



## International Law

*Elixir Inter. Law* 75 (2014) 27963-27967

**Elixir**  
ISSN: 2229-712X

# Diplomatic Asylum versus Sovereignty

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### ARTICLE INFO

#### Article history:

Received: 15 November 2013;

Received in revised form:

15 October 2014;

Accepted: 28 October 2014;

#### Keywords

Diplomatic asylum,  
Embassy,  
Ecuador,  
Decline.

### ABSTRACT

In year 2012 the dramatic issue of diplomatic asylum has brought it opposed to the sovereignty. First, grant of asylum to the blind Chinese civil rights activist Chen Guangcheng by United States in April 2012 in the United States embassy in Beijing. Thereafter Chen Guangcheng and his family were issued US visa and then they flown to the United States, albeit under protest from the Chinese government. Secondly, in June 2012 Wikileaks founder Julian Assange was granted asylum by the Ecuador in its embassy in London albeit under protest from the UK government. Assange was to extradite by the UK Government to Sweden where he was facing charges of sexual assault. The UK Government warned the Ecuador to decline this diplomatic asylum otherwise they will terminate the status of Ecuador's embassy in London. These two incidents have necessitated to regulate the grounds, conditions and extend to grant the diplomatic asylum so that it may not run counter to the sovereignty as well as it may not be misused as shelter of fugitives and criminals or oust them from the reach of judicial system. Further, till date there is no international law on the diplomatic asylum to adequately deal with these situations. It has insisted the author to do analytical research deploying doctrinal research methodology applying null hypothesis that there is no such international law which may provide solution on diplomatic asylum particularly when it run counter to the sovereignty. In section 1 diplomatic asylum has been defined, section 2 traces the growth and recognition of diplomatic asylum, section 3 puts light on the legal basis of asylum, section 4 deals the concurrent international law on diplomatic asylum, section 5 is the grey area of diplomatic asylum and section 6 is the summation.

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### Introduction

The word "asylum" is the Latin counterpart of the Greek word "asylon," which means freedom from seizure.<sup>1</sup> Historically, asylum has been regarded as a place of refuge where one could be free from the reach of a pursuer. Sacred places first provided such a refuge and scholars are of the view that "the practice of asylum is as old as humanity itself."<sup>2</sup> According to Article 1 of the Resolution adopted by the Institute of International Law in 1950, asylum is a protection which a State grants on its territory or in some other place under the control of certain of its organs, to a person who seeks it.<sup>3</sup> Since none International Code is available on asylum, so its definition is drawn on the basis of the State practices in granting asylum as

to the protection against the seizure or persecution. This seizure or persecution should be against a definite type of legality.

The 1951 Convention Relating to the Status of Refugees, Magna Carta of international refugee law, defines the term "refugee" in two ways. First, it applies to any person who has been considered as a refugee under earlier international instruments.<sup>4</sup> Second it includes any person who is outside their country of origin and unable or unwilling to return there or to avail themselves of its protection, on account of a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular group, or political opinion. Stateless persons may also be refugees in this sense, where country of origin (citizenship) is understood as "country of former habitual residence". Those who possess more than one nationality will only be considered as refugees within the Convention if such other nationality or nationalities are ineffective.<sup>5</sup>

A State, which is granting asylum, may grant asylum only within its territory i.e. within its politically sovereign boundary. Diplomatic embassy of one State in the territory of other State is the politically sovereign territory of the former State from the latter. So grant of asylum in the diplomatic embassy is called

<sup>1</sup> ATLE GRAHL-MADSEN, THE STATUS OF REFUGEES IN INTERNATIONAL LAW 3 (1972). Professor Grahl-Madsen explained that the Greek word "asylon" is derived from "a" meaning "not" and "syle" meaning "right of seizure." As quoted by Roman Boed, The State of the Right of Asylum in International Law, 5 *Duke Journal of Comparative & International Law* 1-34 (1994).P. 2; available at <http://scholarship.law.duke.edu/djcil/vol5/iss1/1>

<sup>2</sup> Roman Boed in "The State of the Right of Asylum in International Law." P. 2; *ibid*

<sup>3</sup> As quoted by Agarwal, H.O. in *International Law and Human Rights*; Central law publication Allahabad; 17<sup>th</sup> edn 2010.; p. 284

<sup>4</sup> Article 1A, paragraph 1 ; available at <http://untreaty.un.org/cod/avl/ha/prsr/prsr.html>; visited on 06/10/2013 at 03:30 pm

<sup>5</sup> Article 1A, paragraph 2, read with the 1967 Protocol; available at <http://untreaty.un.org/cod/avl/ha/prsr/prsr.html> ; visited on 06/10/2013 at 03:30 pm

diplomatic asylum. According to International Court of Justice<sup>6</sup> “diplomatic asylum (i.e., asylum by a state outside its territory) different than the territorial asylum (i.e., asylum granted by and in the territory of the petitioned state). In the case of diplomatic asylum, the refugee is within the territory of the State where the offence was committed. A decision to grant diplomatic asylum involves derogation from the sovereignty of that State. It withdraws the offender from the jurisdiction of the territorial State and constitutes an intervention in matters which are exclusively within the competence of that State. Such derogation from territorial sovereignty cannot be recognized unless its legal basis is established in each particular case.” All the contemporary international instruments on asylum enable States to grant diplomatic asylum.

#### Development and recognition of Diplomatic Asylum

During fifteenth and sixteenth century in Europe the transformation of temporary embassies into permanent had shown the seeds of Diplomatic Asylum, simultaneously privileges of the ambassador's personal inviolability to his personal dwellings and other properties were recognized. Entrance of local authorities into such dwellings was prohibited. It has become safe place to the local fugitives. Until the nineteenth century, the right of diplomatic asylum was often explained by the now defunct idea of ex-territoriality, holding that diplomatic premises are part and parcel of the sovereignty of the sending state, over which the receiving state consequently wields no power.<sup>7</sup> Grants of diplomatic asylum had given rise to disputes, especially if the beneficiary was accused of high treason or other crimes affecting essential political interests.<sup>8</sup>

To come out of all these critical situations certain efforts have been done. For example, Montevideo Convention of 1889 on International Penal Law, the Bolivarian Agreement on Extradition of 1911, the Havana Convention on Asylum of 1928, the Montevideo Convention on Political Asylum of 1933, and the Montevideo Convention on Political Asylum and Refuge of 1939. The general outline of these treaties is that diplomatic asylum may only be granted in urgent situations and for the period indispensable to ensure the safety of the person seeking asylum; that opposed to common criminals, states may only grant diplomatic asylum to persons who are sought for political reasons; and that the territorial state may at all times request that the person granted asylum is removed from its territory.<sup>9</sup> Outside Latin America, successive efforts, mostly initiated by Latin American countries, to establish a universal

basis for diplomatic asylum have all failed. When the Universal Declaration of Human Rights was drafted, Bolivia and Uruguay had proposed an amendment to the provision dealing with the right of asylum (current Article 14) to the effect that the right would extend to asylum in embassies and legations.<sup>10</sup> The amendments, however, were withdrawn, and the Russian delegate commented that they were an attempt to intervene in matters within the domestic jurisdiction of states and a ‘misuse of the principle of extra-territoriality’.<sup>11</sup> In 1959, the General Assembly requested the International Law Commission (ILC) to undertake the codification of the principles and rules of international law relating to the right of asylum, particularly to diplomatic asylum.<sup>12</sup> Its valuable response is still awaited. With the passes of time the status of diplomatic asylum has been tried to recognize at international level (discussed in infra section 4). Still many issues related to the diplomatic asylum are to be settled.

#### Legal Basis of asylum:-

Grant of asylum is justified on several grounds. According to Article 1 of The Draft Convention on Territorial Asylum adopted by the General Assembly in 1974 the grant of asylum is a sovereign right of a State.<sup>13</sup> Apart from territory, sovereignty also extends to the extra territory i.e. embassies, legation, vessels and aircrafts. Thereby asylum can be granted territorially or extra-territorially. While the former finds the basis in municipal law, latter is said to have basis in International Law. Asylum is granted to save a person from the local authorities where there is fear that he wouldn't get fair trial due to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular group, or political opinion. Another extra legal ground for asylum is humanitarian grounds i.e. to protect human rights. The International Court of Justice in *Carfu Channel Case*<sup>14</sup> has observed that asylum may be granted on humanitarian grounds in order to protect political offenders against the violent and disorderly action of irresponsible sections of the population. Lastly, national security also plays an important role in granting asylum. Grant of asylum is frequent on the ground of national security. When a government is overthrown through rebel then a State use to grant asylum in order to secure its friendly ruler deeming that his reign will be revived in future.

#### Laws on asylum

Many efforts have been done to formulate an acceptable International instrument on asylum which is one of the humanitarian issues. But it has been proved inadequate to establish an acceptable International instrument to cover all the issues of asylum. At present there are five main International instruments on asylum. These are:

1. Universal Declaration of Human Rights ( hereafter UDHR) 1945 particularly article 14 (1)
2. The Geneva Convention 1951 and its protocol 1967

<sup>6</sup> Colombian-Peruvian Asylum Case (Colombia v. Peru), Judgment of 20 November 1950, [1950] ICJ Rep. 266, at 274-5. As quoted by Heijer, Den Maarten; Diplomatic Asylum and the Assange Case; P.5; available at <http://journals.cambridge.org/LJL>

<sup>7</sup> H. Grotius, *DeJureBelli ac Pacis* (1625/1925), Bk. II, Ch. 18, Section IV, para. 5: ‘By a similar fiction, ambassadors were held to be outside the limits of the country to which they were accredited. For this reason they are not subject to the municipal law of the State in which they are living.’ As quoted by Heijer, Den Maarten; Diplomatic Asylum and the Assange Case; P.5; available at <http://journals.cambridge.org/LJL>

<sup>8</sup> J. B. Moore, *Digest of International Law*, Vol. 2 (1906), 763. As quoted by Heijer, Den Maarten; Diplomatic Asylum and the Assange Case; P.4; available at <http://journals.cambridge.org/LJL>

<sup>9</sup> See Heijer, Den Maarten; Diplomatic Asylum and the Assange Case; P. 9 and 10; available at <http://journals.cambridge.org/LJL>

<sup>10</sup> See UN Doc. A/C.3/227 (1948) and UN Doc. A/C.3/268 (1948). As quoted by Heijer, Den Maarten; Diplomatic Asylum and the Assange Case; P.11; available at <http://journals.cambridge.org/LJL>

<sup>11</sup> See UN Doc. A/C.3/SR.122 (1948). Ibid.

<sup>12</sup> See UN Doc. A/RES/1400 (XIV) (1959). Ibid.

<sup>13</sup> See Convention on territorial asylum 1974

<sup>14</sup> ICJ Reports (1949) p. 4 as quoted by Agarwal, H.O. Dr.; *International Law and Human Rights*; Central Law Publication; 17th edn. 2010. P. 285

3. International protocol on civil and political rights (hereafter ICCPR) 1966 and

4. The United Nations Conventions against Torture and other cruel, inhuman or degrading treatment or punishment (hereafter UNCAT).

Consistent with these International instrument on asylum, there are certain regional instruments regulating the issue of asylum. Significantly, these are:

1. The 1950 convention for the protection of human rights and fundamental freedoms (hereafter ECHR) and its protocol
2. Organization of American States Convention in 1954, and
3. Organization of Africa Unity Convention

According to article 14 of UDHR, each individual shall have right to "enjoy in other countries asylum from persecution. But it does not lay down any obligation on any State to grant asylum or any right of individual to be granted asylum. According to 1951 Geneva Convention on status of refugees the Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.<sup>15</sup> Relating to the right of religion The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practice their religion and freedom as regards the religious education of their children.<sup>16</sup> The contracting parties shall also not impair any rights and benefits to refugees apart from this convention.<sup>17</sup> It includes other rights and benefits apart from wage earning employment,<sup>18</sup> access to the court,<sup>19</sup> self employment<sup>20</sup> and lawfully staying<sup>21</sup> etc. This convention also prohibits lawfully expulsion except on the grounds of national security or public order,<sup>22</sup> and refoulement.<sup>23</sup> Though the convention was not prescribing adequate protection to the refugees in spite of it the convention in reservation clause allows to the signatory states to reserve any of the provisions except few,<sup>24</sup> any contracting party may denounce this convention at any time by a notification to the General Secretary of the United Nations as well.<sup>25</sup> Article 13 of ICCPR gives

freedom to the alien from arbitrary expulsion. Article 3 of the torture convention<sup>26</sup> says that no State party may expel or extradite a person to a State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

ECHR has no express provisions relating to the asylum issues particularly diplomatic asylum. Article 1 of ECHR puts an obligation on the contracting parties to secure to everyone, irrespective of their nationality, within their jurisdiction the rights and freedoms defined in Section I of this Convention. According to article 5 (1) (f) everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law of arrest or detention of a person to prevent his effecting an unauthorized entry into the country or of a person against whom action is being taken with a view to deportation or extradition.<sup>27</sup> This convention also includes reservation and denunciation clause. According to article 57 (1) any State may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the provision. Reservations of a general character shall not be permitted under this Article. Any reservation made under this Article shall contain a brief statement of the law concerned (Clause 2).<sup>28</sup> According to article 58 (1) a High Contracting Party may denounce the present Convention only after the expiry of five years from the date on which it became a party to it and after six months' notice contained in a notification addressed to the Secretary General of the Council of Europe, who shall inform the other High Contracting Parties.<sup>29</sup>

All these instruments related to asylum formulate the following faces;

#### **Persons rights to seek asylum-**

This is an individual right that an asylum-seeker. Essentially, it is the right of an individual to leave his country of residence in pursuit of asylum. The basis for this right is the principle that "a State may not claim to 'own' its nationals or residents."<sup>30</sup> This right is enshrined in several international and regional instruments. Article 13(2) of the UDHR proclaims that, "everyone has the right to leave any country, including his own." While *strictu sensu* the Universal Declaration of Human Rights is not a legally binding instrument, moreover, it has been considered as "an authoritative expression of the customary international law in regard to human rights."<sup>31</sup> The right of an individual to leave his country can thus be seen as a part of modern customary international law. With the adoption of the

<sup>15</sup> Article 3 of 1951 Geneva Convention on status of refugees

<sup>16</sup> Article 4; *ibid*

<sup>17</sup> Article 5; *ibid*

<sup>18</sup> Article 17; *ibid*

<sup>19</sup> Article 16; *ibid*

<sup>20</sup> Article 18; *ibid*

<sup>21</sup> Article 21; *ibid*

<sup>22</sup> Article 32; *ibid*-prescribes certain grounds and procedure to be followed in the case of lawfully expulsion of refugee.

<sup>23</sup> Article 33; *ibid*-prescribes certain grounds and procedure to be followed in the case of reeturn of refugee.

<sup>24</sup> Article 42 (1) says at the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1, 3, 4, 16(1), 33, 36-46 inclusive. And clause 2 says any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations; *ibid*

<sup>25</sup> According to Article 44 any Contracting State may denounce this Convention at any time by a notification addressed to the Secretary-General of the United Nations (Clause 1). Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations (Clause 2). Any State which has made a declaration or notification under article 40 may, at any time thereafter, by a notification to the Secretary-

General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General (Clause 3); *ibid*.

<sup>26</sup> The United Nations Conventions against Torture and other cruel, inhuman or degrading treatment or punishment (UNCAT)

<sup>27</sup> *Ibid*.

<sup>28</sup> *Ibid*.

<sup>29</sup> *ibid*

<sup>30</sup> Grahl-Madsen, The Status of Refugees in International Law 3 (1972). *Supra* note 2.

<sup>31</sup> Its declarations are being accepted by the legislatures and the courts in most of the countries and being followed in the several international and regional instruments as regard to the protection of the human rights as one of the inviolable rights of the people.

International Covenant on Civil and Political Rights, the right of an individual to leave his country became written law binding on the states parties to the Covenant.' Article 12(2) of the Covenant states that, "everyone shall be free to leave any country, including his own." This recognized right is also reflected in the regional conventions. Protocol No. 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms,<sup>32</sup> article 22 (2) of American Convention on Human Rights<sup>33</sup> and article 8 (2) of the Draft Charter on Human and People's Rights in the Arab World.<sup>34</sup>

#### **The right of a State to grant asylum:-**

It is well established in the customary international law that every State has right to grant or not to grant asylum. It follows from this customary International principle that every sovereign state is deemed to have exclusive control over its territory and thereby upon persons present in its territory. One of the implications of this generally recognized rule is that every sovereign state has the right to grant or deny asylum to persons present within its boundaries. Thus right of asylum has been treated as the plenary right of the state, rather than the right of an individual. There is no dispute in this respect. According to article 14(1) of UDHR *inter alia* this is the right of each individual to "enjoy in other countries asylum from persecution."<sup>35</sup> Late Professor Hersch Lauterpacht has noted that this wording was introduced by the British delegation, interpreting it as meaning "the right of every state to offer refuge and to resist all demands for extradition."<sup>36</sup> The Declaration on Territorial Asylum adopted by the General Assembly of the United Nations in 1967 provides in Article 1(1) that, "asylum granted by a State, in the exercise of its sovereignty, to persons entitled to invoke Article 14 of the Universal Declaration of Human Rights shall be respected by all other States." Further, Article 1(3) of this Declaration vests *the state* of asylum with the authority "to evaluate the grounds for the grant of asylum."<sup>37</sup> Identical evidence is sounding in the regional instruments on asylum. Article II (1) of OAU Convention on refugee says that member States of the Organization of African Unity shall use their best endeavors consistent with their respective legislations to receive refugee.<sup>38</sup>

#### **Rights and duties of the individual who has been granted asylum**

All the conventions mentioned above recognize certain rights and duties of the persons who have been granted asylum. The conventions lay down certain categorical rights and duties which are to be availed to the individuals at the time of asylum.

Apart from it, the States, which have granted asylum, are obliged to avail such other rights and duties to the individuals at the time of asylum which they are availing to their people but not mentioned in the conventions.<sup>39</sup>

#### **Grey area of Diplomatic Asylum**

Diplomatic asylum has been recognized under the customary international law. It is within the realm of sovereignty. The legal basis of asylum is humanitarian. Several international and regional conventions have been done to incorporate the rules on, and to suffice legal basis of, diplomatic asylum. Hereunder, several unanimous rules have been recognized to protect human and legal rights of the asylum seekers. For example, right to freedom, freely access to the courts, freedom from torture, freedom from extradition, deportation and refoulement, right to occupation and livelihood, right to shelter and right to return to their origin. But the following areas are not covered under any convention, such as;

- Individuals right to be granted asylum,
- State's duty to grant asylum
- State's duty not to derecognize asylum
- In the absence of the operation of conventions, grant of asylum.

The important component right under the umbrella of the right of asylum is individual's right to be granted asylum as well as State's duty to grant asylum. But it has not been recognized under either of the international or regional convention. While Grotius, founder of modern international law, and Suarez were of the opinion that the right of asylum is the natural right of an individual which entails corresponding State to grant asylum.<sup>40</sup> Generally, this view has not been recognized by some international jurists and in concurrent international and regional conventions on the asylum. Felice Morgenstern's view that, "there can be no doubt that the individual has no general 'right' of asylum against the state,"<sup>41</sup> is generally accepted to represent the status of an individual's right of asylum *vis-d-vis* the state of refuge.<sup>42</sup> Article 14(1) of the Universal Declaration of Human Rights proclaims the right of an individual "to seek and to enjoy in other countries asylum from persecution." Thus provision merely affords the individual a right to seek asylum, not a right to receive it. Professor Lauterpacht criticized the language of Article 14(1) for giving the individual a right to seek asylum without specifying whose duty it is to give effect to that

<sup>32</sup> Everyone shall be free to leave any country, including his own

<sup>33</sup> Every person has the right to leave any country freely, including his own

<sup>34</sup> Everyone who is a citizen of an Arab country or of Arab origin has the right to leave his country and return to it.

<sup>35</sup> UDHR 1948

<sup>36</sup> For More detail see Hersch Lauterpacht; The Universal Declaration of Human Rights, 1948 BRIT. Y.B. INT'L L. 354, 373 (emphasis added). (As quoted by Roman Boed in "The State of the Right of Asylum in International Law." P. 4. Supra note 2)

<sup>37</sup> Roman Boed in "The State of the Right of Asylum in International Law." P. 4 and 5. Supra note 2

<sup>38</sup> OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, Sept. 10, 1969, art. 11(1), 1001 U.N.T.S. 45, 48 (emphasis added). (As quoted by Roman Boed in "The State of the Right of Asylum in International Law." P. 5) Supra note 2

<sup>39</sup> For more detail see; The Geneva Convention 1951 and its protocol 1967, International protocol on civil and political rights (hereafter ICCPR) 1966, The United Nations Conventions against Torture and other cruel, inhuman or degrading treatment or punishment (hereafter UNCAT), The 1950 convention for the protection of human rights and fundamental freedoms (hereafter ECHR) and its protocol, Organization of American States Convention in 1954, and Organization of Africa Unity Convention.

<sup>40</sup> Paul Weis, The Draft United Nations Convention on Territorial Asylum, 1979 BRIT. Y.B. INT'L L. 119 (As quoted by Roman Boed in "The State of the Right of Asylum in International Law." P. 8 Supra note 2)

<sup>41</sup> Felice Morgenstern, The Right of Asylum, 1949 BRIT. Y.B. INT'L L.336 (As quoted by Roman Boed in "The State of the Right of Asylum in International Law." P. 8. *ibid*)

<sup>42</sup> Though, few municipal laws provide for an individual to be granted asylum in certain circumstances.

right.<sup>43</sup> Therefore UDHR doesn't contemplate any innovation to existing international law with respect to an individual's right to receive asylum in a particular State. However, drafters of UDHR attempted to oblige states to grant asylum but it was dropped at the objection of British, Australian and Saudi Arabian representatives and substituted by the term "individual's right to enjoy asylum."<sup>44</sup> Further, none convention contemplates that once asylum has been granted shall not be derecognized as well as in the absence of operation of either convention a particular State shall have right to grant asylum and it shall be respected by the other States too.

### Summation

One of the outstanding achievements of the 20th century in the humanitarian field has been the establishment of the principles on refugee problem and its address through the international cooperation and burden-sharing. The plight of refugee has happened to be a global phenomenon. It is not restricted to a particular State or group of States. Therefore it should be addressed by all States as a global issue. It will not be just and proper solution of the issue to refuse admission to prevent aliens from seeking asylum. Closing doors to the aliens merely direct the flow of refugee elsewhere or would kill the humanity which requires protection against the persecution etc. Moreover, grant of asylum, liberally, has also raised its political misuse. Particularly, in case of diplomatic asylum the diplomatic institutions have been found accused of frequent misuse of this international law on asylum. In the West, frequent instances are available. Many times diplomatic asylum has been granted on the grounds other than recognized one in the international or regional conventions, such as to prevent the operation of ordinary law as well as access of court of law. As it has happened in the case of Julian Assange, Ecuador has granted asylum to Julian Assange in its embassy in London albeit under the protest of British Government. This grant of asylum has ousted Julian Assange from the reach of British Government. Accordingly, it was not acceptable by the British Government and has insisted to it to derecognize the Ecuadorain embassy in London. Since Julian Assange was facing the charge of sexual

assault, which is not a ground to grant asylum. This practice of grant of asylum is an illustration of misuse of diplomatic asylum. Such instances are running counter to the sovereignty of States where such diplomatic institutions are. Therefore in the exercise of diplomatic asylum a balance approach should be adopted by every States.

Diplomatic asylum should always be granted only on the recognized grounds. If in any case diplomatic asylum has been granted on unrecognized grounds that should also be respected and certain alternative recourses should be adopted instead of threatening international peace and security and international relations. Further, international convention should be held to bestow an individual the right to be granted asylum particularly diplomatic asylum. On the other hand States should also be obliged to grant asylum. There should be proper international agency to monitor the grant of diplomatic asylum stronger than United Nations high commissioner of refugee. Ultimately once the diplomatic asylum has been granted it should not be revoked and no external pressure should be put on it. For this purpose UN Charter, UDHR and ICCPR should be revisited and amended to incorporate such provisions.

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### Bare Acts

7. UN Charter 1945
8. UDHR 1948
9. ICCPR 1966
10. ICESCR 1966
11. The Geneva Convention 1951 and its protocol 1967
12. The United Nations Conventions against Torture and other cruel, inhuman or degrading treatment or punishment
13. The 1950 convention for the protection of human rights and fundamental freedoms and its protocol
14. Organization of American States Convention in 1954, and
15. Organization of Africa Unity Convention

<sup>43</sup> "It is perhaps a matter for regret that in a Declaration purporting to be an instrument of moral authority an ambiguous play of words, in a matter of this description, should have been attempted. Clearly, no declaration would be necessary to give an individual the right to seek asylum without an assurance of receiving it." Hersch Lauterpacht, *The Universal Declaration of Human Rights*, 1948 BRIT. Y.B. INT'L L. 373 (As quoted by Roman Boed in "The State of the Right of Asylum in International Law." P. 9. Ibid )

<sup>44</sup> Felice Morgenstern, *The Right of Asylum*, 1949 BRIT. Y.B. INT'L L.336 (As quoted by Roman Boed in "The State of the Right of Asylum in International Law." P. 10. Ibid )