

# 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

**Holger Henke**



## **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 **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

**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 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 Gulatings High Court. He holds a Ph.D. (Doctor Juris) from the University of Bergen and a masters degree LL.M. from Harvard Law School.

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

*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

**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 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 *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 **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 *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 **Cornell International Law Journal** ,2001 *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 **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 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 **The United**

**Nations Principles to Combat Impunity: A Commentary** Frank Haldemann, Thomas Unger, 2018-03-16 The fight against impunity has become a growing concern of the international community Updated in 2005 the UN Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity is the fruit of several years of study developed under the aegis of the UN Commission on Human Rights and then affirmed by the Human Rights Council These Principles are today widely accepted as constituting an authoritative reference point for efforts in the fight against impunity for gross human rights abuses and serious violations of international humanitarian law As a comprehensive attempt to codify universal accountability norms the UN Set of Principles marks a significant step forward in the debate on the obligation of states to combat impunity in its various forms Bringing together leading experts in the field this volume provides comprehensive academic commentary of the 38 principles The book is a perfect companion to the document setting out the text of the Principles alongside detailed analysis as well as a full introduction and a guide to the relevant literature and case law The commentary advances debates and clarifies complex legal issues making it an essential resource for legal academics

students and practitioners working in fields such as human rights international criminal law and transitional justice

*International Refugee Law and the Protection of Stateless Persons* Michelle Foster, H       Lambert, 2019-04-04

*International Refugee Law and the Protection of Stateless Persons* examines the extent to which the 1951 Convention relating to the Status of Refugees protects de jure stateless persons. While de jure stateless persons are clearly protected by the 1954 Convention relating to the Status of Stateless Persons, this book seeks to explore the extent to which such persons are also entitled to refugee status. The questions addressed include the following: When is a person without a nationality for the purpose of the 1951 Refugee Convention? What constitutes one's country of former habitual residence as a proxy to one's country of nationality? When does being stateless give rise to a well-founded fear of persecution for reasons specified in the 1951 Refugee Convention and/or UNHCR mandate? What are the circumstances under which statelessness constitutes persecution or inhuman or degrading treatment? How are courts assessing individual risk or threat to stateless persons? The book draws on historical and contemporary interpretation of international law based on the travaux pr  paratoires to the 1951 Refugee Convention and its antecedents, academic writing, UNHCR policy and legal documents, UN Human Rights Council resolutions, UN Human Rights Committee general comments, UN Secretary-General reports and UN General Assembly resolutions. It is also based on original comparative analysis of existing jurisprudence worldwide relating to claims to refugee status based on or around statelessness. By examining statelessness through the prism of international refugee law, this book fills a critical gap in existing scholarship.

*The Internal Protection Alternative in Refugee Law* Jessica Schultz, 2018-12-10

Under what circumstances can a state refuse refugee status to a person whose risk of persecution exists in only part of her country of origin? This book is the first monograph to examine the treaty basis and criteria for the internal protection alternative (IPA), an exception to refugee status increasingly invoked by state parties to the 1951 Refugee Convention and its 1967 Protocol. Through a critical analysis of the relationship between refugee law and related fields, Schultz finds that the legal scope for IPA practice is narrower than is commonly claimed. Since persons subject to an IPA analysis have a well-founded fear of persecution within their countries of origin, any limit on their right to refugee status must involve a careful balancing of the impact of continued displacement against the state's interest in preserving its restricted protection resources. She argues that the doctrine of implied limits in human rights law can provide analytic structure to the IPA concept and reduce the risk of overly broad application.



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