Abram, E. F., 575, 578	Afghanistan
accelerated procedures	cessation, 510, 533
cessation, 531, 539	gender-related persecution, 282, 284
exclusion, 30, 464, 465	internally displaced persons (IDPs), 4
Germany, 211	Taliban, 510, 511
manifestly unfounded claims, 5, 23, 24	voluntary repatriation, 510
see also asylum procedure	Africa
acquisition of new nationality	1969 Convention see OAU Refugee
discrimination, 541	Convention
effective links, 541	Asian-African Principles see Principles
effective protection, 541	Concerning Treatment of Refugees
exilic bias, 528	human rights, 586
inquiries, 541	OAU see Organization of African Unity
married women, 527	African Charter on Human and Peoples'
naturalization, 526, 541	Rights (1981)
OAU Refugee Convention (1969), 540,	inhuman or degrading treatment, 152,
541	153, 158
personal circumstances, 31, 526	non-refoulement, 144, 147
refusal, 527	torture, 152, 153, 158
successor states, 527, 541	African Charter on the Rights and Welfare of
voluntariness, 527, 541	the Child (1990), 592, 605
see also cessation	African Commission on Human and
Ad Hoc Committee on Statelessness and	Peoples' Rights, 146, 158
Related Problems, 98, 107, 190, 374,	African Union see Organization of African
570	Unity
Additional Protocol I (1977), 430, 577,	age
645	elderly see elderly persons
Additional Protocol II (1977), 592	failure of State protection, 63
Additional Protocols (1977), 433, 437	immutable characteristics, 71
admissibility of claims	particular social group, 67, 70
Belgium, 210	potential claims, 57
detention, 208	recent development, 57
exclusion, 30, 464	refugee definition, 57, 59, 67
internal protection/flight/relocation	undue hardship, 73
alternative, 23, 24, 27	vulnerable groups, 73, 78, 563
admission, mass see mass influx	well-founded fear, 65
advisory opinions, 649, 655	young see children; minors
affirmative action	age sensitivity
family reunification, 578	asylum procedure, 77
internal protection/flight/relocation	cessation, 75
alternative, 405	children, 57

elderly persons, 57	use of force, 141
non-discrimination, 47, 79	vulnerable groups, 335
non-State actors, 63	women, 335
particular social group, 67	armed forces, child soldiers see under-age
political opinion, 58	military service
refugee status, 47, 57	arms trade, small arms, 43
religious persecution, 58	Articles on State Responsibility
Agenda for Protection, 7	attributions of conduct, 108
agents of persecution	see also State responsibility
non-State see non-State actors	Asian-African Legal Consultative
States see State persecution	Committee see Principles Concerning
Albania	Treatment of Refugees (1966)
cessation, 500, 509	asylum procedure
human rights, 500	accelerated see accelerated procedures
Kosovo refugees, 33	additional considerations, 257
Algeria	administrative instructions, 257
gender-related persecution, 281	admissibility see admissibility of claims
Islamic Salvation Front (FIS), 449	age sensitivity, 77
transsexuals, 281	Austria, 234
Alston, P., 642, 645	children
American Convention on Human Rights	special needs, 6, 58
(1969)	unaccompanied see unaccompanied/
advisory opinions, 649	separated children
inhuman or degrading treatment, 152,	European Union, 23, 464, 465, 515, 633
153, 158	exclusion, 30, 464
life or freedom threatened, 125	fairness/efficiency, 5, 16, 590
non-refoulement, 91, 118, 131, 143, 147	gender-related persecution, 22, 34, 51
torture, 152, 153, 158	general considerations, 254
see also human rights	interviews see interviews
amnesties, extradition, 472	legal advice, 22, 223, 226, 257
Anderfuhren-Wayne, C. S., 578, 580	minimum standards, 16
Angola	pending final decision, 14
children, 592	physical restraint unnecessary, 220
independence, 501	sensitivity
internally displaced persons (IDPs), 592	age see age sensitivity
UNITA, 467	gender see gender sensitivity
anti-discrimination see non-discrimination	specific considerations, 255
arbitrary arrest, human rights, 222	Sweden, 55
armed conflict	temporary protection, 32
cessation, 497, 501	unaccompanied/separated children, 590
command see command responsibility	asylum seekers
crimes against humanity, 435	choice, 203
ethnicity see ethnic conflict	detention see detention
gender-related persecution, 335	deterrence see deterrence
internal protection/flight/relocation	diplomatic missions, 122
alternative, 400	family reunification, 590, 607
peace agreements see peace settlements	illegal entry, 14
persecution, 537	long-term asylum, 4
rape, 5, 52	mass influx see mass influx
regionalized threats, 360	non-refoulement, 112, 115, 118
self-determination, 456	refugee definition, 116
sexual violence, 336	safeguards, UNHCR study, 206

asylum seekers (<i>cont.</i>)	best interests of child
social security appeals, 204	1989 Convention, 50, 575
temporary status, 33	detention, 232
Australia	exclusion, 75
Convention on the Rights of the Child	interpretation, 50
(CRC) (1989), 595, 602	promotion, 58
detention, 208, 223, 230, 602	unaccompanied/separated children, 560
expulsion, 574	564
family planning policy cases, 272, 286,	see also children
293,384	Bhabha, Jacqueline, 50, 65
family reunification, 579, 592, 595, 601	Biological Weapons Convention (1972),
family unity, 209, 592, 602	648
fundamental change, 498	Blokker, N. M., 635
habeas corpus, 230, 231	Bolivia, cessation, 500
ICCPR (1966), 208, 595	Bosnia and Herzegovina
illegality of substance, 61	cessation, 76, 509, 510, 533
immunity from penalties, 208	family unity, 593
internal protection/flight/relocation	German proceedings, 430
alternative, 370, 378, 384, 387, 391,	Bulgaria, cessation, 500
394, 397	burden of proof
particular social group, 71, 271, 306	ceased circumstances, 515, 516
persecution defined, 39	cessation, 515, 516, 531, 539, 540
protection-based approach, 41, 60	exclusion, 470
refugee definition, 42	fundamental change, 33
Refugee Review Tribunal, 66	internal protection/flight/relocation
religious persecution, 385, 397	alternative, 369, 370, 398, 414
right of return, 209	temporary protection, 522
sexual orientation, 66, 67	UNHCR Handbook, 369
smuggling of people, 595	well-founded fear, 531, 539
social perception, 17, 271, 274, 293,	, ,
296	CAHAR, particular social group, 9, 18
temporary protection visas, 209	Cambodia
Austria	cessation, 533, 534
asylum procedure, 234	Khmers Rouges, 281
criminal proceedings, 469	voluntary repatriation, 511
detention, 187	Canada
immunity from penalties, 234	arrest, 236
rape, 56	children, 238
	Convention Refugee Determination
Banjul Charter see African Charter on	Division (CRDD), 64
Human and Peoples' Rights	counselling misrepresentation, 241
battered spouses see domestic violence	deferral, 241
Beijing Plus 5, 49	detention, 236
Belarus, family unity, 594	eligibility stage, 458
Belgium	enforcement, 238
admissibility of claims, 210	exclusion, 445, 456, 458, 464, 471, 573
criminal proceedings, 431	false documents, 238
danger to community, 210	family reunification, 583, 601
detention, 187, 209	family unity, 571
immunity from penalties, 209	incorporation by reference, 241
national security, 210	internal protection/flight/relocation
rejection at frontier, 113	alternative, 73, 386, 387, 390, 391,
Belize, immunity from penalties, 198, 236	393, 399, 409, 412, 415

misrepresentation, 241	residual cases, 517, 518, 534
national security, 30	State practice, 512
non-political crimes, 450, 451	State protection, 492
non-refoulement, 458	subsidiary protection, 32, 520
particular social group, 268, 571	targeted/partial application, 547
protected characteristics, 17, 269, 274	temporary protection, 492, 516, 522
release, 237	three-stage process, 503
review of detention, 237	treaty provisions, 493
smuggling of people, 238	UNHCR practice, 499
torture, 12	UNHCR protection, 492, 494, 516
trafficking of people, 238	vulnerable groups, 518, 539
unaccompanied/separated children, 58,	Centre for Documentation and Research
560	(CDR), 624
Cape Verde, 501	cessation
capital punishment see death penalty	accelerated procedures, 531, 539
Caracas Convention on Territorial Asylum	administrative formality, 32
(1954), 222	Afghanistan, 510, 533
carriers	age sensitivity, 75
refoulement, 109	armed conflict, 497, 501
sanctions, 5, 524	Bosnia and Herzegovina, 76, 509, 510,
travel documents, 109, 203, 206, 219,	533
256, 524	burden of proof, 515, 516, 531, 539, 540
Cartagena Declaration on Refugees (1984)	Cambodia, 533, 534
complementary protection, 587	checklist, 535
family reunification, 587	Chile, 501, 503, 533
importance, 81	circumstances see ceased circumstances
life or freedom threatened, 125, 127	concepts, 530
mass influx, 120, 587	conclusions, 542
non-refoulement, 131, 141, 144, 147	democratization, 492, 501, 535
non-State actors, 59	deportation, 517
supervisory responsibility, 618	durable solutions, 549
Caucasus, internally displaced persons	Ethiopia, 501, 505, 534, 537
(IDPs), 4	European Union, 498, 515, 521
ceased circumstances	exceptions, compelling reasons see
application, 546	compelling reasons exception
assessment of conditions, 513	Executive Committee Conclusions, 493,
burden of proof, 515, 516	495, 514
changed conditions see fundamental	fair process, 514, 538
change	gender sensitivity, 75
consultation, 503	gender-related persecution, 527
contexts, 492	individual cessation, 534
criteria and process, 547	individual circumstances see personal
declarations, 501, 503	circumstances
evaluation, 503	information requirements, 513-14, 515,
exceptions, 517	534
fair process, 514, 538	interpretation, 31, 491
flexibility, 546	mass influx, 32, 534, 538, 549
group recognition, 492, 516	national protection see re-availment of
human rights, 518	State protection
individualized cessation, 492, 547	new nationality see acquisition of new
interpretation, 494	nationality
OAU Refugee Convention (1969), 493, 512	OAU Refugee Convention (1969), 492,
recognized refugees, 514	513, 518, 523, 529

cessation (cont.)	child labour, 57
procedure, 493	codification of rights, 567
re-acquisition of nationality see	criminal responsibility, 74, 473
re-acquisition of nationality	detention see detention of children
recommendations, 532	economic subsistence, 73, 405
re-establishment see re-establishment in	education, 73, 405
State of origin	exclusion, 73-5
residence permits, 541	family reunification, 560, 563
return, 32	family unity, 34
Romania, 500, 501, 533	female genital mutilation (FGM), 57,
safe country of origin, 532	63
sexual violence, 76	forced marriage see marriage
specific groups, 534	(forced/under-age)
State practice, 531, 538, 545	human rights, 58, 65, 495
states of origin see fundamental	internal protection/flight/relocation
change	alternative, 337
status determination, 530, 539, 550	military recruitment see under-age
status review, 534, 535	military service
supervisory responsibility, 494	non-State actors, 63
Switzerland, 519	orphans, 584
time-limited refugee status, 528	particular social group, 70
treaty provisions, 324, 398	pornography, 49, 57, 58
UNHCR	potential claims, 57, 58
declarations, 501, 503	prostitution, 57, 58, 60
guidelines, 33, 493, 495, 514, 535	protected characteristics, 70
Handbook, 75, 493, 494, 535, 540	reasonableness test, 405
practice, 499, 533, 545	sexual exploitation, 57, 60
Chad, internal armed conflict, 499	social perception, 71
changed conditions see ceased	social rights, 49
circumstances; fundamental	traumatized victims, 76, 473
change	undue hardship, 73
characteristics	see also families; minors
association see voluntary association	Chile
focus of inquiry, 294, 325	banishment, 524
immutable <i>see</i> innate/immutable	cessation, 501, 503, 533
characteristics	democratization, 503, 536
perception see social perception	China
protected see protected characteristics	emigration, 306
children	family planning see family planning
1989 Convention see Convention on the	policies
Rights of the Child (1989)	religious persecution, 397
abduction, threat, 64	civil law
'age out', 572, 584, 600	gender-related persecution, 21
age sensitivity, 57	non-State actors, 60
Angola, 592	particular social group, 17
asylum procedure	civil society
special needs, 6, 58	detention alternatives, 257
unaccompanied see	detention anditions, 234, 257
unaccompanied/separated children	Cold War, 4, 31, 501, 577
benefit of doubt, 75	Colloquium on the Legal Aspects of
best interests see best interests of child	Refugee Problems, Bellagio (1965)
Canada 228	101

Colombia, landownership, 295, 298	human rights, 587
command responsibility	interpretation, 587
constructive knowledge, 444, 445	lesser protection, 5
ICC Statute (1998), 444	trafficking of people, 22
war crimes, 439	see also subsidiary protection
Committee Against Torture, 161, 639	compliance
Committee on Economic, Social and	due process of law, 10, 134
Cultural Rights, 639, 640	human rights, 35, 320
Committee on the Elimination of	international standards, 216, 217, 218,
Discrimination Against Women, 331,	223
639	supervisory responsibility, 35, 96
Committee on the Elimination of Racial	Conclusions
Discrimination, 639	Executive Committee see Executive
Committee on the Rights of the Child, 568,	Committee Conclusions
579, 592, 639	second track see second track Summary
common law	Conclusions
diplomatic protection, 378	Conference of Plenipotentiaries (1951)
gender-related persecution, 21	Convention adopted, 99
human rights, 40	discussions, 191
internal protection/flight/relocation	family unity, 33, 557, 569
alternative, 362	Conference on Security and Cooperation in
non-State actors, 59	Europe (CSCE), 577
particular social group, 17, 18, 268, 273,	conscientious objectors, 17
280	conscription, children see under-age
protected characteristics, 17, 283	military service
Commonwealth of Independent	consular protection
States, Regional Conference	availability, 40
(1996), 81	changed meaning, 41
compelling reasons exception	consular authorities feared, 524
application, 548	intervention, 37
children, 76	re-availment of State protection, 524,
Executive Committee Conclusions,	525
518	see also diplomatic protection, diplomatic
family unity, 518, 520	missions
previous persecution, 32, 33, 75, 77,	consultation
518, 519, 520, 531, 532, 539	ceased circumstances, 503
racial see racial persecution	international protection see first track;
State practice, 32, 517, 539	second track; third track
statutory refugees, 516, 517	contracting States
traumatized victims, 76, 519	1951 Convention, 102, 106, 108, 147
UNHCR Guidelines, 519	1967 Protocol, 102, 106, 108, 147
UNHCR Handbook, 495, 519	Convention against Torture (1984), 147,
see also cessation	155
complaints	customary international law, 141
-	ECHR (1950), 158
ECHR (1950), 637 individuals, 635, 650, 655	ICCPR (1950), 158
inter-State, 635–6, 653	meaning, 108
United States, 249	non-implementation, 632
complementary protection	State responsibility, 109, 215
ceased circumstances, 520	sub-divisions, 108
family reunification, 587	Convention Against Discrimination in
hardship, 532	Education (1960), 637

Convention Against Torture (1984)	interpretation, 5, 38, 39, 40, 42, 47,
absolute ban, 13, 144	103
Committee Against Torture, 161, 639	limitations
complementary protection, 587, 588	dateline, 46, 100, 102, 326
contracting states, 147, 155	exclusions see exclusion
non-refoulement, 92, 93, 143, 155, 158, 159,	geographical, 46, 114, 326
161, 452, 453, 475, 476, 628	personal scope, 101
scope, 152	non-contracting states, 140, 170, 618
threshold of harm, 161	non-refoulement see non-refoulement
see also torture	object, 99
Convention on the Elimination of All Forms	origins, 98
of Discrimination Against Women	Preamble, 12, 46, 99, 106, 187, 324, 344,
(1979)	374, 385, 405, 406, 454, 570
cultural relativism, 333	preparatory work see travaux préparatoires
discrimination defined, 331	Protocol see Protocol (1967)
human rights, 49, 320, 328, 642	refugee definition see refugee definition
Convention on the Elimination of All Forms	reservations see reservations
of Racial Discrimination (1965), 328,	safeguards, 100
642	social groups see particular social group
Convention on the Prevention and	supervision see supervisory responsibility
Punishment of the Crime of	unlawful entrants see illegal entry
Genocide (1948)	Convention on the Suppression and
definition, 435	Punishment of the Crime of
international crimes, 433, 446	Apartheid (1973), 446
reservations, 104	Convention on the Suppression of Terrorist
see also genocide	Bombings (1998), 431, 441, 446
Convention on the Rights of the Child (CRC)	Convention on the Suppression of the
(1989)	Financing of Terrorism (2000), 431,
asylum procedure, 5	442, 446
Australia, 595, 602	Conventional Weapons Convention (1980),
best interests of child, 50, 575	648
criminal responsibility, 74, 473	costs
family unity, 568, 570, 575, 577, 578, 580	detention, 187, 223
human rights, 64, 233, 328	family reunification, 600
Optional Protocols, 49, 58, 74	Council of Europe
reservations, 579	ECHR see European Convention on
Convention Relating to the Status of	Human Rights
Refugees (1951)	European Convention on the Suppression
adaptability, 3	of Terrorism (1977), 446
adoption, 99	family reunification, 587, 591
affirmative State protection, 27	Legal Aspects of Territorial Asylum,
cessation see cessation	Refugees and Stateless Persons,
contracting states, 102, 106, 108, 147	Committee of Experts (CAHAR), 9, 18
core principles, 6, 13	non-refoulement, 144, 453
entry into force, 99	countries see States
exclusion see exclusion	Crawley, Heaven, 68, 325, 336
full and inclusive application, 6	crime of aggression
gender see gender-related persecution	ICC Statute (1998), 434
human rights, 46	individual responsibility, 434
humanitarian law, 106, 113, 119, 123, 125 internal protection/flight/relocation	crimes against humanity armed conflict, 435
alternative, 23	customary international law, 437
arterilative, 43	customary mitchiationaria, 43/

defences impossible, 472 definition, 435 exclusion, 73, 100, 129, 136	persecution, 333 young people, 585 culture, families
genocide see genocide	customary international law
ICC Statute (1998), 73, 322, 434, 435	consistent practice/general recognition,
ICTR, 53, 73, 435	147
ICTY, 53, 73, 435	contracting States, 141
impunity, 29, 44	crimes against humanity, 437
persecution, 437	determination of rules, 154
terrorism, 437	family unity, 568
crimes against peace	fundamentally norm creating character,
Draft Code, 433	143
exclusion, 100, 129, 136	general, 141
individual responsibility, 434, 435	human rights, 10, 151, 162
criminal law	individual responsibility, 438
aut dedere, aut judicare, 431, 453, 469, 477	inhuman or degrading treatment, 151
conviction, final judgment, 139	interpretation, 103, 105
criminal responsibility, age, 74	jus cogens, 141, 152
defences, 472, 483	multilateral treaties, 141
duress, 472	non-refoulement, 10, 81, 96, 141, 163
exclusion see exclusion	peremptory norms, 107, 144, 154, 454
extradition see extradition	role, 140
false documents, 213, 216, 217	sources, 143–7
host states, 11	State practice, 142
mens rea, 430, 472, 473, 483	torture, 151
mental capacity, 74	use of force, 141
necessity, 472	widespread and representative support,
non-political crimes see non-political	146
crimes	see also international law
predominance test, 30, 449	
proportionality, 30	danger to community
refoulement see non-refoulement exceptions	assessment, 140
serious crime see serious crimes	Belgium, 210
sets of crimes, 29	'community', 140
universal jurisdiction, 30, 430, 448, 469	'danger', 140
war crimes see war crimes	Declaration on Territorial Asylum (1967),
criminal proceedings	140
Austria, 469	detention, 226
Belgium, 431	Germany, 458
false documents, 213, 216, 217, 219, 226	interpretation, 138
Germany, 430	margin of appreciation, 138
illegal entry, 204	national security compared, 140, 460, 461
international crimes, 430, 431, 453, 468	non-refoulement exceptions, 101, 129, 133,
return, 11	138, 150, 458, 461
serious crimes, 451	Principles Concerning Treatment of
criminal record, return, 12	Refugees (1966), 140
cultural relativism	recidivism, 140
extended families, 584	serious crimes, 458, 462
female genital mutilation (FGM), 334	treaty provisions, 101, 129, 138
gender-related persecution, 333	death penalty
human rights, 333	ECHR (1950), 13, 54
marriage, 334, 583	extradition, 13, 157

death penalty (cont.)	Austria, 187
Iran, 54	Belgium, 187, 209
Pakistan, 62	Canada, 236
serious crimes, 449	conditional justification, 224
death threats see life or freedom threatened	costs/expense, 188, 223
Declaration on the Elimination of Violence	danger to community, 226
Against Women (1993), 49, 333	Denmark, 187
Declaration on Territorial Asylum (1967)	deterrence see deterrence
asylum seekers, 118	due process of law, 16, 257
danger to community, 140	ECHR (1950), 205, 211
life or freedom threatened, 125, 127	exceptional measure, 15, 232, 256
national security, 130	Executive Committee, 15, 224, 233
non-refoulement, 91, 130, 144, 147	false documents, 187, 225
defences, exclusion, 472, 483	family unity, 16, 234, 257, 602
democratic countries, State protection, 64	Finland, 187
democratization	France, 187, 210
cessation, 492, 501, 535	Germany, 211
Chile, 503, 536	Greece, 187
Romania, 505	grounds, 187
de Moffarts, G., 387	human rights, 15, 205, 206, 211, 222,
denial of protection, individual assessment,	226, 227, 255
118, 136	illegal entry, 208
Denmark	indefinite, 187, 195, 220
detention, 187	interpretation, 220
family unity, 34	Italy, 212
internal protection/flight/relocation	judicial/administrative review
alternative, 386	automatic/periodic, 225
deportation	Canada, 237
cessation, 517	effectiveness, 227, 255
family unity, 34, 575	Executive Committee Conclusions,
Greece, 211	224
inhuman or degrading treatment, 158	impartiality, 228
Sweden, 213	legality/necessity, 222, 228, 233, 257
torture, 12	powers, 226
United States, 463	unavailable, 208, 220
see also extradition	justification, 220, 226, 256
derivative status	Lawyers Committee for Human Rights,
derivative persecution, 49	206, 208
families, 34, 474, 571, 584	legal aid, 208
women, 349	Luxembourg, 212
derogations	mass influx, 195, 229
ICCPR (1966), 328	movement restrictions distinguished,
threshold, 461	220, 232, 257
UDHR (1948), 328	national security, 15, 195, 225, 226, 233
detention	256
absconding, risk, 226, 228, 230, 233, 256	necessity, 224, 225, 228, 230, 233
administrative, 219, 233, 256	Netherlands, 187, 212
admissibility of claims, 208	New Zealand, 230
alternatives, 16, 220, 225, 226, 228, 232,	pre-admission phase, 187
257	prisons, 187
arbitrary, 222, 226, 232, 233, 256, 257	provisional, 219
Australia, 208, 223, 230, 602	public order, 225, 233, 256

records/statistics, 258	discretionary responses, internally
safeguards, 225, 257	displaced persons (IDPs), 4
settlements, 220, 221	discrimination
Spain, 187, 212	causation, 292
Sweden, 187, 213	CERD (1965), 328, 642
UDHR (1948), 227	cumulative, 39, 65
UNGA Resolutions, 225	elderly persons, 65
UNHCR guidelines, 15, 204, 225, 226,	human rights, 275, 291
234, 257	innate/immutable characteristics, 270,
United Kingdom, 187, 213	292
United States, 187, 213, 223, 229	intention/effect, 301
see also movement restrictions	national laws, 292
detention conditions	persecution, 331
civil society, 234, 257	race see racial persecution
family unity, 16, 234, 257	Romania, 504
hardship, 220	trafficking victims, 21, 61
inhuman or degrading treatment, 223	women
international standards, 223, 228, 257	1979 Convention see Convention on the
reception standards, 187, 205	Elimination of All Forms of
special centres/facilities, 187, 195	Discrimination Against Women
UNHCR guidelines, 226	acquisition of new nationality, 541
detention of children	cumulative effect, 331
best interests of child, 232	discrimination defined, 331
international standards, 234, 257	social norms, 291
prohibition, 16, 234	unaccompanied women, 72, 337
see also children	see also gender-related persecution;
deterrence	non-discrimination
detention, 16, 225, 228, 229, 233, 256	displaced persons see internally displaced
'humane deterrence', 228	persons (IDPs)
illegal entry, 16	documents
objectives, 228, 229	false see false documents
diplomatic conference see Conference of	flexibility, 594
Plenipotentiaries (1951)	requirements, 594
diplomatic missions	travel see travel documents
family reunification, 598	domestic violence
processing delays, 600	failure of State protection, 60, 308
protecting states, 122	international protection, 5
diplomatic protection	Mexico, 305
availability, 40	national laws, 303
changed meaning, 41	nexus requirement, 286, 301, 303, 305,
common law, 378	308, 309
discretion, 376	Pakistan, 60, 273, 287
established meaning, 375	particular social group, 53, 264, 287, 308
failure, 41	persecution, 20, 334
intervention, 37	potential claims, 57, 308
parameters, 376	serious harm, 334
protection clause, 373	see also gender-related persecution
stateless persons, 374	dowry-related violence, 20
well-founded fear, 377	Dublin Convention (1990)
see also consular protection	family unity, 591
disabled persons, particular social group,	revised proposals, 591
264	State responsibility, 187, 210, 212
-v ·	

due process of law	European Community see European Union
compliance, 10, 134	European Convention on Extradition
detention, 16, 257	(1957), 93, 112
exclusion, 31	European Convention on Human Rights
expulsion, 12, 101, 134	(1950)
illegal entry, 255	contracting states, 158
non-refoulement exceptions, 134, 150,	death penalty, 13, 54
461	detention, 205, 211
durable solutions	expulsion, 145, 155, 575
cessation, 549	extradition, 144
effectiveness, 43	family unity, 567, 575, 580
family unity, 35, 558, 564	immunity from penalties, 205
forced displacement, 6	inhuman or degrading treatment, 144,
fundamental change, 496	152, 153, 160
mass influx, 119	internal protection/flight/relocation
promotion, 83	alternative, 405
protracted situations, 31	interpretation, 105
repatriation see voluntary repatriation	inter-State complaints, 637
traumatized victims, 76	jurisdiction, 111
,, -	non-refoulement, 92, 144, 147, 155, 453,
economic migrants, 5	454, 475, 476, 629
ECOSOC see UN Economic and Social	'real risk', 161
Council (ECOSOC)	refoulement, 145
Ecuador, family reunification, 597	State responsibility, 217
education	threshold of harm, 161
1960 Convention, 637	torture, 144, 152, 153, 160, 629
children, 73, 405	European Convention on the Suppression of
ejusdem generis	Terrorism (1977), 446
particular social group, 276, 289, 310	European Council on Refugees and Exiles
principle, 289	(ECRE), 360, 591
El Salvador, cessation, 509	European Court of Justice (ECJ), 633, 649,
elderly persons	656, 671
age sensitivity, 57	European Parliament, female genital
discrimination, 65	mutilation (FGM), 54
family reunification, 563	European Union
particular social group, 70	asylum procedure, 23, 464, 465, 515, 633
traumatized victims, 79	cessation, 498, 515, 521
well-founded fear, 65	Dublin Convention see Dublin
equal treatment	Convention (1990)
international protection, 47	
see also non-discrimination	European Council, Tampere (1999), 81, 120
Eritrea, 506	European Court of Justice (ECJ), 633, 649,
escape clauses, 514, 529	656,671
Ethiopia	family reunification, 582, 591, 593, 601
cessation, 501, 505, 534, 537	gender-related persecution, 60
Ogađen conflict, 499	manifestly unfounded claims, 24, 464
voluntary repatriation, 505	non-refoulement, 120
ethnic conflict	persecution defined, 39
populism, 4	refugee definition, 42, 60
post-Cold War era, 4	subsidiary protection, 39, 521
rape, 68	temporary protection, 32, 120, 522, 589
regionalized threats, 399	unaccompanied/separated children, 591

evidence	inclusion before exclusion, 464, 482
exclusion, 461, 464, 471	internal protection/flight/relocation
fundamental change, 495	alternative, 362, 370, 382
nexus requirement, 341	interpretation, 28, 426
protected characteristics, 298	mass influx, 467, 484
social perception, 298	minors, 473, 483
see also threshold of proof	nature and function of clause, 427
exceptions	non-refoulement, 426, 457
ceased circumstances, 517	procedural issues, 464
cessation see cessation	proscribed organizations, 467
compelling reasons see compelling	serious reasons, 470
reasons exception	status determination, 464
exclusion compared, 129	travaux préparatoires, 427
non-refoulement see non-refoulement	treaty provisions, 100, 129, 426, 433
exceptions	UN purposes and principles, 455, 474,
UNHCR, 94	481
exclusion	under-age military service, 73, 473
accelerated procedures, 30, 464, 465	UNHCR guidelines, 30, 445, 450, 465
admissibility of claims, 30, 464	UNHCR Handbook, 465, 473
alternative protection mechanisms,	United States, 445, 573
474	well-founded fear, 453
asylum procedure, 30, 464	women, 75
best interests of child, 75	Executive Committee (of UNHCR)
Canada, 445, 456, 458, 464, 471, 573	children, 58
contemporary context, 429	detention, 15, 224, 233, 256
crimes	establishment, 96
against peace see crimes against peace	expulsion, 574
burden of proof, 470	family unity, 557
criminal proceedings, 430, 431, 453, 468	gender-related persecution, 51, 53, 55 implementation, 629
	÷
defences, 472, 483 evidence, 471	manifestly unfounded claims, 137
•	mass influx, 119, 131, 215
génocidaires, 28, 472	membership, 97, 98, 654
humanity see crimes against humanity	non-discrimination, 320
non-political see non-political crimes	non-refoulement, 107, 112, 114, 117, 125,
passage of time, 472	126, 131, 141, 143, 148
presumption of innocence, 439, 466	non-refoulement exceptions, 131
serious see serious crimes	participation, 98
standard of proof, 470, 471, 482	'previously acquired rights', 32
terrorists see terrorism	rejection at frontier, 114
war see war crimes	Standing Committee, 98, 533
double balancing test, 453, 462, 463	Sub-Committee on International
due process of law, 31	Protection (SCIP), 37, 497, 655,
exceptional nature, 29	670
exceptions compared, 129	terms of reference, 97
family unity, 474, 483, 573	Working Group, 95
gender sensitivity, 474	see also third track (Executive Committee
gender-related persecution, 73	framework)
general considerations, 479	Executive Committee Conclusions
Germany, 445	cessation, 493, 495, 514
group membership, 445, 471	compelling reasons exception, 518
holistic analysis, 31	denial of protection, 118

Executive Committee Conclusions (cont.)	political offences, 112, 446, 448, 452
detention, 224, 233, 256	return, 14
extradition, 131	serious crimes, 131, 449, 459, 542
family unity, 520, 570, 589	terrorism, 441
immunity from penalties, 215, 254	travaux préparatoires, 447
international standards, 224	United Kingdom, 430
interpretation, 98	well-founded fear, 112
irregular migration, 214	
mass influx, 119, 131, 215, 589	fact-finding
non-refoulement, 107, 112, 114, 117, 120,	Geneva Conventions (1949), 645
125, 126, 131, 143, 148	International Fact-Finding Commission,
particular social group, 267	645
safe third countries, 123	international humanitarian law, 645
State responsibility, 107	third party supervision, 643, 671
exemptions	UNCHR, 643, 671
political see political offences	failed/weak states
statutory refugees, 516	endemic instability, 4
expulsion	human rights, 42
Australia, 574	failure of State protection
due process of law, 12, 101, 134	age-related claims, 63
ECHR (1950), 145, 155, 575	bifurcated analysis, 303
Executive Committee, 574	country-wide, 368, 369, 381
family unity, 34, 574, 575	discrimination, 291
human rights, 30, 145, 155, 157, 542	domestic violence, 60, 308
Human Rights Committee (HRC), 574	gender-related persecution, 60, 63, 273,
ICCPR (1966), 157, 574	281, 303, 305, 332
illegal entry, 196	human rights, 38
inhuman or degrading treatment, 155,	ineffectiveness demonstrated, 333
159	internal protection/flight/relocation
mass influx, 523	alternative, 399
national security, 101, 460	law enforcement, 60, 303
OAU Refugee Convention (1969), 529,	nexus requirement, 302, 311
530, 541	non-State actors, 60, 63, 72, 305, 399
peremptory norms, 462	situations, 332
prohibition, 101, 159	see also State persecution; State
public order, 101	protection
torture, 155, 159	false documents
treaty provisions, 101, 460	Canada, 238
United Kingdom, 155	criminal proceedings, 213, 216, 217, 219,
extradition	226
amnesties, 472	detention, 187, 225
death penalty, 13, 157	family unity, 574
double criminality, 448	Finland, 242
ECHR (1950), 144	good cause, 201, 202, 204
Executive Committee Conclusions, 131	human rights, 217
guarantees, 431	illegal entry defined, 196
ICCPR (1966), 157	immunity from penalties, 201, 202, 203,
international crimes, 431	207
locus delicti, 429, 477	inevitability, 203, 219
multilateral conventions, 112	manifestly unfounded claims, 207
non-refoulement, 11, 12, 38, 93, 111, 112	State responsibility, 216
persecution, 11, 453	United Kingdom, 213, 248

United States, 213, 251	Australia, 579, 592, 595, 601
see also travel documents	background checks, 562
families	Canada, 583, 601
affection/mutual support, 585	Cartagena Declaration on Refugees
bona fide marriage, 583	(1984), 587
choice/circumstance, 585	children, 560, 563
degrees of relationship, 582	complementary protection, 587
dependants, 563, 583, 584	Convention refugees, 586
derivative status, 34, 474, 571, 584	costs, 600
distribution of resources, 563	Council of Europe, 587, 591
extended families, 563, 583	dependency
family-based claims, 304, 556	criteria, 563
freedom of movement, 579	definition, 585
gender-related persecution, 5, 20, 305	emotional, 584, 585
human society, 556, 566	limiting factors, 585
internal protection/flight/relocation	remittances, 585
alternative, 386, 572	diplomatic missions, 598
international law, 565, 576	DNA testing, 601
nuclear family, 582, 585, 593	economic/emotional ties, 586
particular social group, 17, 304, 346,	Ecuador, 597
571	elderly persons, 563
pragmatic interpretation, 584	European Union, 582, 591, 593, 601
source of protection, 562	family integrity, 556
stranded families, 559	health, 561, 600, 601
unmarried partners, 583, 590	human rights, 577
see also domestic violence	Human Rights Committee (HRC), 577
family planning policies	ICCPR (1966), 577
Australian cases, 272, 286, 293, 384	illegal entry, 595
Canadian cases, 270	immigration control, 558, 595
children born outside rules, 57, 272	implementation, 33, 35, 576, 597
China, 271, 272, 276, 281, 284, 292, 293,	income requirements, 560, 561, 596, 600
306, 384	internally displaced persons (IDPs), 592
common claim, 270, 286	international law, 576, 606
disparate group, 272	legal framework, 592
Dutch cases, 284	migrant workers, 577
French cases, 281	national laws, 593
human rights, 307	no domestic provisions, 596
permissible social policies, 306	OAU Refugee Convention (1969), 587
persons set apart, 287, 296	OECD, 558
punishment, 307	passage of time, 559
recognition, 264, 270	Poland, 599
social perception, 293, 307	processing delays, 600
sterilization/abortion, 270, 271, 272, 281,	refugee context, 581
292, 306	refugee definition, 561
UK cases, 384	reintegration, 564
US cases, 276	resource allocation, 561
well-founded fear, 306	Romania, 561
family reunification	Russian Federation, 583
affirmative action, 578	standard setting, 35
application procedures, 598	State practice, 581, 592
assistance programmes, 563	temporary protection, 589
asylum seekers, 590, 607	tracing efforts, 588, 589

family reunification (cont.)	no domestic provisions, 596
unaccompanied/separated children, 560,	Norway, 592
564, 578, 588	OAU Refugee Convention (1969), 586
United States, 305, 583, 588, 594, 598,	obligations, 34, 558, 569
600	refugee camps, 588
voluntary repatriation, 564, 608	repatriation, 564
family unity	resettlement, 34, 559, 564
Australia, 209, 592, 602	reunification rights see family
Belarus, 594	reunification
Canada, 571	State practice, 592
chain migration, 558	fear, well-grounded see well-founded
compelling reasons exception, 518, 520	fear
conclusions, 602	female genital mutilation (FGM)
Conference of Plenipotentiaries (1951),	children, 57, 63
33, 557, 569, 586	cultural relativism, 334
Convention refugees, 586	European Parliament, 54
customary international law, 568	forced infibulation, 282
Denmark, 34	France, 282
deportation, 34, 575	Germany, 284
detention, 16, 234, 257, 602	Mali, 282
Dublin Convention (1990), 591	national laws, 22
durable solutions, 35, 558, 564	particular social group, 264, 281, 282,
ECHR (1950), 34, 567, 575, 580	289, 298
essential right, 569	potential claims, 52, 54, 57
exclusion, 474, 483, 573	refusal, 68
Executive Committee, 520, 557, 570,	Somalia, 282
589	well-founded fear, 20, 65
expulsion, 34, 574	Finland
false documents, 574	detention, 187
Finland, 592	false documents, 242
general considerations, 604	family unity, 592
Geneva Convention IV (1949), 576	illegal entry, 242
Germany, 596	immunity from penalties, 199
good cause, 218, 255	internal protection/flight/relocation
Helsinki Accords (1975), 577	alternative, 386
human rights, 33, 556, 566, 569	unaccompanied/separated children, 58
Human Rights Committee (HRC), 568,	first track (ministerial meeting – 2001),
569	Declaration, 7, 9, 81
ICCPR (1966), 568, 575	force majeure, victims, 222
ICESCR (1966), 568	forced repatriation
implementation, 597	re-acquisition of nationality, 526
international humanitarian law, 33, 556,	serious economic harm, 32
566, 576	Fortín, Antonio, 373, 374, 375
international law, 566	Fourth World Conference on Women (1995),
interpretation, 33	Beijing Platform for Action, 49
Kenya, 592	France
legal framework, 592	Commission des recours des réfugiés
local integration, 564	(CRR), 281, 282
margin of appreciation, 34	detention, 187, 210
mass influx, 588, 607	female genital mutilation (FGM), 282
mutual assistance, 558	immunity from penalties, 210
national laws, 593	manifestly unfounded claims, 504

particular social group, 280, 296	non-discrimination, 47, 79
rejection at frontier, 113	procedural issues, 349
Romanian refugees, 504	refugee status, 20, 47, 52, 54, 57
well-founded fear, 42	State practice, 322
freedom of movement	United Kingdom, 55
families, 579	gender-related persecution
human rights, 223	Afghanistan, 282, 284
illegal entry, 196	Algeria, 281
restriction see movement restrictions	armed conflict, 335
Frelick, B., 385	asylum procedure, 22, 34, 51
frontiers	avoiding persecution, 66
non-admittance see rejection at frontier	cessation, 527
territories, 121	civil law, 21
Fullerton, M., 283	common law, 21
fundamental change	confidentiality, 22, 34
assessment, 495	Convention grounds, 342
Australia, 498	cultural relativism, 333
burden of proof, 33	derivative persecution, 49
democracy see democratization	domestic abuse see domestic violence
durable solutions, 496	dress codes, 284, 298, 348
EU standards, 498	enforcement, 335
evidence, 495	European Union, 60
human rights, 495	exclusion, 73
independent statehood, 501	failure of State protection, 60, 63, 273,
initial claim denied, 492	281, 303, 305, 332
Netherlands, 496, 499	families, 5, 20, 305
persecution	Guatemala, 56
new risk, 517, 538	international protection, 325
personal risk, 517	interpretation, 19, 326
political transformation, 495	Iran, 283
sexual violence, 76	judicial decision-making, 67
significant improvements, 496	life or freedom threatened, 21, 61
stable and durable, 32	national laws, 20, 22, 335
State practice, 496	Netherlands, 284
voluntary repatriation, 496, 535–6	nexus requirement, 286, 289
'waiting period', 496, 536	non-governmental organizations (NGOs),
see also ceased circumstances	20
	non-political crimes, 73
Gallagher, Michael S., 75	non-State actors, 20, 60, 273
gender	ostracism, 21, 61, 72, 76
recent developments, 51	particular social group
refugee definition, 326	discretion, 51
social relations, 19, 47, 325	interpretation, 286
see also sex; women	national laws, 20
gender inclusivity, State practice,	non-State actors, 62
322	refugee definition, 5, 67
gender sensitivity	social mores, 51, 53, 55, 273, 287,
cessation, 75	346
exclusion, 474	political opinion, 68, 77, 285, 327, 343
holistic analysis, 48	privacy, 348
implementation, 77	prostitution, 21, 60
interviews, 77, 349	racial persecution, 342

gender-related persecution (cont.)	Ghana
rape see rape	illegal entry, 242
refugee definition, 5, 59, 67	immunity from penalties, 199
religious persecution, 68, 343	Global Consultations on International
safeguards, 22	Protection see first track; second
sexual exploitation, 21, 60	track; third track; Ministerial
sexual orientation, 21	Meeting, Geneva (2001)
social norms, 281, 305, 309	globalization, irregular migration, 5
State practice, 42	good cause
Switzerland, 56	adequacy, 191
trafficking of people, 20, 21, 54, 57	false documents, 201, 202, 204
UNHCR Guidelines, 19, 20, 21, 50, 51, 77,	family unity, 218, 255
321	flexibility, 218
well-founded fear, 22, 65, 323	interpretation, 196, 202, 217, 254
see also women	threats, 193
gender-specific persecution, interpretation,	transit, 218
326	travaux préparatoires, 189
Geneva Convention IV (1949)	treaty provisions, 14, 100, 188
family unity, 576	well-founded fear, 196, 218, 255
war crimes, 430	see also illegal entry
Geneva Conventions (1949)	good faith
fact-finding, 645	implementation, 216, 218
individual responsibility, 437	interpretation, 103, 188
self-determination, 441	Goodwin-Gill, Guy S., 68, 298, 518
violations, 431, 433, 437, 469	Grahl-Madsen, Atle, 124, 130, 136, 377, 528
genocide	Great Lakes, internally displaced persons
1948 Convention <i>see</i> Convention on the	(IDPs), 4
Prevention and Punishment of the	Greece
Crime of Genocide	deportation, 211
defences impossible, 472	detention, 187
Rwanda, 28	immunity from penalties, 202
Germany	Guatemala, gender-related persecution, 56
accelerated procedures, 211	Guidelines for National Refugee Legislation
criminal proceedings, 430	illegal entry, 252
danger to community, 458	non-refoulement, 132
detention, 211	Guiding Principles on Internal
exclusion, 445	Displacement (1998), 27, 44, 407,
family unity, 596	408, 409
female genital mutilation (FGM), 284	Guinea-Bissau, 501
immunity from penalties, 201, 211	Guinea Dissau, 501
internal protection/flight/relocation	Haiti, cessation, 500, 508
alternative, 362, 386, 392, 402, 404	hardship
national security, 458	age, 73
non-refoulement, 56, 458	children, 73
particular social group, 283	detention conditions, 220
political opinion, 283	internal protection/flight/relocation
presentation without delay, 202	alternative, 26, 27, 73, 400, 409
protected characteristics, 283	resettlement, 565
sexual orientation, 66, 283	subsidiary protection, 532
transit zones, 211	unaccompanied/separated children, 590
	undue hardship, 26, 27, 73, 409
well-founded fear, 42	undue natusinp, 20, 2/, / 3, 409

harm	family unity, 33, 556, 566, 569
fear see well-founded fear	freedom of movement, 223
generalized, 400, 401	fundamental change, 32, 495
serious see serious harm	fundamental human dignity, 269, 270,
threshold see threshold of harm	274, 277, 293, 345, 385
Hathaway, James C., 296, 299	human rights narrative, 48
health	ICCPR see International Covenant on Civil
family reunification, 561, 600, 601	and Political Rights
movement restrictions, 223	illegal entry, 187
Helsinki Accords (1975), 577	immunity from penalties, 206
high seas	imperfect realization, 27
shipwreck, 222	inherent rights, 37
State responsibility, 114	inhuman treatment see inhuman or
vessels in distress, 114, 230	degrading treatment
holistic analysis	internal protection/flight/relocation
exclusion, 31	alternative, 337, 406, 408
gender sensitivity, 48	internally displaced persons (IDPs), 27
refugee definition, 25, 41, 43	international instruments, 5, 27, 28, 105
homosexuality see sexual orientation	interpretation, 105
host states	legal culture, 557
criminal law, 11	life or freedom threatened, 125, 126
long-term asylum, 4	movement restrictions, 14, 223, 255
obligations of refugees, 11	non-derogable rights/obligations, 328,
unlawful entry see illegal entry	407
human rights	non-discrimination, 320, 327
ACHPR see African Charter on Human	non-refoulement, 9, 90, 92, 115, 118, 122,
and Peoples' Rights	125, 126, 131, 150, 307, 427, 462,
ACHR see American Convention on	474
Human Rights	non-refoulement exceptions, 162
Africa, 586	particular social group, 265, 272, 274,
Albania, 500	285, 288, 292, 293
arbitrary arrest, 222	persecution, 50, 79, 331
beliefs, 26	political opinion, 69, 292
ceased circumstances, 518	protected characteristics, 267, 294
children, 58, 65	Protocol (1967), 326
common law, 40	rape, 50
complementary protection, 587	reasonableness test, 26, 27, 28, 72
compliance, 35, 320, 495	rejection at frontier, 115
cultural relativism, 333	return, 32, 526
customary international law, 10, 151, 162	Romania, 505
detention, 15, 205, 206, 211, 222, 226,	specific indicators, 496
227, 255	State persecution, 395
	÷
discrimination, 275, 291 ECHR see European Convention on	State protection, 39, 79 State reports, 639, 653
Human Rights	subject protected, 158
evaluation, 495	* *
-	supervisory responsibility, 36
expulsion, 30, 145, 155, 157, 542 failed/weak states, 42	systematic violation, 38 UDHR see Universal Declaration of
•	Human Rights
false documents, 217	UN purposes and principles, 455
family planning policies, 307	
family reunification, 577	under-age military service, 74

human rights (cont.)	human rights, 187
voluntary repatriation, 496	interception, 11, 560, 574
well-founded fear, 65, 67	international obligations, 187, 254
women, 49	interpretation, 196
Human Rights Committee (HRC)	Lesotho, 243
detention, 226	lesser rights, 188
expulsion, 574	meaning of terms, 188
family reunification, 577	movement restrictions, 222
family unity, 568, 569	necessary transit, 192, 218, 255, 559
inhuman or degrading treatment, 145,	origins of text, 188
153, 157, 161	penalties
non-refoulement, 92, 628	administrative, 194, 196
penalties, 194	costs, 188
State responsibility, 110	criminal (sanctions pénales), 189, 194,
torture, 145, 153, 157, 161, 628	196
human trafficking see trafficking of people	immunities see immunity from
Hussein, Saddam see Saddam Hussein	penalties
Trasserii, Saddaiii 300 Saddaiii Trasserii	less favourable treatment, 204, 209
ICC Statute (1998)	meaning, 14, 189, 194, 219, 256
command responsibility, 444	sanctions applied, 207
crime of aggression, 434	presumptive refugees, 193, 201, 203, 219,
crimes against humanity, 73, 322, 434,	256
435	refoulement, 117
human rights, 49	restrictions see movement restrictions
minors, 473	safe third states, 187
official capacity, 439	safeguards, UNHCR study, 206
persecution, 38, 437	smugglers <i>see</i> smuggling of people
ratification, 468	temporary protection, 192, 193
sexual violence, 322	trafficking of people, 196
under-age military service, 74	travaux préparatoires, 189, 202
war crimes, 438	treaty provisions, 14, 100, 116, 186–7,
see also International Criminal Court (ICC)	193
illegal entry	'without delay' see presentation without
assistance, 197	delay
asylum already found, 191	see also irregular migration
'coming directly', 14, 191, 194, 217, 218,	illegal presence, interpretation, 196
254	immigration control
deception, 196	falsified documents see false documents
detention, 208	family reunification, 558, 595
deterrence see deterrence	industrialized states, 5, 28
due process of law, 255	jurisdiction, 219
enforcement, 193	local integration, 596
entitlements, 14	immigration officers, posted abroad
exclusionary provisions, 194	immunity from penalties
expulsion, 196	Australia, 208
falsified documents <i>see</i> false documents	Austria, 234
family reunification, 595	Belgium, 209
Finland, 242	Belize, 198, 236
freedom of movement, 196 Ghana, 242	conclusions, 218 criminal proceedings, 204
'good cause' see good cause	
	ECHR (1950), 205 Executive Committee Conclusions, 215
Guidelines for National Refugee Legislation, 252	Executive Committee Conclusions, 215, 254

false documents, 201, 202, 203, 207	individual assessment
Finland, 199	denial of protection, 118, 136
France, 210	exclusion, 470
Germany, 201, 211	internal protection/flight/relocation
Ghana, 199	alternative, 412
Greece, 202	manifestly unfounded claims, 137
human rights, 206	national security, 136
interpretation, 217, 254, 255	non-refoulement, 118, 136
legislation, 197, 226, 234	status inquiry, 323
Lesotho, 200	UNHCR, 94
Liberia, 244	see also personal circumstances
life or freedom threatened, 14	industrialized states, immigration policies,
Malawi, 200, 244	5, 28
Mozambique, 201, 245	infanticide, 57
national case law, 201	information collection, UNHCR, 624, 643,
national laws, 197, 226, 234, 255	654
Nigeria, 246	inhuman or degrading treatment
refugee definition, 117, 187, 193	African Charter (1981), 152, 153, 158
smuggling of people, 202	American Convention (1969), 152, 153,
Spain, 212	158
State practice, 206	customary international law, 151
Switzerland, 197, 202, 246	deportation, 158
third states, 202	detention, 223
treaty provisions, 14, 116, 187	ECHR (1950), 144, 153, 160
Turkmenistan, 247	expulsion, 155, 159
United Kingdom, 197, 201, 203, 247	Human Rights Committee (HRC), 145,
United States, 198	153, 157, 161
Zimbabwe, 251	ICCPR (1966), 144, 145, 152, 153, 157,
see also illegal entry	161
immutable characteristics see	ICESCR (1966), 329
innate/immutable characteristics	implied prohibition, 158
implementation	life or freedom threatened, 125, 132
family reunification, 33, 35, 576,	non-refoulement, 10, 92, 113, 118, 131, 132,
597	133, 137, 151, 155
gender sensitivity, 77	prohibition, 152, 233
good faith, 216, 218	sexual exploitation, 21
monitoring	socio-economic rights, 329
effectiveness, 628	threshold of harm, 161
peace settlements, 497, 536	UDHR (1948), 152
strengthening, 631	UNGA Resolutions, 154
third party, 633	innate/immutable characteristics
non-implementation tolerated, 632	age, 71
State responsibility, 216	basic principle, 345
struggle for improvement, 628	birth order, 272
impunity	discrimination, 270, 292
avoidance, 468, 472	fundamental characteristics, 276, 278,
crimes against humanity, 29, 44	294, 299
non-political crimes, 453, 477	immutability test, 269, 270, 275
refoulement, 469	interpretation, 266, 267, 276
war crimes, 44	offending characteristics, 299–300,
India	310
political opinion, 399, 405, 412	refugee definition, 294
torture, 398, 412	social perception distinguished, 270

innate/immutable characteristics (cont.)	legal rights, 405
United States, 276, 279	Liberia, 410
well-founded fear, 302	local government, 398
see also protected characteristics	manifestly unfounded claims, 23, 24
Inter-American Convention on Extradition (1981), non-refoulement, 93, 112	Michigan Guidelines (1999), 25, 26, 360 408, 409
interception	minimum conditions, 337
illegal entry, 11, 560, 574	national case law, 362
refoulement, 10	national laws, 397
State responsibility, 10	Netherlands, 383, 386
internal protection/flight/relocation	New Zealand cases, 25, 361, 383, 386,
alternative	387, 388, 398, 412
accessibility, 337, 389, 390	nexus requirement, 400, 401, 402
admissibility of claims, 23	no new risk, 400
affirmative State protection, 27, 405	non-refoulement, 403
antidote, 392, 411	non-State actors, 24, 27, 72, 399
armed conflict, 400	political opinion, 399
assessment, 389	presumption, 72, 396, 397, 398, 399
Australian cases, 370, 378, 384, 387, 391,	procedural safeguards, 411
394, 397	prospective analysis, 364, 382, 383
availability, 25	quality of protection, 392
burden of proof, 369, 370, 398, 414	reasonableness see reasonableness test
Canadian cases, 73, 386, 387, 390, 391,	regionalized threats, 360, 399
393, 399, 409, 412, 415	religious persecution, 394
children, 337	retrospective analysis, 362, 363, 381
common law, 362	safety, 383, 385
concept	scepticism, 359
analysis of alternatives, 365	serious harm, 337
conceptual home, 24, 25	socio-economic status, 386
evolution, 361	Somalia, 410
conclusion, 415	Spain, 410
Denmark, 386	State persecution, 24, 71, 394
discretion, 358	State practice, 359, 390
duty to hide, 26, 384, 394, 398	State responsibility, 27, 411
duty of restraint, 385	sufficiency of protection, 26, 406
ECHR (1950), 405	Switzerland, 386, 387
exclusion, 362, 370, 382	thin skull rule, 404
factual circumstances, 23	travel, physical risk, 390
failure of State protection, 399	UK cases, 370, 386, 389, 406
fairness, 414	unaccompanied women, 337
families, 386, 572	unaccompanied/separated children, 73
family unity, 386, 572	UNHCR
Finland, 386	guidelines, 28
Germany, 362, 386, 392, 402, 404	Handbook, 361, 362
hardship, 26, 27, 73, 400, 409	Information Note, 363
human rights, 337, 406, 408	Position Paper (1999), 364
IFA inquiry, 360, 361, 392	US cases, 368, 396, 399
individual assessment, 412	well-founded fear, 22, 24, 25, 66, 337,
intermediate states, 391	359, 364, 365, 392, 402
interpretation, 22, 336, 357	internally displaced persons (IDPs)
languages, 387	Afghanistan, 4
legal accessibility, 391	Angola, 592

Caucasus, 4	minimum rights, 407
discretionary responses, 4	progressive realization, 328
family reunification, 592	International Criminal Court (ICC)
forced displacement, 6	establishment, 29
Great Lakes, 4	jurisdiction, 430, 453, 468
human rights, 27	Prosecutor, 468
non-discrimination, 407	Registrar, 468
UN Guiding Principles (1998), 27, 44,	statute see ICC Statute (1998)
407, 408, 409	UN Security Council Resolutions, 468
Yugoslavia (former), 4	International Criminal Tribunal for Rwanda
International Association of Refugee Law	case law, 49, 322, 434
Judges, 361, 671	crime of persecution, 437
International Committee of the Red Cross	crimes against humanity, 53, 73, 435
(ICRC), 594, 602, 670, 671	establishment, 29, 468
international community, security, 135	locus delicti, 430
International Conference on Central	war crimes, 437
American Refugees (CIREFCA), 509	see also Rwanda
International Court of Justice (ICJ)	International Criminal Tribunal for the
advisory opinions, 649, 655	former Yugoslavia
assessment, 652	case law, 49, 322, 434
dispute resolution, 632, 635, 652	crime of persecution, 437
International Covenant on Civil and	crimes against humanity, 53, 73, 435
Political Rights (1966)	establishment, 29, 468
Australia, 208, 595	locus delicti, 430
contracting states, 147, 158	war crimes, 438
cultural relativism, 334	see also Yugoslavia (former)
derogations, 328	International Fact-Finding Commission,
expulsion, 157, 574	645
extradition, 157	international human rights law see human
family reunification, 577	rights
family unity, 568, 575	international humanitarian law
individual rights, 159	1951 Convention, 106, 113, 119, 123,
inhuman or degrading treatment, 144,	125
145, 152, 153, 157, 161	fact-finding, 645
international bill of rights, 327	family unity, 33, 556, 566, 576
minimum rights, 406	non-refoulement, 107, 113, 118, 119, 133,
movement restrictions, 223	136, 143, 148
non-derogable rights/obligations, 328	reasonableness test, 387, 388, 389
non-discrimination, 320, 324, 344	refugee law, 5
non-refoulement, 92, 93, 144, 147, 628	vessels in distress, 114
Optional Protocol, 110	International Labour Organization (ILO)
penalties, 194	State reports, 640
reservations, 153	supervisory responsibility, 36, 637, 640
State responsibility, 110	international law
threshold of harm, 161	custom see customary international law
torture, 12, 144, 145, 152, 153, 157, 161,	families, 565, 576
628	gender-neutral language, 48
International Covenant on Economic, Social	human rights see human rights
and Cultural Rights (1966)	standards see international standards
deprivation, 329	third party supervision, 634
family unity, 568	International Law Commission, State
international bill of rights, 327	responsibility, 108

International Military Tribunal, London	ceased circumstances, 494
Charter, 94, 433	cessation, 31, 491
International Narcotics Control Board,	complementary protection, 587
supervisory responsibility, 36, 646,	context, 103
647	customary international law, 103, 105
International Organization for Migration	danger to community, 138
(IOM), 602	detention, 220
international organizations,	ECHR (1950), 105
cross-fertilization, 106	ejusdem generis, 276, 289, 310
international protection	exclusion, 28
Agenda for Protection, 7	Executive Committee Conclusions, 98
assessment see individual assessment	family unity, 33
back-up/safety net, 336, 358	gender-related persecution, 19, 326
core function, 619	gender-specific persecution, 326
domestic violence, 5	general rule, 103
equal treatment, 47	good cause, 196, 202, 217
focus of inquiry, 325	good faith, 103, 188
gender-related persecution, 325	human rights, 105
guidelines see UNHCR Guidelines	illegal entry, 196
logical shift, 381	immunity from penalties, 217, 254,
Ministerial Meeting, Geneva (2001), 44	255
sources of law, 37	innate/immutable characteristics, 266,
surrogate protection, 37, 40, 359, 360,	267, 276
372, 378, 381, 402	internal protection/flight/relocation
twenty-first century, 37	alternative, 22, 357
universal access, 324	language versions, 189, 194
see also State protection	life or freedom threatened, 123, 126
International Refugee Organization (IRO),	movement restrictions, 196, 220, 256
93, 100	national security, 134, 470
'International Refugee Tribunal', 427	nationality, 344
international standards	nexus requirement, 301, 339
additional considerations, 257	non-political crimes, 29, 439, 480
administrative regulation, 216, 218	non-refoulement, 108
anti-discrimination see	non-refoulement exceptions, 128
non-discrimination	particular social group, 16, 264, 344
breach of duty, 216	penalties, 14, 189, 194, 219, 256
compliance, 216, 217, 218, 223	political opinion, 346
detention of children, 234, 257	presentation without delay, 217, 254,
detention conditions, 223, 228, 257	256
Executive Committee Conclusions, 224	principal elements, 103
executive discretion, 217, 219	purposive, 104, 451
further development, 226	return, 113
general considerations, 254	serious crimes, 139, 480
national laws, 229	sexual violence, 330
particular social group, 265	social perception, 17, 300
specific considerations, 255	subsequent developments, 104
State responsibility, 215	supervisory responsibility, 35, 614
vulnerable groups, 226, 234	supplementary means, 103
interpretation	travaux préparatoires, 119, 189
1951 Convention, 5, 38, 39, 40, 42, 47,	Vienna Convention see Vienna Convention
1951 Convention, 5, 38, 39, 40, 42, 47,	on the Law of Treaties
best interests of child, 50	well-founded fear, 338
Dest interests of child, 30	weii-iouiiueu ieai, 538

inter-State complaints	League of Nations
ECHR (1950), 637	Covenant over South West Africa, 104
third party supervision, 635–6,	refugees, 99
653	Lebanon, Syrian control, 392
interviews	legal advice, asylum procedure, 22, 223,
gender sensitivity, 77, 349	226, 257
manifestly unfounded claims, 137	Lesotho
Iran	illegal entry, 243
Afghan refugees, 510	immunity from penalties, 200
death penalty, 54	Liberia
family unity, 34	immunity from penalties, 244
gender-related persecution, 283	internal protection/flight/relocation
Iraq, Kurds, 383, 391, 410	alternative, 410
Ireland, refugee status, 56	life or freedom threatened
irregular migration	American Convention (1969), 125
economic migrants, 5	Cartagena Declaration on Refugees
Executive Committee Conclusions, 214	(1984), 125, 127
globalization, 5	gender-related persecution, 21, 61
non-refoulement, 132	human rights, 125, 126
safe third states, 123	immunity from penalties, 14
see also illegal entry	inhuman or degrading treatment, 125,
Islam	132
dress code, 283	interpretation, 123, 126
fundamentalism, 281	nature of threat, 126
religious persecution, 69	non-refoulement, 124
Italy	OAU Refugee Convention (1969), 125, 127
detention, 212	particular social group, 126, 268
prostitution, 61	Principles (Asian-African) Concerning
prostruction, or	Treatment of Refugees (1966), 125
jurisdiction	refugee definition, 126
ECHR (1950), 111	specific causes, 126
immigration control, 219	standard of proof, 125
International Criminal Court (ICC), 430,	torture, 125, 132
453, 468	travaux préparatoires, 123
international criminal law, 30, 430	treaty provisions, 90
State responsibility, 110, 111, 114	UNHCR Handbook, 127
universal jurisdiction, 30, 430, 448, 469	violence, 124
jurisprudence, states see national case law	•
jus cogens see customary international law;	well-founded fear, 123 limitations
non-refoulement	1951 Convention see Convention Relating
non-rejoutement	to the Status of Refugees
Valley Ninette 20	_
Kelley, Ninette, 28	non-refoulement exceptions, 133
Kenya, family unity, 592	removal see Protocol (1967)
Kosovo refugees, 33, 590	local integration
1	durable solutions, 6
languages	family unity, 564
internal protection/flight/relocation	immigration control, 596
alternative, 387	London Resolution on Manifestly
treaties, interpretation, 189, 194	Unfounded Claims (1992), internal
laws, municipal see national laws	protection/flight/relocation
Lawyers Committee for Human Rights, 206,	alternative, 24, 464
208	Luxembourg, detention, 212

Machel, Graça, 74	membership of group
Malawi	direct responsibility, 471
cessation, 520	exclusion, 445, 471
immunity from penalties, 200, 244	non-political crimes, 444
Mali, female genital mutilation (FGM),	social groups see particular social group
282	Mexico, domestic violence, 305
manifestly unfounded claims	Michigan Guidelines (1999), internal
accelerated procedures, 5, 23, 24	protection alternative, 25, 26, 360,
Executive Committee, 137	408, 409
false documents, 207	Michigan Guidelines (2001), nexus
France, 504	requirement, 339, 340–2
individual assessment, 137	migration
internal protection/flight/relocation	illegal entrants see illegal entry
alternative, 23, 24	irregular see irregular migration
interviews, 137	Ministerial Meeting, Geneva (2001)
London Resolution (1992), 24, 464	declaration, 7, 9, 44, 81
margin of appreciation	international protection, 44
family unity, 34	supervisory responsibility, 36
national security, 135	minors
marriage (forced/under-age)	criminal responsibility, 473
cultural relativism, 334	exclusion, 473, 483
non-State actors, 63	re-availment of State protection, 564
potential claims, 57	trafficking of people, 21
well-founded fear, 65	UNHCR Guidelines, 226
married women	see also children
abuse see domestic violence	movement restrictions
acquisition of new nationality, 527	administrative, 232, 256
particular social group, 308, 309	conclusions, 231
mass influx	detention distinguished, 220, 232, 257
admission, 120	human rights, 14, 223, 255
Cartagena Declaration on Refugees	ICCPR (1966), 223
(1984), 120, 587	illegal entry, 222
	interpretation, 196, 220, 256
cessation, 32, 534, 538, 549 detention, 195, 229	mass influx, 196, 221, 222, 232
durable solutions, 119	national security, 221, 222, 232
emergency protection, 467	'necessary', 14, 100, 222, 223
exclusion, 467, 484	proportionality, 15, 223, 228, 232, 256
Executive Committee Conclusions, 119,	public health, 223 public order (ordre public), 221, 223
131, 215, 589	
expulsion, 523	records/statistics, 258
family unity, 588, 607	reservations, 221
movement restrictions, 196, 221, 222,	scope of protection, 221
232	settlements, 220, 221
national security, 131, 136	subversive incursions, 221
non-refoulement, 119, 131	treaty provisions, 221
OAU Refugee Convention (1969), 120,	see also detention
586	Mozambique
status determination, 467	cessation, 507, 520
temporary protection, 492, 522, 589	immunity from penalties, 201, 245
travaux préparatoires, 119	independence, 501
UNGA Resolutions, 120	peace settlements, 506, 507, 536
UNHCR, 121, 467	municipal law see national laws

Namibia	proportionality, 137
cessation, 501	provisional measures, 195, 221
national case law	risk of torture, 12, 13, 137, 476
immunity from penalties, 201	terrorism, 4, 11, 458
internal protection/flight/relocation	travaux préparatoires, 136
alternative, 362	treaty provisions, 101, 128, 134, 460
particular social group, 267, 268	nationality
population control see family planning	exceptional measures, 221
policies	interpretation, 344
national laws	new see acquisition of nationality
discrimination, 292	new nationality see acquisition of new
domestic violence, 303	nationality
family unity, 593	re-acquisition see re-acquisition of
female genital mutilation (FGM), 22	nationality
gender neutrality, 48	nationality persecution
gender-related persecution, 20, 22, 335	life or freedom threatened, 126
immunity from penalties, 197, 234,	treaty provisions, 100, 115
255	naturalization
internal protection/flight/relocation	acquisition of new nationality, 526, 541
alternative, 397	preference, 32
international standards, 229	nature of threat, interpretation, 126
non-refoulement, 148, 171	Nauru, Australian asylum seekers, 230
refugee status, 116	Netherlands
serious crimes, 450	detention, 187, 212
sexual orientation, 71, 282, 304	fundamental change, 496, 499
treaty incorporation, 148	gender-related persecution, 284
national security	internal protection/flight/relocation
11 September 2001 attacks, 4, 11, 562	alternative, 383, 386
Belgium, 210	particular social group, 284
Canada, 30	war crimes, 430
danger	New Zealand
prospective nature, 134	appeals, 25, 280, 292, 302, 340, 383, 412
reasonable grounds, 135, 137	Australian asylum seekers, 230
serious nature, 136	detention, 230
State of refuge, 135	internal protection/flight/relocation
danger to community compared, 140,	alternative, 25, 361, 383, 386, 387,
460, 461	388, 398, 412
Declaration on Territorial Asylum (1967),	nexus requirement, 340
130	particular social group, 292
detention, 15, 195, 225, 226, 233, 256	protected characteristics, 280, 292
expulsion, 101, 460	refugee status, 25
Germany, 458	social perception, 280
individual assessment, 136	nexus requirement
interpretation, 134, 470	action/affiliation, 269
margin of appreciation, 135	causation
mass influx, 131, 136	evidence, 341
movement restrictions, 221, 222, 223	nature, 340
non-refoulement exceptions, 10, 12, 30,	standard, 341
101, 129, 133, 134, 150, 458, 459	domestic violence, 286, 301, 303, 305,
Principles (Asian-African) Concerning	308, 309
Treatment of Refugees (1966),	failure of State protection, 302, 311
130	'for reasons of', 339

nexus requirement (cont.)	presumption of innocence, 439, 466
gender-related persecution, 286, 289	proportionality, 30, 450
indirect, 404	rape see rape
internal protection/flight/relocation	terrorism, 439, 441
alternative, 400, 401, 402	threshold of proof, 444
interpretation, 301, 339	travaux préparatoires, 452
Michigan Guidelines (2001), 339, 340	treaty provisions, 100, 439
New Zealand, 340	UNHCR Handbook, 451
non-State actors, 275, 301, 311	United States, 450
serious harm, 302	see also criminal law; serious crimes
sexual orientation, 304	Non-Proliferation of Nuclear Weapons
social perception, 300	Treaty (1968), 647
Nicaragua, cessation, 509–10	non-refoulement
Nigeria	African Charter (1981), 144, 147
cessation, 500	American Convention (1969), 91, 118,
immunity from penalties, 246	131, 143, 147
trafficking of people, 61	asylum seekers, 112, 115, 118
non-derogable rights/obligations	availability, 116, 134
human rights, 328, 407	Canada, 458
non-refoulement, 107, 150	Cartagena Declaration on Refugees
persecution threatened, 10, 132, 133	(1984), 131, 141, 144, 147
non-discrimination	contexts
1979 Convention see Convention on the	refugees, 149
Elimination of All Forms of	relevant, 90
Discrimination Against Women	Convention against Torture (1984), 92,
age sensitivity, 47, 79	93, 143, 155, 158, 159, 161, 452, 453,
Executive Committee, 320	475, 476, 628
gender sensitivity, 47, 79	Council of Europe, 144, 453
human rights, 320, 327	customary international law, 9, 81, 96,
ICCPR (1966), 320, 324, 344	140, 163
internally displaced persons (IDPs), 407	Declaration on Territorial Asylum (1967),
particular social group, 290, 310	91, 130, 144, 147
principle, 215, 274, 280, 290, 291	ECHR (1950), 92, 144, 147, 155, 453, 454,
UDHR (1948), 320, 344	475, 476, 629
see also discrimination	essential elements, 149, 150
non-governmental organizations (NGOs)	European Union, 120
gender-related persecution, 20	exclusion, 426, 457
resettlement, 565	Executive Committee, 107, 112, 114, 117,
non-political crimes	125, 126, 131, 141, 143, 148
Canada, 450, 451	extradition, 11, 12, 93, 112
constructive knowledge, 444, 445	Germany, 56, 458
drug smuggling, 450, 456	Guidelines for National Refugee
exclusion, 29, 73, 100, 129, 136	Legislation, 132
gender-related persecution, 73	human rights, 9, 90, 92, 115, 118, 122,
group membership, 444	125, 126, 131, 150, 307, 427, 462,
impunity, 453, 477	474
inchoate offences, 444	Human Rights Committee (HRC), 92, 628
interpretation, 29, 439, 480	ICCPR (1966), 92, 93, 144, 147, 628
non-refoulement, 452	individual assessment, 118, 136
OAU Refugee Convention (1969), 530, 542	inhuman or degrading treatment, 10, 92,
persecution, 451, 453	113, 118, 131, 132, 133, 137, 151,
predominance test 30	155

Inter-American Convention on	who protected, 115
Extradition (1981), 93, 112	see also refoulement; return
internal protection/flight/relocation	non-refoulement exceptions
alternative, 403	crimes
international humanitarian law, 107, 113,	criminal record, 12
118, 119, 133, 136, 143, 148	host State, 11
interpretation, 108	place of commission, 129
irregular migration, 132	serious crimes, 101, 129, 138
jus cogens, 141	danger to community, 101, 129, 133, 138,
life or freedom threatened, 124	150, 458, 461
mass influx, 119, 131	due process of law, 134, 150, 461
meaning, 89	Executive Committee, 131
national laws, 148, 171	extradition circumvented, 12
non-derogable rights/obligations, 107,	future threat, 129
150	general observations, 129
non-political crimes, 452	human rights, 162, 427
OAU Refugee Convention (1969), 91, 118,	interpretation, 128
123, 131, 132, 143, 147, 530	limitations, 133
obligations, 92, 106, 107	national security, 10, 12, 30, 101, 129,
peremptory norms, 107, 144, 454, 462	133, 134, 150, 458, 459
preliminary observations, 106	ratione personae, 134
principle, 38, 83, 89, 107, 147, 148	safe third states, 131, 134, 150
Principles Concerning Treatment of	specific observations, 134
Refugees (1966), 90, 118, 123, 144,	Sweden, 130
147	threshold of proof, 129, 136, 139
private undertakings, 109	travaux préparatoires, 130, 136
prohibited conduct, 112	treaty provisions, 101, 128, 426
ratione loci (territorial limits), 108, 159	trend against, 130
rejection at frontier, 112, 113, 124, 149	non-State actors
right of residence, 476	age sensitivity, 63
risk, nature, 160	bifurcated analysis, 303
scope and content, 9, 149	children, 63
State practice, 458	civil law, 60
stowaways, 114	common law, 59
subsequent refoulement, 122, 150	Convention definition, 5, 40, 42, 59
Switzerland, 141	criminal syndicates, 305
temporary protection, 113, 120, 522	failure of State protection, 60, 63, 72, 305
territorial dimension, 159	399
terrorism, 458	gender-related persecution, 20, 60, 273
third states, 122	internal protection/flight/relocation
torture, 10, 92, 113, 118, 125, 131,	alternative, 24, 27, 72, 399
132, 133, 137, 151, 155, 431,	nexus requirement, 275, 301, 311
452, 628	protection-based approach, 60
treaties	trafficking of people, 60, 61
contracting states, 146	UN purposes and principles, 457
provisions, 90, 96, 108, 457	UNHCR Handbook, 59
role, 141	Northern Ireland, Irish National Liberation
UDHR (1948), 231	Army (INLA), 268
under-age military service, 473	Norway
UNGA Resolutions, 107, 115, 117	family unity, 592
UNHCR, 93	refugee status, 55
who bound, 108, 149	Nowak, Manfred, 223

OAU Refugee Convention (1969)	particular social group
acquisition of new nationality, 540, 541	age, 67, 70
ceased circumstances, 493, 512	applications, 304
cessation, 492, 513, 518, 523, 529	Australia, 71, 271, 306
complementary protection, 587	CAHAR, 9, 18
expulsion, 529, 530, 541	Canada, 268, 571
family reunification, 587	characteristics
family unity, 586	association see voluntary association
importance, 81	immutable see innate/immutable
internal protection/flight/relocation	characteristics
alternative, 23	perception see social perception
life or freedom threatened, 125, 127	protected see protected characteristics
mass influx, 120, 586	children, 70
non-implementation, 632	civil law, 17
non-political crimes, 530, 542	cohesion, 18, 274, 277, 278, 286, 291,
non-refoulement, 91, 118, 120, 123, 131,	304, 307, 310, 345
132, 143, 147, 530	common law, 17, 18, 268, 273, 280
non-State actors, 59	conclusions, 309
personal circumstances, 523, 540	conscientious objectors, 17
re-acquisition of nationality, 525, 540	country-specific, 310
reservations, 222	criminals, 307
rule of conduct, 530	disabled persons, 264
subversive activities, 530, 542	dissociation, 346
supervisory responsibility, 618	domestic violence, 53, 264, 287, 308
temporary protection, 522	dress codes, 284, 298
obligations	ejusdem generis, 276, 289, 310
family unity, 34, 558, 569	elderly persons, 70
non-refoulement, 92, 106, 107	every member of group, 288, 301, 305,
refugees, 11	308,310
types, 328	Executive Committee Conclusions, 267
occupational groups, particular social	existence, 71
group, 17	families, 17, 304, 346, 571
Organization for Economic Cooperation	family planning see family planning
and Development (OECD)	policies
Development Cooperation Reviews, 646	female genital mutilation (FGM), 264,
Environmental Performance Reviews, 646	281, 282, 289, 298
family reunification, 558	former voluntary status, 274, 345
supervisory responsibility, 36, 646	France, 280, 296
Organization of African Unity (OAU)	freedom of thought, 270
1969 Convention see OAU Refugee	Germany, 283
Convention	homosexuals see sexual orientation
OAU/UNHCR Working Group, 132, 252	human rights, 265, 272, 274, 285, 288,
Organization of American States, 649	292, 293
ostracism, 21, 61, 72, 76	human rights activists, 269, 345
Ottawa Convention (1997), 648	international standards, 265
	interpretation, 16, 264
Pakistan	issues, 285
arrest warrants, 399	landownership, 272, 295, 298
death penalty, 62	life or freedom threatened, 126, 268
domestic violence, 60, 273, 287	national case law, 267, 268
political opinion, 399	Netherlands, 284
Panama, refugee status, 56	New Zealand, 292

non-discrimination, 290, 310	non-refoulement, 107, 144, 454, 462
non-exhaustive category, 345	torture, 154, 431
occupational groups, 17	persecution
other grounds compared, 67	avoidance, 26, 66
perception see social perception	continuing fear presumed, 531, 532, 539
persecution	crimes against humanity, 437
common fear, 271, 286	cultural relativism, 333
gender-related see gender-related	definition/meaning, 38, 50, 327, 332
persecution	discrimination see discrimination
nexus see nexus requirement	domestic violence, 20, 334
pre-existing group (dehors), 272, 288,	extradition, 11, 453
290	fear see well-founded fear
refugee definition, 286, 288	gender see gender-related persecution
religious, 69	human rights, 50, 79, 331
safety net, 70, 271, 285, 290	ICC Statute (1998), 38, 437
specific risk, 282	non-political crimes, 451, 453
political violence, 277	non-State agents see non-State actors
protection gaps, 17	political see political opinion
size of group, 70	previous persecution, 32, 33, 75, 77, 518,
social mores transgressed see social mores	519, 520, 531, 532, 539
students, 296	rape, 50, 52, 56, 61, 76
torture, 292	'real risk', 126
trafficking of people, 62	serious harm, 329
transsexuals, 281	social groups see particular social group
travaux préparatoires, 265	states see State persecution
treaty provisions, 100, 115, 264	threat see threatened persecution
UNHCR guidelines, 17	personal circumstances
UNHCR Handbook, 266	acquisition of new nationality, 31, 526
United Kingdom, 17, 273	cessation, 523, 550
United States, 268, 271, 274, 275	effective protection, 523, 540, 541
visibility, 18	intention, 523, 524, 529, 540, 541
well-founded fear, 288, 310	OAU Refugee Convention (1969), 523,
women, 17, 70, 71, 281, 283, 286, 305,	540
308	re-acquisition of nationality, 31, 525
peace, crimes see crimes against peace	re-availment of State protection, 31, 523
peace settlements	re-establishment in State of origin, 31,
internal armed conflict, 506	528
inter-State disputes, 456	voluntariness, 523, 524, 525, 526, 529,
monitoring, 497, 536	540, 541
Mozambique, 506, 507, 536	Peru, Shining Path (Sendero Luminoso), 393
outside intervention, 537	Plenipotentiaries see Conference of
Sudan, 506, 536	Plenipotentiaries (1951)
peacekeeping forces	Poland
protecting states, 122	family reunification, 599
UN Security Council Resolutions, 467	unaccompanied/separated children, 560
penalties	political offences
capital punishment see death penalty	attentat clauses, 446
illegal entrants see illegal entry	extradition, 112, 446, 448, 452
immunities see immunity from penalties	political uprising, 448
interpretation, 14, 189, 194, 219, 256	Switzerland, 448
peremptory norms	United Kingdom, 448
expulsion, 462	United States, 448

political opinion	protected characteristics
age sensitivity, 58	Canada, 17, 269, 274
definition, 68	children, 70
duty of restraint, 385	common law, 17, 283
gender-related persecution, 68, 77, 285,	core inquiry, 294
327, 343	evidence, 298
Germany, 283	Germany, 283
human rights, 69, 292	human rights, 267, 294
India, 399, 405, 412	innate/immutable see innate/immutable
internal protection/flight/relocation	characteristics
alternative, 399	meaning, 17
interpretation, 346	New Zealand, 280, 292
life or freedom threatened, 126	protection denied, 295
Pakistan, 399	sexual orientation, 71, 272, 278, 283,
persecution avoidance, 26, 66	304
political/non-political activity, 68–9, 347	social perception
religious persecution, 343	core analysis, 300, 310
sexual orientation, 69	distinguished, 270, 272, 297, 298,
treaty provisions, 100, 115	300
UNHCR Handbook, 347	groups recognized, 297, 301
well-founded fear, 347	United Kingdom, 17, 274
women, 347	United States, 17
population movements see mass influx	see also particular social group
pornography, children, 49, 57, 58	protection
predominance test, criminal law, 30, 449	complementary see complementary
presentation without delay	protection
Germany, 202	consular see consular protection
interpretation, 217, 254, 256	diplomatic see diplomatic protection
time limits, 202	endogenous definition, 408
treaty provisions, 14, 100, 189	internal see internal
voluntary exonerating act, 204	protection/flight/relocation
see also illegal entry	alternative
Principles Concerning Treatment of	international see international protection
Refugees (1966)	mass influx, 121
danger to community, 140	national see State protection
life or freedom threatened, 125, 127	ordinary meaning, 380
national security, 130	protection gaps, 17
non-refoulement, 90, 118, 123, 144, 147	reasonableness test, 26
rejection at frontier, 113	re-availment see re-availment of State
proportionality	protection
criteria, 137	surrogate, 37, 40, 359, 360, 372, 378, 381
movement restrictions, 15, 223, 228, 232,	402
256	temporary see temporary protection
national security, 137	travaux préparatoires, 375
non-political crimes, 30, 450	within State of origin, 122
prosecutions see criminal proceedings	protection clause
prostitution	diplomatic protection, 373
children, 57, 58, 60	human rights, 39
gender-related persecution, 21, 60	treaty provisions, 100, 115
Italy, 61	'unable/unwilling', 39, 100, 115, 365
Ukraine, 62	protection-based approach, non-State
see also sexual exploitation; sexual slavery	actors, 60

Protocol (1967)	voluntariness, 525, 526, 540
adaptability, 3	see also cessation
contracting states, 102, 106, 108,	readmission agreements, 5 reasonableness test
core principles, 6	alternative location, 26
human rights, 326	children, 405
limitations	clarity, 24, 28
no territorial limitation, 114	conditions, inequities, 27
removal, 46, 102, 326	duty to hide, 26
non-contracting states, 140, 170, 618	human rights, 26, 27, 28, 72
non-refoulement, 107	inconsistent/arbitrary, 387, 401
object, 101	international humanitarian law, 387, 388,
Preamble, 102	389
Protocol on Mines, Booby-Traps and Other	legal rights, 405
Devices (1996), 648	national case law
provisional measures, national security,	open-ended enquiry, 401
195, 221	positive results, 409
public order	refoulement, 403
detention, 225, 233, 256	rejection, 381, 383
expulsion, 101	return, 72
movement restrictions, 221, 223	risk, 402
see also danger to community	sufficiency of protection, 26
see also danger to community	sustainable relocation, 26, 27
racial persecution	UNHCR <i>Handbook</i> , 28, 361, 362, 364,
1965 Convention, 328, 642	385
gender-related persecution, 342	unreasonableness, 400, 406
life or freedom threatened, 126	see also internal protection/flight/
treaty provisions, 100, 115	relocation alternative
rape	re-availment of State protection
armed conflict, 5, 52, 62	consular protection, 524, 525
Austria, 56	contrary proof, 524
ethnic conflict, 68	minors, 564
excludable crimes, 73	personal circumstances, 31, 523
human rights, 50	refugee status denied, 378
persecution, 20, 50	travel documents, 523, 524, 540
psychological effects, 76	UNHCR Guidelines, 524
torture, 52	UNHCR Handbook, 524, 540
see also sexual violence	voluntariness/intention, 524
ratification	see also cessation
treaties	re-establishment in State of origin
international treaties, 216	assessment visits, 529, 541
non-refoulement, 164	escape clauses, 529
re-acquisition of nationality	fair proceedings, 541
forced repatriation, 526	inappropriate cessation, 529
initiated by State, 525, 540	intention, 529, 541
OAU Refugee Convention (1969), 525,	personal circumstances, 31, 528
540	UNHCR Handbook, 528
personal circumstances, 31, 525	volatile conditions, 529
refusal, 526, 540	voluntariness, 529, 541
stateless persons, 525, 526	see also cessation
UNHCR Guidelines, 525	refoulement
UNHCR Handbook, 525, 540	'any manner whatsoever', 112, 403
* · * * ·	• • • • • • • • • • • • • • • • • • • •

refoulement (cont.)	innate/immutable characteristics, 294
carriers, 109	international humanitarian law, 107
ECHR (1950), 145	IRO Constitution, 100
'frontiers of territories', 101, 121	life or freedom threatened, 126
illegal entry, 117	nexus see nexus requirement
impunity, 469	non-State actors, 42
indirect, 10, 11, 403, 404	operative definition, 102
interpretation, 113	sex, 326
last resort, 12	social group see particular social group
non-admittance see rejection at frontier	UNHCR Handbook, 116
pre-admission, 114	refugee status
prohibited conduct, 112	1951 Convention see Convention Relating
prohibited places, 121	to the Status of Refugees
reasonableness test, 403	age sensitivity, 47, 57
State responsibility, 10, 109	cessation see cessation
territories not states, 121	declaratory nature, 193
treaty provisions, 101	deserving refugees, 429
see also non-refoulement; return	determination see status determination
refugee camps	fraudulent procurement, 513, 558
armed elements, 43, 542	gender sensitivity, 20, 47, 52, 54, 57
family unity, 588	Handbook see UNHCR Handbook
unaccompanied/separated children, 564,	Ireland, 56
588	national laws, 116
refugee claims	New Zealand, 25
admissibility see admissibility of claims	Norway, 55
adult male standard, 47, 79	Panama, 56
applications, 304	sexual slavery, 60
family-based claims, 304, 556	South Africa, 56
holism see holistic analysis	threshold of proof, 125
political suspicion, 226	Venezuela, 56
regional frameworks, 6	Refugee Women's Legal Group
unfounded see manifestly unfounded	gender relations, 325
claims	political opinion, 348
refugee definition	procedural issues, 349
1951 Convention, 5, 16, 38, 42, 57, 67,	racial identity, 342
100, 107, 115, 323	religion, 344
age, 57, 59, 67	refusal
application, 16	acquisition of new nationality, 527
asylum seekers, 116	female genital mutilation (FGM), 68
core element, 38	re-acquisition of nationality, 526, 540
European Union, 42, 60	regions
exclusion see exclusion	regionalized threats, 360, 399
family reunification, 561	safe country of origin, 6
fear of persecution see well-founded	safe third states, 6
fear	rejection at frontier
forward-looking, 532	Belgium, 113
gender, 326	France, 113
gender-related persecution, 5, 59, 67	human rights, 115
holism see holistic analysis	non-refoulement, 112, 113, 124, 149
immunity from penalties, 117, 187,	State responsibility, 10
193	treaty provisions, 113
inclusion, 59	well-founded fear, 113

religion	unaccompanied/separated children, 591
Islam see Islam	United States, 594
religious freedom, 343	responsibilities
religious persecution	States see State responsibility
age sensitivity, 58	supervision see supervisory responsibility
Asylum Gender Guidelines, 343	restrictions, movement see movement
Australia, 385	restrictions
avoidance, 26, 66	return
China, 397	cessation, 32
gender-related persecution, 68, 343	criminal proceedings, 11
internal protection/flight/relocation	criminal record, 12
alternative, 394, 397	extradition, 14
Islam, 69	human rights, 32, 526
life or freedom threatened, 126	interpretation, 113
particular social group, 69	prohibition, 101
political opinion, 343	reasonableness test, 72
sexual orientation, 69	safety and dignity, 121
treaty provisions, 100, 115	unaccompanied women, 72
relocation see internal	see also non-refoulement; refoulement
protection/flight/relocation	reunification rights see family reunification
alternative	risk
removal	absconding, 226, 228, 230, 233, 256
deportation see deportation	internal protection/flight/relocation
expulsion see expulsion	alternative, 390, 400, 402
extradition see extradition	'real risk', 126, 161
return see return	reasonableness test, 402
safe third states, 113	torture
subsequent removal, 122, 123, 150	national security, 12, 13, 137, 476
United States, 229	nature of risk, 160
repatriation	Romania
family unity, 564	cessation, 500, 501, 533
forced see forced repatriation	democratization, 505
voluntary see voluntary repatriation	discrimination, 504
reservations	family reunification, 561
1951 Convention, 83, 101, 102, 107	human rights
Caracas Convention on Territorial Asylum (1954), 222	Russian Federation, family reunification, 583
Convention on the Rights of the Child	Rwanda
(CRC) (1989), 579	Belgian proceedings, 431
Genocide Convention (1948), 104	genocide, 28
ICCPR (1966), 153	ICTR see International Criminal Tribunal
movement restrictions, 221	for Rwanda
OAU Refugee Convention (1969), 222	
resettlement	Saddam Hussein, 383
Annual Tripartite Consultations (2001),	safe country of origin
565	cessation, 532
bona fide marriage, 583	regions, 6
family unity, 34, 559, 564	see also States of origin
hardship, 565	safe third states
non-governmental organizations (NGOs),	assessment, 122
565	illegal entry, 187
safe third states, 6	irregular migration, 123

safe third states (cont.)	death penalty, 449
non-refoulement exceptions, 131, 134, 150	definition, 29
regions, 6	extradition, 131, 449, 459, 542
removal, 113	interpretation, 139, 480
resettlement, 6	national laws, 450
safe country policies, 123	no safe haven, 29
safeguards	non-refoulement exceptions, 101, 129, 138
detention, 225, 257	particularly serious crime, 139, 462, 470
gender-related persecution, 22	prior to admission, 129, 139
internal protection/flight/relocation	public safety see danger to community
alternative, 411	refugee status granted, 458
treaty provisions, 100	State of refuge, 458
UNHCR study, 206	subsequent to admission, 130, 139
São Tomé and Príncipe, 501	UNHCR Handbook, 449, 462
Schermers, H. G., 635	see also criminal law; non-political crimes
second track (expert roundtables)	serious harm
Cambridge (2001), 9, 36, 178, 180, 672	domestic violence, 334
Geneva (2001), 14, 34, 35, 253, 259, 604,	forced repatriation, 32
609	internal protection/flight/relocation
Lisbon (2001), 29, 486, 551	alternative, 337
participants, 8, 180, 259, 314, 420, 486,	nexus requirement, 302
551,609,672	persecution, 329
San Remo (2001), 17, 19, 57, 70, 72, 312,	sexual violence, 330
351,353,418	sex
second track Summary Conclusions	gender distinguished, 19, 47, 325
Article 31, 253	persecution see gender-related
cessation, 513, 519, 530, 537, 545	persecution persecution
detention, 15, 253	refugee definition, 326
exclusion, 479	women see women
family unity, 35, 604	sexual exploitation
fundamental change, 32	children, 57, 60
gender-related persecution, 34, 351	gender-related persecution, 21, 60
internal protection/flight/relocation	pornography, 49, 57, 58
alternative, 23, 72, 418	State persecution, 61
non-refoulement, 178	under-age military service, 75
particular social group, 17, 18, 70, 312	see also prostitution; sexual slavery
policy-making, 8, 9	sexual orientation
supervisory responsibility, 36	applications, 304
themes, 9	Australia, 66, 67
Second World War	avoiding persecution, 66
European refugees, 4, 44	expression, 288
nationality, restrictions, 221	gender-related persecution, 21
war crimes, 428	
self-determination	Germany, 66, 283 national laws, 71, 282, 304
armed conflict, 456	
	nexus requirement, 304 political opinion, 69
right of peoples, 440	
separated children see unaccompanied/	protected characteristics, 71, 272, 278,
separated children serious crimes	283,304
	recognition, 17, 264, 286, 288
conviction, final judgment, 139	religious persecution, 69
criminal proceedings, 451	social mores, 55
danger to community, 458, 462	social perception, 71, 304

Sri Lanka, 66	protected characteristics
Sweden, 55	core analysis, 300, 310
UNHCR Guidelines, 21	distinguished, 270, 272, 297, 298, 300
well-founded fear, 66	encompassed, 297, 301
see also particular social group	sexual orientation, 71, 304
sexual slavery	trivial shared characteristics, 299
excludable crimes, 73	United Kingdom, 297
refugee status, 60	United States, 279, 280
sexual violence	social security, United Kingdom, 204
armed conflict, 336	Somalia
categories, 330	female genital mutilation (FGM), 282
cessation, 76	internal protection/flight/relocation
excludable crimes, 73	alternative, 410
fundamental change, 76	Ogađen conflict, 499
ICC Statute (1998), 322	South Africa
interpretation, 330	cessation, 500
rape see rape	Refugee Affairs Appeal Board, 43
serious harm, 330	refugee status, 56
trafficking of people, 61	Spain
ships see high seas	detention, 187, 212
Slovakia, cessation, 500	immunity from penalties, 212
smuggling of people	internal protection/flight/relocation
Australia, 595	alternative, 410
Canada, 238	Special Rapporteurs
illegal entry defined, 196	advantages, 645
	tasks, 644
immunity from penalties, 202	
irregular migration, 5	UN Commission on Human Rights, 643
Protocol on Smuggling of Migrants	644
(2000), 202, 207, 254	weaknesses, 645
trafficking distinguished, 207	specialized exclusion units, 30
travaux préparatoires, 202	Spijkerboer, Thomas, 49, 284
see also trafficking of people	spouses, battered see domestic violence
social groups see particular social group	Sri Lanka
social mores	sexual orientation, 66
gender-related persecution, 51, 53, 55,	Tamil persecution, 387, 391, 406, 409
273, 287, 346	standard of proof
particular social group, 267, 268, 273	exclusion, 470, 471, 482
sexual orientation, 55	life or freedom threatened, 125
social perception	see also threshold of proof
Australia, 17, 271, 274, 293, 296	State persecution
children, 71	direct/indirect, 63, 397, 398
conduct foregone, 299, 300	human rights, 395
core inquiry, 297	indirect links, 63
difficulties of approach, 298	internal protection/flight/relocation
evidence, 298	alternative, 24, 71, 394
external factors, 17, 279, 280	local government, 398
family planning policies, 293,	sexual exploitation, 61
307	State-sponsored repression, 537
interpretation, 17, 300	see also failure of State protection
New Zealand, 280	State practice
nexus requirement, 300	ceased circumstances, 512
objective observer, 280	cessation, 531, 538, 545

State practice (cont.)	ICCPR (1966), 110
communism, refugees, 359	ILC, 108
compelling reasons exception, 32, 517,	implementation, 216
539	interception, 10
customary international law, 142	internal protection/flight/relocation
family reunification, 581, 592	alternative, 27, 411
family unity, 592	international standards, 215
fundamental change, 496	jurisdiction, 110, 111, 114
gender-related persecution, 42	no territorial limitation, 114
immunity from penalties, 206	non-refoulement see non-refoulement
internal protection/flight/relocation	outside territory, 110
alternative, 359, 390	refoulement, 10, 109
non-refoulement, 458	rejection at frontier, 10
temporary protection, 522	territorial dimension, 160
State protection	transit, 114, 217, 233
affirmative protection, 27	stateless persons
ceased circumstances, 492	Ad Hoc Committee, 98, 107, 190, 374
democratic countries, 64	diplomatic protection, 374
failure see failure of State protection	Legal Aspects of Territorial Asylum,
group recognition, 492	Refugees and Stateless Persons,
human rights, 39, 79	9, 18
internal protection/flight/relocation	re-acquisition of nationality, 525, 526
alternative, 27	trafficking of people, 61
meaning of protection, 39	States
re-availment see re-availment of State	failed see failed/weak states
protection	hosts see host states
rebuttable presumption, 63	independence, 501
remedies exhausted, 64, 65, 359	industrialized see industrialized states
standard, 332	security see national security
vulnerable groups, 65	States of origin
see also internal	banishment, 524
protection/flight/relocation	change see fundamental change
alternative	democratic countries, 64
State reports	generalized violence, 126, 127
assessment, 641, 653	internal protection/flight/relocation
human rights, 639, 653	alternative, 22
International Labour Organization (ILO),	national protection see State protection
640	nationality see re-acquisition of
overdue reports, 642	nationality
treaty provisions, 618	protection within, 122
UNESCO, 641	re-availment see re-availment of State
State responsibility	protection
attribution, 110, 114, 160	re-establishment see re-establishment in
choice of means, 216, 218	State of origin
contracting states, 109, 215	safe see safe country of origin
Dublin Convention (1990), 187, 210,	trafficking of people, 61
212	status determination
ECHR (1950), 217	cessation, 530, 539, 550
extradition, 11	exclusion, 464
false documents, 216	formal recognition, 116, 134, 464
high seas, 114	mass influx, 467

UNHCR, 466, 500	Sweden
see also refugee status	asylum procedure, 55
Storey, Hugo, 386, 407	deportation, 213
stowaways	detention, 187, 213
clandestine entry, 196	non-refoulement exceptions, 130
non-refoulement, 114	sexual orientation, 55
subsidiary protection	Switzerland
ceased circumstances, 32, 520	cessation, 519
European Union, 39, 521	fundamental change, 496
hardship, 532	gender-related persecution, 56
see also complementary protection	immunity from penalties, 197, 202, 246
successor states, acquisition of new	internal protection/flight/relocation
nationality, 527, 541	alternative, 386, 387
Sudan	non-refoulement, 141
emergency relief, 507	political offences, 448
Ethiopian refugees, 506	well-founded fear, 42
national reconciliation, 507	
peace settlements, 506, 536	temporary protection
UN Development Programme (UNDP),	Australia, 209
507	burden of proof, 522
voluntary repatriation, 507	ceased circumstances, 492, 516, 522
supervisory responsibility	European Union, 32, 120, 522, 589
Cartagena Declaration on Refugees	family reunification, 589
(1984), 618	illegal entry, 192, 193
cessation, 494	mass influx, 492, 522, 589
committee procedures, 639	non-refoulement, 113, 120, 522
compliance, 35, 96	OAU Refugee Convention (1969), 522
cooperation duties, 616	State practice, 522
current practice, 619	termination, 31, 121, 496, 522
hybrid character, 627	United States, 590
International Labour Organization (ILO),	terrorism
36, 637, 640	11 September 2001 attacks, 4–5, 11, 432,
International Narcotics Control Board, 36, 646, 647	444, 456, 562
interpretation, 35, 614, 668	bombings, 431, 441, 446 crimes against humanity, 437
main content, 616	definition, 441
meetings of State parties, 670	European Convention (1977), 446
monitoring, 628	extradition, 441
need to move forward, 628	financing, 431, 442, 446
non-contracting states, 618	freedom fighters distinguished, 440
OAU Refugee Convention (1969), 618	multilateral conventions, 431, 449, 452,
OECD, 36, 646	453, 469
peer review, 670	national security, 4, 11, 458
reporting duties, 617	non-political crimes, 439, 441
strengthening, 36, 670	non-refoulement, 458
third parties see third party supervision	proscribed organizations, 467
treaty provisions, 616	self-determination, 440
see also implementation	soi-disant crimes, 447
surrogate protection, 37, 40, 359, 360, 372,	terrorist organizations, 471
378, 381, 402	UN purposes and principles, 456, 457
suttee, 334	UNGA Resolutions, 441, 442, 444, 452

Thailand, Cambodian refugees, 511	inhuman or degrading treatment, 161
third party supervision	Torture Convention (1984), 161
advisory opinions, 649, 655	threshold of proof
assessment, 638, 641, 652	non-political crimes, 444
beyond Convention, 659	non-refoulement exceptions, 129, 136, 139
categorization, 635	refugee status, 125
complementarity, 652	well-founded fear, 125, 338, 369
external, 635	see also standard of proof
fact-finding, 643, 671	torture
general framework, 634	African Charter (1981), 152, 153, 158
goals, 651	American Convention (1969), 152, 153,
inclusiveness, 652	158
independence/expertise, 652	CAT see Convention Against Torture
information collection, 624, 643, 654	(1984)
initiated by individuals, 635, 650, 655	customary international law, 151
initiated by other states, 635	Declaration (1975), 153
inspection systems, 648	deportation, 12
internal, 635	ECHR (1950), 144, 152, 153, 160, 629
international law, 634	expulsion, 155, 159
inter-State complaints, 635-6, 653	Human Rights Committee (HRC), 145,
judicial supervision, 656, 671	153, 157, 628
new mechanism, 651, 660	ICCPR (1966), 12, 144, 145, 152, 153, 157,
objectivity/transparency, 652	161,628
on behalf of organization/treaty body,	implied prohibition, 158
635, 639	India, 398, 412
operationality, 652	jus cogens, 152
policy review, 646	life or freedom threatened, 125, 132
proposal, 657	non-refoulement, 10, 92, 113, 118, 125, 131,
recommendations, 661	132, 133, 137, 151, 155, 431, 452,
review conferences, 647	628
State reports see State reports	particular social group, 292
Sub-Committee proposed, 657	peremptory norms, 154, 431
see also supervisory responsibility	prohibition, 152
third States	rape, 52
non-refoulement, 122	risk, national security, 12, 13, 137, 476
safe see safe third States	threshold of harm, 161
subsequent removal, 122, 123, 150	UDHR (1948), 152
third track (Executive Committee	see also inhuman or degrading treatment
framework)	trafficking of people
gender-related persecution, 56	Canada, 238
scope, 7	complementary protection, 22
see also Executive Committee	discrimination, 21, 61
threatened persecution	escape, reprisals, 21, 61
child abduction, 64	gender-related persecution, 20, 21, 54,
life/freedom see life or freedom threatened	57
nature, 126	illegal entry, 196
non-derogable rights/obligations, 10,	irregular migration, 5
132, 133	minors, 21
toleration see failure of State protection	Nigeria, 61
threshold of harm	non-State actors, 60, 61
ECHR (1950), 161	particular social group, 62
ICCPR (1966), 161	sexual violence, 61

smuggling see smuggling of people	Ukraine, prostitution, 62
stateless persons, 61	UN Charter
states of origin, 61	co-operation, 618
victims, discrimination, 21, 61	ICJ advisory opinions, 649
see also prostitution; sexual exploitation	non-discrimination, 320
transit	rights and freedoms, 99
good cause, 218	UN purposes and principles, 456
illegal entry, necessary transit, 192, 218,	use of force, 141
255, 559	UN Commission on Human Rights
State responsibility, 114, 217	confidential discussion, 643
transit zones, 114, 211, 233	country-orientated procedures, 643, 645
well-founded fear, 196	fact-finding, 643, 671
transsexuals	public procedure, 643
Algeria, 281	Special Rapporteurs/Working Groups,
gender-related persecution, 21	643, 644
particular social group, 281	thematic procedures, 643, 645
traumatized victims	Working Group on Arbitrary Detention,
children, 76, 473	227
compelling reasons exception, 76, 519	UN Conference on Population and
durable solutions, 76	Development (1994), 580
elderly persons, 79	UN Convention Against Transnational
post-traumatic stress, 519	Organized Crime (2000)
statutory refugees, 516	Protocol on Smuggling of Migrants, 202
travaux préparatoires	207, 254
exclusion, 427	Protocol on Trafficking in Persons, 254
extradition, 447	UN Development Programme (UNDP), 507
good cause, 189	UN Economic and Social Council (ECOSOC
illegal entry, 189, 202	Ad Hoc Committee on Statelessness and
innate/immutable characteristics, 294	Related Problems, 98, 107, 190, 374
interpretation, 119, 189	Advisory Committee on Refugees, 97
life or freedom threatened, 123	drugs control, 646
mass influx, 119	Executive Committee of the High
national security, 136	Commissioner's Programme, 98
non-political crimes, 452	human rights, 643, 645
non-refoulement exceptions, 130, 136	UNREF Executive Committee, 97
particular social group, 265	UN General Assembly Resolutions
protection, 375	aggression, 435
smuggling of people, 202	detention, 225
travel documents	human rights, 645
carriers, 109, 203, 206, 219, 256, 524	inhuman or degrading treatment, 154
Convention rights, 209	International Refugee Organization, 93
falsified documents see false documents	mass influx, 120
re-availment of State protection, 523, 524,	non-refoulement, 107, 115, 117
540	review conferences, 648
visa requirements, 5, 203	territorial asylum see Declaration on
women, 594	Territorial Asylum
treaties	terrorism, 441, 442, 444, 452
cross-fertilization, 106	UNHCR, 70, 93, 95, 96, 124
interpretation <i>see</i> interpretation	UN High Commissioner for Refugees
Turkey, State responsibility	(UNHCR)
Turkmenistan, immunity from penalties,	Article 1 interpretation, 39, 40
247	confidence and trust, 634
	/

UN High Commissioner for Refugees (UNHCR) (cont.)	UN Security Council Resolutions fair trial, 478
confidential reports, 634, 654	International Criminal Court (ICC), 468
contact, 16, 257	organizations proscribed, 467
Department of International Protection, 8	peacekeeping forces, 467
establishment, 93	UN purposes and principles, 457
exceptions, 94	unaccompanied women
Executive see Executive Committee	discrimination, 72, 337
field offices, 8, 226, 520, 598	internal protection/flight/relocation
functions	alternative, 337
additional activities, 95	return, 72
competence, 94, 124	unaccompanied/separated children
guardian of Convention, 6	anchor children, 560
mandate, 83, 126, 622	asylum procedure, 590
operationality, 634	best interests of child, 560, 564
protection, 619	Canada, 58, 560
Statute, 94	complexities, 560
supervision see supervisory	European Union, 591
responsibility guidelines see UNHCR Guidelines	family reunification, 560, 564, 578, 588 Finland, 58
•	•
handbook see UNHCR Handbook	hardship, 590
illegal entry, 206	Inter-Agency Guiding Principles, 59
individual assessment, 94	internal protection/flight/relocation
information collection, 624, 643, 654	alternative, 73
mass influx, 121, 467	minimum requirements, 78
non-refoulement, 93	national guidelines, 58
Note on International Protection (1994),	Poland, 560
380	processing delays
Note on International Protection (2000),	refugee camps, 564, 588
621	resettlement, 591
particular social group, 266	special needs, 58
Regional Bureau for Europe, 363	United States, 58
status determination, 466, 500	see also asylum procedure; children
Statute (1950), 70, 93, 97, 102, 492, 493,	under-age military service
499, 519, 616, 620	CRC Optional Protocol, 74
UNGA Resolutions, 70, 93, 95, 96, 124	exclusion, 73, 473
website, 8	human rights, 74
see also Executive Committee (of UNHCR)	mens rea, 74
UN membership, 147	non-refoulement, 473
UN purposes and principles	potential claims, 57, 58
exclusion, 455, 474, 481	sexual exploitation, 75
human rights, 455	victims, 74, 75
individual responsibility, 455	war crimes, 74, 75, 473
non-State actors, 457	UNESCO
terrorism, 456, 457	Convention Against Discrimination in
treaty provisions, 100, 129, 428, 455	Education (1960), 637
UN Charter, 456	State reports, 641
UN Security Council Resolutions, 457	unfounded claims see manifestly unfounded
UNGA Resolutions, 441	claims
UNHCR Guidelines, 456	UNHCR Guidelines
UN Refugee Fund (UNREF), Executive	authoritative character, 625
Committee, 97	cessation, 33, 493, 495, 514, 535

compelling reasons exception, 519	particular social group, 17, 273, 274
consolidation, 36	political offences, 448
detention, 15, 204, 225, 226, 234, 257	protected characteristics, 17, 274
exclusion, 30, 445, 450, 465	social perception, 297
gender-related persecution, 19, 20, 21,	social security, 204
50, 51, 77, 321	UNHCR documents, 625
internal protection/flight/relocation	United States
alternative, 28	11 September 2001 attacks
minors, 226	exclusion, 4-5, 11, 432, 444, 456
non-political crimes, 30	national security, 4, 11, 562
particular social group, 17	administrative law, 275
publication, 8	aggravated felony, 463
re-acquisition of nationality, 525	appeals, 275
re-availment of State protection, 524	complaints, 249
sexual orientation, 21	credible fear of persecution, 213
supervisory responsibility, 36	death penalty, 157
UN purposes and principles, 456	deportation, 463
unaccompanied/separated children, 58	detention, 187, 213, 223, 229
UNHCR Handbook	enforcement, 249
authoritative character, 625	exclusion, 445, 573
burden of proof, 369	extended families, 584
cessation, 75, 493, 494, 535	false documents, 213, 251
compelling reasons exception, 495, 519	family reunification, 305, 583, 588, 594,
exclusion, 465, 473	598, 600
internal protection/flight/relocation	final order
alternative, 361, 362	issuance, 250
life or freedom threatened, 127	service, 251
non-political crimes, 451	service abroad, 251
non-State actors, 59	immunity from penalties, 198
particular social group, 266	innate/immutable characteristics, 276,
persecution, 39	279
political opinion, 347	INS rules, 278, 296, 302, 309
re-acquisition of nationality, 525, 540	internal protection/flight/relocation
reasonableness, 28, 361, 362, 364, 385	alternative, 368, 396, 399
re-availment of State protection, 524	investigations, 249
re-establishment in State of origin,	'liberty-interest', 229
528	non-political crimes, 450
refugee definition, 116	notice of intent to fine, 249
serious crimes, 449, 462	p-3 designation, 584
well-founded fear, 338, 347	particular social group, 268, 271, 275
United Kingdom	
Asylum Gender Guidelines, 55, 343	political offences, 448
detention, 187, 213	previous persecution, 531, 532
exceptional leave to remain (ELR), 594	processing priorities, 583
expulsion, 155	protected characteristics, 17
extradition, 430	removal, 229
false documents, 213, 248	request for hearing, 250
gender sensitivity, 55	resettlement, 594
immunity from penalties, 197, 201, 203,	social perception, 279, 280
247	subpoena, issuance, 249
internal protection/flight/relocation	temporary protection (TPS), 590
alternative, 370, 386, 389, 406	unaccompanied/separated children, 58

Universal Declaration of Human Rights	see also armed conflict
(1948)	visa requirements, 5, 203
asylum seekers, 115	voluntary association
crimes, 94	analysis rejected, 291
derogations, 328	conflicting standards, 278
detention, 227	former association, 269, 274
inhuman or degrading treatment, 152	fundamental human dignity, 269, 270,
international bill of rights, 327	274, 277, 293, 345
non-derogable rights/obligations, 328	particular social group, 269, 270, 274,
non-discrimination, 320, 344	277, 278, 291, 293
non-refoulement, 231	voluntary repatriation
progressive realization, 328	Afghanistan, 510
refugees, 82	assisted, 33
rights and freedoms, 99, 107	Cambodia, 511
torture, 152	cessation alternative, 501
uncodified rights, 329	escape clauses, 514, 529
unlawful entrants see illegal entry	Ethiopia, 505
Uruguay, State responsibility, 110	evolution of standards, 31
use of force, 141	family reunification, 564, 608
,	forced displacement, 6
van Dongen, T., 645	fundamental change, 496, 535–6
van Krieken, P., 449, 456, 578	human rights, 496
Venezuela, refugee status, 56	standards, 492, 517, 535–6
vessels in distress see high seas	Sudan, 507
victims	vulnerable groups
force majeure, 222 trafficking, discrimination, 21, 61	age, 73, 78, 563
=	armed conflict, 335
traumatized see traumatized victims	ceased circumstances, 518, 539
under-age military service, 74, 75	children see children; minors
Vienna Convention on the Law of Treaties	elderly see elderly persons
(1969)	international standards, 226, 234
customary international law, 103	State protection, 65
general rule, 103	
good faith, 188	war crimes
language versions, 189, 194	command responsibility, 439
non-political crimes, 454	dynamic interpretation, 434
refoulement, 454	exclusion, 73, 100, 129, 136
special meaning, 373	ICC Statute (1998), 438
subsequent agreement, 104, 378	ICTR, 437
supplementary means, 103	ICTY, 438
Vietnam, cessation, 509	impunity, 44
Vike-Freiberga, Vaira, 44	individual responsibility, 437
violence	Netherlands, 430
Declaration on the Elimination of	Second World War, 428
Violence Against Women (1993), 49,	superior orders, 472
333	treaty provisions, 433
domestic see domestic violence	under-age military service, 74, 75, 473
dowry-related violence, 20	see also criminal law
generalized, 126, 127, 400	Weis, Paul, 123, 137
life or freedom threatened, 124	well-founded fear
persecution see persecution	age, 65
political violence, 277	assessment, 338, 347
sexual see sexual violence	asylum states, 214
	*

burden of proof, 531, 539 armed conflict, 335 diplomatic protection, 377 derivative status, 349 elderly persons, 65 discrimination see discrimination every member of group, 288 exclusion, 75 exclusion, 453 FGM see female genital mutilation extradition, 112 gender stereotypes, 49 family planning policies, 306 human rights, 49 female genital mutilation (FGM), 20, 65 marginalization, 48, 326 marriage see married women France, 42 particular social group, 17, 70, 71, 281, gender-related persecution, 22, 65, 323 Germany, 42 283, 286, 305, 308 good cause, 196, 218, 255 political opinion, 347 human rights, 65, 67 travel documents, 594 innate/immutable characteristics, 302 unaccompanied see unaccompanied internal protection/flight/relocation alternative, 22, 24, 25, 66, 337, 359, see also gender-related persecution 364, 365, 392, 402 World War II see Second World War interpretation, 338 life or freedom threatened, 123 xenophobia marriage, 65 administrative instructions, 258 nexus see nexus requirement exploitation, 4 particular social group, 288, 310 restrictive tendencies, 220 political opinion, 347 Young, Wendy, 50, 65 refugee enquiry, 332 rejection at frontier, 113 Yugoslavia (former) sexual orientation, 66 Bosnia see Bosnia and Herzegovina Switzerland, 42 humanitarian crisis, 120 threshold of proof, 125, 338, 369 ICTY see International Criminal Tribunal for the former Yugoslavia transit, 196 treaty provisions, 100, 107, 115, 116 internally displaced persons (IDPs), 4 UNHCR Handbook, 338, 347 Kosovo, 33, 590 women 1979 Convention see Convention on the Zimbabwe Elimination of All Forms of immunity from penalties, 251 Discrimination Against Women independence, 501