1. Introduction

International refugee law (IRL), international human rights law (IHRL), and international humanitarian law (IHL) are each discreet as well as inter-connected areas of international law. The 1951 Convention relating to the Status of Refugees¹ (1951 Convention) is commonly viewed by scholars, practitioners, and governments alike as the centerpiece of refugee protection, although it is increasingly accepted that it is supplemented by IHRL. In contrast, less attention has been paid to the role of IHL in displacement situations outside a few specific contexts, yet displacement is frequently the result of armed conflict and occupation, alongside persecution and other serious human rights violations. As a departure point, Article 5 of the 1951 Convention clearly allows for the application of other instruments to refugees that confer “rights and benefits.”²

This article seeks to clarify the inter-relationship between IRL and these other branches of international law in attempting to understand their role in the “international protection” of refugees. It asks: What is “international protection” and where do refugee law, human rights law, and humanitarian law fit, if at all, within this legal concept? Divided into three parts, this article starts with an overview of the interface between IRL and IHRL, followed by IRL and IHL, while the third part takes a non-exhaustive look at the concept of “international protection” as it

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¹ 189 U.N.T.S. 137; entered into force April 22, 1954 [hereinafter 1951 Convention].
² Id. Article 5: “Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.”
has been applied in a range of contexts and the role played by these three distinct
areas of law in giving meaning to it.

Throughout this article the definition of a “refugee” contained in Article 1 of
the 1951 Convention as amended by its 1967 Protocol3 is adopted, as well as
wider definitions elaborated under applicable regional instruments. Article 1A(2)
of the 1951 Convention as amended by the 1967 Protocol defines a “refugee” as
any person:

with a well-founded fear of being persecuted for reasons of race, religion, national-
ity, membership of a particular social group or political opinion who is outside the
country of his [or her] nationality and is unable or, owing to such fear, is unwilling
to avail himself [or herself] of the protection of that country.

Status may be denied on a number of grounds, including if there are serious
reasons for considering that the applicant has committed a war crime or crime
against humanity.4 An almost identical definition of a “refugee” is incorporated
in the 1950 Statute of the Office of the United Nations High Commissioner for
Refugees5 (UNHCR), with the exception that “membership of a particular social
group” is not included as an asylum ground.6

In the African context, the definition of a “refugee” was expanded in 1969 to
include persons who are compelled to leave their place of habitual residence due
to “external aggression, occupation, foreign domination or events seriously dis-
turbing public order in either the whole or part of the territory.”7 Likewise, the
1984 Cartagena Declaration recommends an enlargement of the definition of a
“refugee” in the 1951 Convention to incorporate “persons who have fled their
country because their lives, safety or freedom have been threatened by generalized
violence, foreign aggression, internal conflicts, massive violation of human rights
or other circumstances which have seriously disturbed public order.”8

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4 Article 1F(a), 1951 Convention, supra note 1.
6 Article 6(A)(ii), UNHCR Statute.
7 Article 1(2), Organisation of African Unity (now African Union) Convention Governing the
Specific Aspects of Refugee Problems in Africa, adopted by the Assembly of Heads of State and
[hereinafter Edwards (2006)].
8 Cartagena Declaration on Refugees 1984, adopted by the Colloquium of the International Pro-
tection of Refugees in Central America, Mexico and Panama, Part III, para. 3. See, also, San José
Declaration on Refugees and Displaced Persons, adopted by the International Colloquium in
Commemoration of the “Tenth Anniversary of the Cartagena Declaration on Refugees”, San José,
Dec. 5–7, 1994; Mexico Declaration and Plan of Action to Strengthen the International Protection
of Refugees in Central America, Mexico City, Nov. 16, 2004.