

# Exclusion clauses of the Refugee Convention in relation to national immigration legislations, European policy and human rights instruments

Article 1F versus the *non-refoulement* principle

*Zarif Yakut-Bahtiyar*



# Refugee Law In Context The Exclusion Clause

**M. Rafiqul Islam, Md. Jahid Hossain  
Bhuiyan**



## **Refugee Law In Context The Exclusion Clause:**

**Refugee Law in Context: The Exclusion Clause** Peter Van Krieken, 1999-11-02 Both the 1951 Refugee Convention and the 1948 Universal Declaration of Human Rights clearly indicate those asylum seekers who should be excluded from refugee status excluded from asylum The refugee lawyer in order to fully appreciate the importance and relevance of this principle needs to look beyond refugee law proper The insight needed for the decision whether or not to apply the so called exclusion clause is to be found elsewhere within the realms of international law international humanitarian law international criminal law and United Nations law In this publication contributors pay ample attention to developments in these related fields Complemented with a wealth of relevant materials including informative treaties conventions and draft resolutions on these very themes this book is an indispensable guide for all those involved with asylum seekers refugees and the upholding of the principles of refugee law This collection amounts to a true Article 1F Handbook

**The UNHCR and the Supervision of International Refugee Law** James C. Simeon, 2013-08-15 The 1951 Convention relating to the Status of Refugees and its 1967 Protocol and many other important international instruments recognize the unique role the UNHCR plays in protecting refugees and supervising international refugee law This in depth analysis of the UNHCR s supervisory role in the international refugee protection regime examines the part played by key institutions organizations and actors in the supervision of international refugee law It provides suggestions and recommendations on how the UNHCR s supervisory role can be strengthened to ensure greater State Parties compliance to their obligations under these international refugee rights treaties and contributes to enhancing the international protection of refugees and to the promotion of a democratic global governance of the international refugee protection regime

*Children's Rights and Refugee Law* Samantha Arnold, 2017-08-09 Children make up half of the world s refugees and over 40 per cent of the world s asylum seekers However children are largely invisible in historical and contemporary refugee law Furthermore there has been very limited interaction between the burgeoning children s rights framework in particular the Convention on the Rights of the Child CRC and the 1951 Convention relating to the Status of Refugees Refugee Convention This book explores the possibility of a children s rights approach to the interpretation of the Refugee Convention and within that what such an approach might look like In order to construct a children s rights approach the conceptualisations of children outside the legal discipline within international children s rights law and then within refugee law and refugee discourse are analysed The approach taken is socio legal and comparative in nature and the suitability of the Refugee Convention as a framework for the interpretation of child claims is examined The book analyses to what extent the Refugee Convention is capable of dealing with claims from children based on the modern conceptualisation of children which is underscored by two competing ideologies the child as a vulnerable object in law to be protected and the child as subject with rights and the capacity to exercise their agency The influence each regime has had on the other is also analysed The work discusses how a children s rights approach might

improve outcomes for child applicants The book makes an original contribution to child refugee discourse and as such will be an invaluable resource for academics researchers and policymakers working in the areas of migration and asylum law children s rights and international human rights law **The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol** ,2024-01-10 The Convention Relating to the Status of Refugees adopted on 28 July 1951 in Geneva continues to provide the most comprehensive codification of the rights of refugees yet attempted Consolidating previous international instruments relating to refugees the 1951 Convention with its 1967 Protocol marks a cornerstone in the development of international refugee law At present there are 149 States Parties to one or both of these instruments expressing a worldwide consensus on the definition of the term refugee and the fundamental rights to be granted to refugees These facts demonstrate and underline the extraordinary significance of these instruments as the indispensable legal basis of international refugee law This Commentary provides for a systematic and comprehensive analysis of the 1951 Convention and the 1967 Protocol on an article by article basis exposing the interrelationship between the different articles and discussing the latest developments in international refugee law In addition several thematic contributions analyse questions of international refugee law which are of general significance such as regional developments the interrelationship between refugee law and general human rights law as well as the relationship between refugee law and the law of the sea

Exclusion from Protection as a Refugee Yao Li,2017-09-11 In Exclusion from Protection as a Refugee Yao Li analyses Article 1F of the 1951 Refugee Convention She argues that the exclusion clause is a quasi punitive provision and must therefore be interpreted with due regard to International Criminal Law Having developed an interpretation approach to consider external legal notions Li provides a solution for all the relevant issues in the context of Article 1F based on a harmonizing interpretation The study therefore not only comprehensively examines the exclusion clause at the intersection of International Refugee Law and International Criminal Law but also contributes to anti fragmentation efforts in International Law **Asylum Law in the European Union** Francesco Cherubini,2014-11-13 This book examines the rules governing the right to asylum in the European Union Drawing on the 1951 United Nations Convention relating to the Status of Refugees and the 1967 Protocol Francesco Cherubini asks how asylum obligations under international refugee law have been incorporated into the European Union The book draws from international law EU law and the case law of the European Court of Human Rights and focuses on the prohibition of refoulement the main obligation the EU law must confront Cherubini explores the dual nature of this principle examining both the obligation to provide a fair procedure that determines the conditions of risk in the country of origin or destination and the obligation to respond to a possible expulsion Through this study the book sheds light on EU competence in asylum when regarding the different positions of Member States The book will be of great use and interest to researchers and students of asylum and immigration law EU law and public international law The Concept of Universal Crimes in International Law Terje Einarsen,2012-08-15 This groundbreaking study seeks to

clarify the concept of universal crimes in international law It provides a new framework for understanding important features of this complex field of law concerned with the most serious crimes Central issues include the following What are the relevant crimes that may give rise to direct criminal liability under international law Are they currently limited to certain core international crimes Why should certain crimes be included whereas other serious offences should not Should specific legal bases be considered more compelling than others for selection of crimes Terje Einarsen 1960 is a judge at the Gulating High Court He holds a Ph D Doctor Juris from the University of Bergen and a masters degree LL M from Harvard Law School

**The Emergent African Union Law** Olufemi Amao, Michèle Olivier, Konstantinos D. Magliveras, 2021-10-07 This book is a groundbreaking study of the emergence of a unique African Union legal system with contributions from a diverse collection of scholars and practitioners It highlights how law stands at the heart of the successful regional integration effort in Africa and explores among other issues the extent to which African Union law is having an impact on domestic laws This trend has been particularly noticeable in the area of human rights the rule of law democratic principles and aspects of constitutional law Furthermore the book examines how the African Union is engendering new norms from its legal order such as the non indifference norm the norm on unconstitutional change of government free trade free movement of people economic regulation and democratic constitutionalism The book also analyses how the African Union legal order has led to the emergence of a continental level judicial system The quasi judicial system put in place under the African Charter on Human and Peoples Rights and administered by the African Commission on Human and Peoples Rights is now complemented by the African Court on Human and Peoples Rights This book contends that the continental level judicial system is playing a crucial role in the moulding of emergent norms

**Complementary Protection in International Refugee Law** Jane McAdam, 2007 This book provides a comprehensive analysis of complementary protection from its historical development through to its contemporary application By examining the human rights foundations of the Convention the architecture of Convention rights regional examples of complementary protection and principles of non discrimination the book argues that the Convention acts as a type of *lex specialis* for persons in need of international protection providing a specialized blueprint for legal status irrespective of the legal source of the protection obligation

**Global Anti-Terrorism Law and Policy** Victor V. Ramraj, Michael Hor, Kent Roach, 2009-04-09 All indications are that the prevention of terrorism will be one of the major tasks of governments and regional and international organisations for some time to come In response to the globalised nature of terrorism anti terrorism law and policy have become matters of global concern Anti terrorism law crosses boundaries between states and between domestic regional and international law They also cross traditional disciplinary boundaries between administrative constitutional criminal immigration and military law and the law of war This collection is designed to contribute to the growing field of comparative and international studies of anti terrorism law and policy A particular feature of this collection is the combination of chapters that focus on a particular country or region in the Americas Europe Africa

and Asia and overarching thematic chapters that take a comparative approach to particular aspects of anti terrorism law and policy including international constitutional immigration privacy maritime aviation and financial law The Ashgate Research Companion to Ethics and International Relations Patrick Hayden,2016-04-01 While skepticism about the role of moral considerations in international politics has been influential within the discipline of international relations IR those writing on topics such as war peace rights and trade up until the twentieth century took seriously the importance of ethical values and moral debates The 1990s and 2000s have seen a substantial growth of attention to the ways in which IR conceives and analyzes themes of an ethical nature and how issues problems and policies involving ethics are addressed by a variety of actors within the international system This indispensable research companion widens the perspective from ethics and international relations to ethics in international relations redressing the mis perception that ethical concepts principles norms and rules are not in part constitutive of the international system and the agents acting within that system Necessarily cross disciplinary expertise is drawn from IR and also philosophy political theory religious studies history and law making this an ideal volume for any library reference collection Research Handbook on International Refugee Law Satvinder Singh Juss,2019 In an age of ethnic nationalism and anti immigrant rhetoric the study of refugees can help develop a new outlook on social justice just as the post war international order ends The global financial crisis the rise of populist leaders like Trump Putin and Erdogan not to mention the arrival of anti EU parties raises the need to interrogate the refugee migrant citizen stateless legal and illegal as concepts This insightful Research Handbook is a timely contribution to that debate

*The Oxford Handbook of International Refugee Law* Cathryn Costello,Michelle Foster,Jane McAdam,2021 Provides a state of the art comprehensive analysis of the field of international refugee law Global in scope with 10 chapters focusing in detail on specific regions Critiques the status quo and sets the agenda for future academic research Book jacket

**Crossing Over** Holger Henke,2005-01-01 Although migration by the very virtue of its transnational nature seems to invite comparisons relatively few books provide these in explicit form In this collection of essays the authors deliberately juxtapose the experience of different locations and or immigrant populations in order to systematically compare them

Chinese Refugee Law and Policy, 1949-2017 Lili Song,2020-03-26 Systematic and critical examination of Chinese refugee law and policy including information acquired from interviews and field visits **Forced Migration, Human Rights and Security** Jane McAdam,2008-03-13 The international protection regime for refugees and other forced migrants seems increasingly at risk as measures designed to enhance security of borders of people of institutions and of national identity encroach upon human rights This timely edited collection responds to some of the contemporary challenges faced by the international protection regime with a particular focus on the human rights of those displaced The book begins by assessing the impact of anti terrorism laws on refugee status both at the international and domestic levels before turning to examine the function of offshore immigration control mechanisms and extraterritorial processing on asylum seekers access to

territory and entitlements both procedural and substantive It considers the particular needs and rights of children as forced migrants but also as children the role of human rights law in protecting religious minorities in the context of debates about national identity the approaches of refugee decision makers in assessing the credibility of evidence and the scope for an international judicial commission to provide consistent interpretative guidance on refugee law so as to overcome or at least diminish the currently diverse and sometimes conflicting approaches of national courts The last part of the book examines the status of people who benefit from complementary protection such as those who cannot be removed from a country because they face a risk of torture or cruel inhuman or degrading treatment or punishment and the scope for the broader concept of the responsibility to protect to address gaps in the international protection regime *Refugee Law* Colin Yeo,2022-04-26 The word refugee is both evocative and contested it means different things to different people For lawyers the main legal reference point is the UN Refugee Convention of 1951 This concise and engaging book follows the structure of the Convention to explore international refugee law Including an introduction to the historical and legal context Colin Yeo draws on his experience as an immigration barrister to explain the present day legal framework for global refugee protection Chapters consider well founded fear persecution the loss of refugee status and exclusion the rights of refugees and state responses to refugee claims The book includes studies of key legal cases reviews the successes and failures of the Convention and looks ahead to the future including the impact of climate change and the Global Compact on Refugees Communicating important legal concepts in an approachable way this is an essential guide for students lawyers and non specialists **Our Friendly Local Terrorist** Mary Jo Leddy,2010-12-08 Our Friendly Local Terrorist tells the story of the fourteen year struggle of Suleyman Goven a Kurd accused by the Canadian Security Intelligence Service of being a terrorist Mary Jo Leddy was accidentally present at Suleyman s first interview with CSIS During that eight hour ordeal he was propositioned you work for us as a spy and you ll get your papers otherwise there are no guarantees Mary Jo continued to be a witness to this bizarre and painful process over the following years at judicial and semi judicial hearings which finally ruled that Suleyman ought to be given his papers This moving personal story explores the efficacy of the immigration and security clearance systems in the Canadian government It also provides an entry into the often complex political dynamics and pressures within Kurdish communities in Canada and elsewhere in the diaspora and reveals Turkey s role and influence in international relations when the tender of huge business contracts is at stake *The Regional Law of Refugee Protection in Africa* Marina Sharpe,2018-07-19 This book analyses the legal framework for refugee protection in Africa including both refugee and human rights law as well as treaty and institutional elements The regime is addressed in two parts Part One analyses the relevant treaties the 1951 Convention relating to the Status of Refugees the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa and the 1981 African Charter on Human and Peoples Rights The latter two regional instruments are examined in depth This includes the first fulsome account of the African Refugee

Conventions drafting an interpretation of its unique refugee definition and original analysis of the relationships between the three treaties Significant attention is devoted to the systemic relationship between the international and the regional refugee treaties and to the discrete relationships of conflict and complementary relationships between the two refugee instruments as well as to the relationships between the African Refugee Convention and African Charter Part Two focuses on the institutional architecture supporting the treaty framework The Organization of African Unity is addressed in a historical sense and the contemporary roles of the African Union the African Commission on Human and Peoples Rights and the current and contemplated African human rights courts are examined This book is the first devoted to the legal framework for refugee protection in Africa

**An Introduction to International Refugee Law** M. Rafiqul Islam, Md. Jahid Hossain Bhuiyan, 2013-05-15 The book is designed to provide an overview of the development meaning and nature of international refugee law The jurisprudence on the status of refugees loss and denial of the refugees status non refoulement asylum problems and challenges of refugee protection the law of return and the right of return critical refugees and immigration law and the role of international organizations in protection of refugees are revisited in the context of contemporary realities The relationship between armed conflict climate change and human right violations induced refugees and the existing international refugee regime emerging will be succinctly highlighted and analysed in the book This lucidly written and timely book will be immensely helpful to anyone grappling with the demonstrated inadequacies of international refugee law in real life situations today and desirous of the reorientation of its meaning and scope to cater for the changing needs and shared expectation of the international community in the 21st century

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