

# 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

**Colin Yeo**



## **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* Andreas Zimmermann, Terje Einarsen, Franziska M. Herrmann, 2024 The 1951 Refugee Convention and its 1967 Protocol are the cornerstones of international refugee law This Commentary provides a systematic article by article analysis of their provisions in addition to crosscutting thematic chapters The Commentary is an indispensable tool for lawyers decision makers and academics

**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

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

**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

*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 *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 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 *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 **The United Nations**

**Principles to Combat Impunity** Frank Haldemann,Thomas Unger,Valentina Cadelo,2018 Bringing together leading experts in the field this volume provides comprehensive academic commentary on the UN Principles to Combat Impunity The book features the text of each of the 38 Principles along with a full analysis detailed commentary and a guide to relevant literature and case law **International Refugee Law and the Protection of Stateless Persons** Michelle Foster,Hélène

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 préparatoires 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 Refugee Definition in International Law** Hugo Storey, 2023-09-21 In international law the refugee definition enshrined in Article 1A 2 of the Refugee Convention and its 1967 Protocol is central Yet seven decades on the meaning of its key terms are widely seen as unclear The Refugee Definition in International Law asks whether we must continue to accept this or whether a systematic legal analysis can shed new light on this important term The volume addresses several framework questions concerning approaches to definition interpretation ordering and the interrelationship between the definition s different elements Each element is then analysed in turn applying Vienna Convention of the Law of Treaties rules in systematic fashion Each chapter evaluates the main disputes that have arisen and seeks to distil basic propositions that are widely agreed as well as certain suggested propositions for resolving ongoing debates In the final chapter the basic propositions are assembled to demonstrate that in fact there is now more clarity about the definition than many think and that considerable progress has been made toward achieving a working definition

*European Master's Degree in Human Rights and Democratisation*, 1999

**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

Critical Issues in International Refugee Law James C. Simeon, 2010-08-19 This volume of essays examines key cutting edge areas of international refugee law including strategies for interpretative harmony the rights of refugees and the standard of proof in complementary protection Each topic is examined from a theoretical and a practical perspective in order to find solutions to the many legal issues and

concerns which currently confront this area of law and to seek ways to advance the field as a whole



## Whispering the Strategies of Language: An Emotional Journey through **Refugee Law In Context The Exclusion Clause**

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