ (2009) 13(5) *Citizenship Studies* 475, 476 (arguing that decisions about democratic inclusion cannot be based on pure procedural legitimacy; rather, they should refer to a substantive conception of the *demos*).

¹⁷ For an appraisal of the disenfranchisement of convicted adult citizens, see generally Reuven (Ruvi) Ziegler, ‘Legal Outlier, Again? U.S. Felon Suffrage Policies: Comparative and International Human Rights Perspectives’ (2011) 29(2) *Boston University International Law Journal* 197.

¹⁸ It should be noted that, the term *citizenship* is usually used in domestic law, and refers to the relations between the individual and her state, whereas the term *nationality* is used in international law to connote legal status and concomitant rights and obligations. However, as there is no ‘fixed’ rule, the terms may co-exist. Ivan Shearer and Brian Opeskin, ‘Nationality and Statelessness’ in Brian Opeskin, Richard Perruchoud and Jillyanne Redpath-Cross (eds), *Foundations of International Migration Law* (Cambridge University Press 2012) 93. Unless otherwise specified, *citizenship* and *nationality* are used throughout the book interchangeably.

Ninety-seven per cent of the global population habitually resides in their state of citizenship and are not adversely affected by citizenship-based eligibility, even in ‘the age of migration’.¹⁹ The remaining three per cent are made up of divergent groups who are residents, often long term, of states in which they are not citizens, including recognised CSR1951 refugees

It is submitted that most recognised CSR1951 refugees *qua* non-citizen residents are excluded from participation in elections of their states of asylum. Concomitantly, they are generally protected *qua* recognised CSR1951 refugees from expulsion from their state of asylum:²⁰ their (conditional) security of residence therein is retained until one or more of the conditions stipulated in a closed list of six cessation clauses are satisfied.²¹ Importantly, neither recognised CSR1951 refugees nor their state of asylum know when or indeed *whether* such changes will occur. A state of asylum may, at its discretion, offer naturalisation;²² failing that, recognised CSR1951 refugees are expected to reside in their state of asylum as non-citizens for an *indeterminate* period; during such period, they are likely to be excluded from participation in some or all of the elections held in their state of asylum.

The Final Act of the Conference of Plenipotentiaries convened to draft CSR1951 recommended that refugees be entitled ‘to special protection on account of their position’.²³ Oppenheim famously noted that ‘[t]he concept of a “source” of a rule of law is important, since it enables rules of law to be identified and distinguished from other rules (in particular from

¹⁹ See generally T Alexander Aleinikoff, *Citizenship Policies for an Age of Migration* (Carnegie 2002).

²⁰ CSR1951 art 32. States are only permitted to expel refugees in exceptional circumstances, on grounds of national security or public order; expulsion is subject to procedural constraints (art 32(2)) as well as to the prohibition on *refoulement* (art 33); expulsion depends on the willingness of another state to admit the (allegedly recalcitrant) CSR1951 refugee. See discussion in Chapter 1.

²¹ CSR1951 art 1C.

²² CSR1951 art 34 (stipulating that ‘[t]he Contracting States shall as far as possible facilitate the assimilation and naturalisation of refugees’). Chapter 8 considers the refugee integration requirements ensuing from this provision. Botswana, Chile, Honduras, Latvia, Malawi, Malta, Mozambique, Papua New Guinea, and Swaziland retain reservations to art 34, <https://treaties.un.org/pages/ViewDetailsII.aspx/src=TREATY&mtdsg-no=V-2&chapter=5&Temp=mtdsg2&lang=en>.

²³ See Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, unanimous recommendation ‘D’, *International Co-operation in the Field of Asylum and Resettlement*, Geneva, 28 July 1951.

rules *de lege ferenda*).²⁴ This book identifies a gap in international refugee law and international human rights law: it argues that enfranchisement of recognised CSR1951 refugees in elections of their states of asylum is normatively desirable.²⁵ As such, the book is ‘an exercise in progressive development of the law’.²⁶ The question of refugees ‘is international in scope and nature’;²⁷ hence, the book’s inquiry is situated in the international domain, and concerns, in principle, all states which admit and recognise CSR1951 refugees.

B Structure of the Book

Part I lays the (international) law foundations for appraising the political predicament of recognised CSR1951 refugees. Chapter 1 (‘Recognised CSR1951 Refugees in Context’) situates CSR1951 in a contemporary global legal order in which the global refugee regime is a qualified exception to the discretionary power of sovereign states to control entry to

²⁴ Robert Jennings and Arthur Watts (eds), *Oppenheim’s International Law* (9th edn Oxford University Press 2008) (1905) vol I: Peace 23.

²⁵ The *lex ferenda* question, namely whether recognised CSR1951 refugees *ought* to be enfranchised in their state of asylum, may be addressed in light of Mill’s observation in John Stuart Mill, *The Collected Works of John Stuart Mill, X., Essays on Ethics, Religion and Society* (JM Robert ed, University of Toronto Press 1969) 250 (stipulating that ‘[w]hen we call anything a person’s right, we mean that he has a valid claim on society to protect him in the possession of it either by the force of law or by that of education and opinion. If he has what we consider a sufficient claim on whatever account to have something guaranteed to him by society we say that he has a right to it . . . to have a right then is . . . to have something which society ought to defend me in the possession of’). Regarding recognition of rights in international law, see e.g. Robert Jennings, ‘Speech on the Report of the International Court of Justice’ (1992) 86 *American Journal of International Law* 249, 254 (contending that ‘[a] right – even human rights – does not amount to much in practice unless it is established and seen to be established as an integral part of the whole system of international law which alone can create effective corresponding obligations in the international community’).

²⁶ Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 3 Bevans 1153 art 13(1) (stipulating that ‘[t]he General Assembly shall initiate studies and make recommendations for the purpose of: a. encouraging the progressive development of international law and its codification’). For a recent reference to ‘progressive realisation’ of international law, see ILC, Draft Articles on Diplomatic Protection, Commentary art 8 [2], published as part of the ILC Report, 58th session (2006) GAOR Supp No 10 UN Doc A/61/10 (addressed in Chapter 7).

²⁷ UNGA Res 319A (IV) of 3 December 1949 preamble. See e.g. Astri Suhrke, ‘Burden-Sharing during Refugee Emergencies: The Logic of Collective versus National Action’ (1998) 11(4) *Journal of Refugee Studies* 396, 399–400 (arguing that refugee protection can be considered, to some extent, a global public good).

their territory and residence therein. The chapter presents general criteria for recognition as a CSR1951 refugee, and considers limits on expulsion of refugees in view of the International Law Commission (ILC) Draft Articles on Expulsion of Aliens.

Chapter 2 ('Rights of CSR1951 Refugees and Citizenship Voting Qualifications') considers the nature of state obligations towards their refugees *qua* non-citizen residents. It explores interrelations between CSR1951 and leading international human rights instruments, most pertinently the ICCPR, concluding that they are complementary and mutually reinforcing. It is suggested that the permissibility of citizenship voting qualifications in international human rights law facilitates the ubiquitous exclusion of CSR1951 refugees from participation in elections of their states of asylum.

Part II explores theoretical perspectives of voting and citizenship. Chapter 3 ('Perspectives on the Meaning and Purposes of Voting Eligibility') considers four grounds for regarding the right to vote as fundamental for individuals: enhancement of human agency and autonomy; the expressive character of voting; human dignity; and enjoyment of equal worth, concern, and respect. It is further contended that the instrumentality of voting (as a means for protecting individual interests and for expressing preferences) and its expressive role (as a manifestation of non-domination and self-governance) should be considered as mutually reinforcing. The chapter offers three perspectives on the collective nature of the electoral process: 'liberal', 'republican', and 'deliberative democracy'. The chapter concludes by responding to possible 'cultural relativity' challenges to the universality of the right to vote, and by applying the conceptual distinction between 'core' and 'penumbra' of rights to questions of voting eligibility.

Chapter 4 ('Perspectives on the Meaning and Purposes of State Citizenship') situates the legal institution of state citizenship within an extra-legal multi-dimensional framework. The chapter follows Joseph Carens' depiction of citizenship as encompassing three dimensions: legal, psychological, and political. Divergent meaning and purposes of citizenship are explored from 'liberal', 'republican', and 'communitarian' perspectives. In tandem with Chapter 3, this chapter lays the foundations for an appraisal in Chapter 5 of the plausibility of citizenship voting qualifications.

Chapter 5 ('Citizenship Voting Qualifications: Normative Appraisals') offers a brief exploration of the development of citizenship voting qualifications, using the US as a case study. The chapter presents three general positions on the desirability of interrelations between voting

and citizenship: the ‘inseparability’ position; the ‘contingent’ position; and the ‘disaggregation’ position. It then considers six propositions. Three general propositions in support of citizenship-based eligibility: community cohesion and common identity; loyalty to the state and to its long-term well-being; and electoral inclusion as a catalyst for naturalisation. Three general propositions in support of residence-based eligibility: vulnerability of non-citizen residents absent state accountability; the disjuncture between burden sharing and political participation; and the significance of ‘exit’ options, or lack thereof, in assessing subjection of non-citizens to coercive authority.

Part III builds on the legal and normative foundations laid in Parts I and II to offer critical scrutiny of the political predicament of recognised CSR1951 refugees. Chapter 6 (‘Out-of-Country Voting: The Recognised CSR1951 Refugee Context’) highlights an emerging global trajectory to enfranchise non-resident citizens (otherwise referred to as ‘expatriates’) and set in place Out-of-Country Voting (OCV) procedures which enable them to vote from abroad. The chapter distinguishes between three types of non-resident citizens: voluntary migrants, including migrant workers and members of their families; Conflict Forced Migrants (CFMs); and recognised CSR1951 refugees. It is contended that, while CSR1951 refugees may have a strong(er) normative claim to be given access to OCV procedures, they are highly likely *qua* CSR1951 refugees to be constrained in their ability to vote from abroad, leaving them effectively disenfranchised.²⁸

Chapter 7 (‘Protecting Recognised CSR1951 Refugees outside Their States of Asylum’) considers the predicament of CSR1951 refugees when they travel outside their state of asylum. Their legal status entails *ipso facto* that they do not enjoy the protection abroad of their state of nationality. It is contended that, state protection abroad retains its pedigree and significance, a view which the ILC shares.²⁹ It is argued that states often

²⁸ Cf. Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3 (Migrant Workers Convention) arts 41(1) and 41(2) (respectively stipulating that ‘[m]igrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State’, and that ‘[t]he States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights’).

²⁹ See UNGA Res 62/67 of 6 December 2007 [1] and [3] (respectively welcoming ‘the conclusion of the work of the International Law Commission and its adoption of the draft articles [on diplomatic protection] and commentary on the topic’, and commending ‘the articles . . . to the attention of governments’).

come to the aid of their nationals abroad, notably in criminal proceedings, and that a qualified duty to exercise state protection or to be expected to provide justifications for its refusal may be emerging.³⁰ In turn, CSR1951 requires states of asylum to issue Convention Travel Documents (CTDs) to recognised refugees, assuring them an unqualified right to return to the issuing state as if they were its nationals.³¹ It is submitted that, in appropriate cases, states ought to protect their nationals abroad, and that states of asylum should protect their recognised CSR1951 refugees when they travel abroad using CTDs that these states have issued to them as if such refugees were their nationals.

Nevertheless, the political predicament of CSR1951 refugees is most evident as non-citizen residents in their states of asylum. Chapter 8 ('Enfranchisement of Recognised CSR1951 Refugees in Elections of Their States of Asylum') presents the central claim of this book, namely that, due to their political predicament, CSR1951 refugees are a special category of non-citizen residents: even if their states of asylum generally base voting eligibility on citizenship, recognised CSR1951 refugees ought to be entitled to vote in elections of these states until the occurrence of legal or factual changes leading to cessation of their CSR1951 refugee status.

In view of the analyses offered in Chapters 6 and 7, Chapter 8 considers political vulnerabilities of CSR1951 refugees *qua* non-citizen residents. It applies the Chapter 3 rationales for considering the right to vote to be fundamental, and revisits the Chapter 5 contentions concerning citizenship voting qualifications. The chapter then explores the expressive meaning of CSR1951 refugee recognition, the state's treaty obligations regarding refugee integration, and the public resistance challenge.

C Some Issues Which Fall Outside the Remit of the Book

The underlying assumption of this book is that all the persons concerned have been recognised and granted CSR1951 refugee status by a state of asylum, and that they reside therein lawfully. Hence, questions concerning

³⁰ See e.g. Migrant Workers Convention art 23 (stipulating that '[m]igrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin').

³¹ CSR1951 art 28 and schedule art 13(1) (the latter provision stipulating that '[e]ach Contracting State undertakes that the holder of a travel document issued by it in accordance with article 28 of this Convention shall be readmitted to its territory at any time during the period of its validity').

the treatment of asylum seekers as well as responsibility-sharing in refugee protection fall outside its purview.³² Moreover, the book does not appraise the predicament of persons falling under the CSR1951 Article 1D exclusion clause (deemed to be receiving assistance from the United Nations Relief and Works Agency for Palestine Refugees in the Near East)³³ or of persons falling under one or more of the subsections of the Article 1F exclusion clauses.³⁴

Other issues beyond the scope of this book's analysis include an appraisal of regional instruments such as the Organisation of African Union (OAU) Convention,³⁵ which apply the term 'refugee' to persons satisfying the CSR1951 Article 1A(2) stipulation³⁶ and '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'.³⁷

Similarly, the book does not consider the introduction of additional protection bases for climate-induced displacement³⁸ or for

³² See e.g. CSR1951 Preamble [4] ('considering that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation'). See also UNGA Res 60/128 of 24 January 2006 [12] (urging countries 'in a spirit of international solidarity and burden and responsibility-sharing, to cooperate and to mobilize resources with a view to enhancing the capacity of and reducing the heavy burden borne by host countries, in particular those that have received large numbers of refugees and asylum-seekers').

³³ CSR1951 art 1D; UNHCR statute (n 5) [7(c)].

³⁴ For general discussion, see e.g. Guy S Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (3rd edn Oxford University Press 2007) ch 4.

³⁵ Convention Governing the Specific Aspects of Refugee Problems in Africa (adopted 10 September 1969, entered into force 20 June 1974) 1001 UNTS 45 art 1 (definition of the term 'Refugee').

³⁶ The Preamble to the OAU Convention stipulates that the parties recognise 'that the United Nations Convention of 28 July 1951, as modified by the Protocol of 31 January 1967, constitutes the basic and universal instrument relating to the status of refugees and reflects the deep concern of States for refugees and their desire to establish common standards for their treatment' and calls upon states which have not yet done so to accede to the treaties and in the interim to apply the provisions. Art 1(1), (3) repeat the CSR1951, art 1A(2) (except the temporal and geographical restrictions which the 1967 Protocol removed). See similarly the *non-binding* Cartagena Declaration on Refugees (adopted 22 November 1984) (concerning refugees in the Americas).

³⁷ *Ibid* art 1(2).

³⁸ See e.g. Jane McAdam, *Climate Change, Forced Migration, and International Law* (Oxford University Press 2012).