

# The Universal Asylum System: Towards Termination or Reinforcement?

Terje Einarsen

Professor  
University of Bergen, Faculty of Law



[www.uib.no](http://www.uib.no)

## The Universal Asylum System: Norms

- 1 A Universal Human Right **to Seek** in Other Countries Asylum from Persecution
  - Right to leave, non-refoulement at borders, no punishment for seeking asylum in good faith
  - Limitations: no right to visa, obstructions might be lawful (visa requirements, carrier sanctions, fences)
- 2 A Universal Human Right **to Enjoy** in Other Countries Asylum from Persecution
  - Content: non-return (also indirectly) to persecution, permission/consent to stay, rights during stay/residency
- 3 Back-up at regional levels



## The Universal Asylum System: Institutions

- 1 United Nations Institutions of Relevance to Asylum
  - UNHCR
    - ◇ Assistance
    - ◇ Facilitate solutions
    - ◇ Facilitate temporary protection
    - ◇ Supervise application of RC
  - International Court of Justice? RC art. 38 compulsory jurisd.
  - UN Security Council, General Assembly, Secretary-General
  - Treaty supervisory bodies, complaint procedures
  
- 2 Back-up at regional levels, e.g. EU-institutions and norms, ECHR/ECtHR



## **The Refugee Crisis in the Middle East and in Europe – New calls for reviewing the Universal Asylum System**

Where are the refugees?

- Some 40 million are IDPs outside the UAS
- Some 25 million are prima facie international refugees

Global reform proposals

- Terminate the RC and the UAS
- Replace with a Quota System
- Keep the UAS and make it more efficient and fair
- Add new mechanisms for mass flight situations
- Focus also on responsibility, ICC-ratification, 'refugee tax' on international arms transfers, development of host countries



## International Territories of Asylum

- Complementary institutional framework for mass flight situations
- Territories leased for purpose of temporary asylum
- Voluntary agreement with a country in the region
- Voluntary access to an ITA for prima facie refugees
- Security guaranteed by the Security Council
- Refugee rights guaranteed by the Security Council
- Full-scale development of the leased territory
- International Sharing of Responsibility
- UNHCR supervision



## Conclusion

- Keep the UAS and make it more efficient and fair
- Discuss new mechanisms for mass flight situations
- Focus more broadly on causes and responsibility for refugee movements
- Role of academics and practioners: Continue to provide informed arguments and hold politicians and governments accountable to best knowledge and principles of international law

