
Index

- access to protection
 - evidential barriers 295
 - problematic credibility 305–8
 - procedural barriers
 - culture of disbelief 303, 306
 - initial decision-making 305
 - institutional competencies 305
 - poor COI information 304, 305
 - poor information differentiation 305
 - women's *see* women's access to protection
 - African Charter on Human and Peoples' Rights 23
 - Agenda for Humanity (2016) 82
 - Amnesty International 42
 - Article 1D Refugee Convention 373
 - application 361
 - drafting 358–60
 - interpretation 358, 360–63
 - of 'cease for any reason' 360, 361
 - CJEU 362, 366, 367
 - historically bounded 361–2
 - NZIPT 362
 - UNHCR 362
 - who covering 360–61
 - jurisprudence 358
 - Amer Mohhamed Eli-Ali v SSHD* 360
 - Minister for Immigration and Multicultural Affairs v WABQ* 361
 - need to demonstrate discriminatory denial of human rights 372
 - Palestinian refugees
 - application to 362–3
 - exclusion 359–60, 364
 - need to demonstrate discriminatory denial of human rights 372
 - and UNRWA protection 361, 363
 - see also* UNRWA; refugees
 - purpose 372–3
 - purposive approach 362–3
 - relocation test 369
 - as temporary measure 361
 - triggering inclusionary paragraph 364–5, 367–8, 373
 - UNHCR guidance on 366–7
- Article 31(1) Refugee Convention 224, 336, 341
- application to asylum seekers and refugees 225–6, 234–5
 - as bar to prosecution 228–9, 234
 - as defence to prosecution 228
 - exclusions 226, 234
 - as fundamental principle of non-penalisation 224, 233, 237
 - interpretation 225, 230–32
 - limitations 227
 - nature of protection 229–33
 - overriding principle of protection 235
 - and people smuggling 226
 - prosecution amounting to penalty 228–9, 235
 - prosecution of asylum seekers under 228
 - protecting smuggled migrants intercepted in territorial waters 232
 - scope of 234
 - trafficked persons 336
 - travaux préparatoires* 226, 227
 - triggering requirements 229
 - 'coming directly' 230–2, 236
 - 'presenting ... without delay' 232–3, 236–7
 - see also* prosecution of asylum seekers
- asylum 22–3
- 1951 Refugee Convention boundary 169
 - access to 170, 281
 - restricting 110
 - under threat 177
 - see also* access to protection
 - conflict alone as not ground for granting 156
 - no right to *per se* 193
 - procedures
 - culture of disbelief 303, 306
 - demonisation of 'other' 302–3
 - screening 297
 - substantive interview 297

- vicarious traumatisation of interviewers
 - § 91R 246
 - 302, 303 § 91S 246–7
 - proximity bias 282 § 91T 248
 - right to seek 170
 - § (36) 248–9
 - right to leave connection 100
 - sliding scale approach to granting 147–8
 - women’s claims to treating ‘properly’ 292
- Asylum Aid 164
- asylum seekers
 - in Europe 282
- Australia
 - Appellant S395/2002 v MIMA* 247
 - asylum seekers
 - enhanced security screening 377–8
 - legacy case load 210–11, 244
 - bridging visas 210
 - Chan v MIEA* 247
 - Department of Immigration and Border
 - Protection list of risk factors 239
 - detention centres
 - Christmas Island 213
 - Manus Island 211
 - Nauru 213
 - Papua New Guinea 213
 - as return-orientated 214
 - ‘voluntary’ return from 214
 - deterrence policy 239
 - disruption activities in transit countries
 - 243
 - forced returns 241–2, 243
 - interception of unauthorised maritime
 - arrivals 240, 242, 243
 - off-shore screening 240–41, 242, 243
 - Sri Lanka co-operation agreement
 - 239–40
 - visa refusals 242
 - and internal relocation principle 247
 - M70 v Minister for Immigration and Citizenship* 175
 - Maritime Powers Act (2013) 242
 - MIAC v SZORB* 244
 - Migration Act
 - § 5H 245–6, 248
 - § 5J 246, 247
 - § 5K 246
 - § 5L 246, 247
- Migration and Maritime Powers Legislation
 - Amendment (Resolving the Legacy Caseload) Act (2014) 59, 130, 203, 242, 245
- Migration Reform Act 1992 (Cth) 239
- Migration Regulations 1994 (Cth) 48, 264
- MIMA v Sarrazola* (No 2) 246
- MV Tampa* Affair 202
- no advantage principle 210
- offshore processing 176
 - fostering opacity regarding
 - off-shore activities 243
 - human rights violations 176–7, 210–11
 - no meaningful accountability 243
- Operation Kangaroo 175
- Operation Sovereign Borders 192–3, 202
- Pacific Solution 175, 202
- Plaintiff M61/2010E v The Commonwealth* 244
- prioritising control of refugee flows 55
- protection visa 244
 - core criterion for granting 245–6
 - decision-making approach 246
 - mandatory guidelines on ‘persecution’
 - 246
 - and ‘non-political’ crimes 248
 - ‘real chance’ test 247
 - requirements 246
 - § 36 criteria 248
 - § 36 exclusions 249
 - ‘well-founded fear’ test 247
- and Refugee Convention 238–9, 250–51
 - asserting right to unilateral
 - interpretation 250
 - courts taking teleological approach 250
 - denying extraterritorial application of
 - obligations 243
 - minimising impact of obligations under
 - 238–9, 242
 - reservations to articles 238
- reintegration packages 214
- removing references to Refugee Convention
 - from legislation 245–8, 250

- and safe third country principle 249
 - Singh v MIMA* 248
 - special humanitarian program 48
 - 201 visa 50
 - SZRTC v MIBP* 249
 - temporary protection visas 211
 - compatibility with Refugee Convention 68
 - eligibility 67–8
 - treatment of unauthorised boat arrivals 211–12
 - unlawful non-citizens 244–5
- borders violence of 77, 78
- burden-sharing 71, 115, 117
 - as border securitization 74
 - as commitment to solidarity 75–6
 - conventional perspective 77
 - Frontex 79
 - as crisis management 74–5
 - critical perspective
 - asylum capacity 78–9
 - border control 79–80
 - borders as burden 76–7
 - cost of not expanding notion of burden 77–8
 - cycles of mass displacement 79
 - impossible to distinguish burdens from responsibility 78
 - need to incorporate refugee law into immigration and human rights law 78
 - as discourse of marketization 73, 78–9
 - dual purpose 71–2
 - as international cooperation 71
 - as legal obligation 72–3
 - logic behind 117
 - relevance of concept 117
- Canada
 - anti-terror mechanisms 378
 - Council of Refugees 47
 - Immigration Act (1976) 47
 - Immigration and Refugee Protection Act (2001) 226
- Cartagena Declaration on Refugees (1984) *see* Latin America
- CEDAW 285, 366
- CEDAW Committee
 - on gender equality 296
 - General Recommendation (32) 292, 292–3, 296
 - right to childcare 298
 - right to counselling 298
 - right to female interviewer on request 298
- climate change
 - as amplifying drivers of migration 345
 - disaster/displacement relationship 345
- climate refugees 343, 356
 - AC (Tuvalu)* 355
 - Budayeva v Russian Federation* 354
 - claims 352–3
 - drivers of 345
 - early criticism of concept 344
 - emergence of concept 344
 - human rights approach 354
 - Ioane Teitiota v the Chief Executive of the Mistry of Business Innovation and Employment* 349
 - legal response to 346
 - maximalist predictions of numbers 344
 - and minimum standards of protection 354
 - NAGT of 2002 v Minister for Immigration and Multicultural and Indigenous Affairs* 355–6
 - and non-discrimination obligation 354–5
 - NZIPT determination of claims 354
 - patterns of displacement 344–5
 - protection gaps in Refugee Convention 346–8
 - absence of persecution 348–9
 - addressing 350–52
 - lack of nexus to Convention grounds 349
 - policy concerns 350
 - timing 350, 355
 - and Refugee Convention inclusion criteria
 - level of adversity 353
 - nexus requirement 353
 - risk on return 353–4, 355–6
 - rejection of concept 343, 345
- closure of borders 67
- Committee Against Torture 285

- Committee on the Rights of the Child 258
- constructive refolement 34, 207–8, 222–3
 - Australia 222
 - deterrence policy 209–10
 - human rights abuses 212–13
 - offshore detention centres 211–12
 - restricted rights 209
 - uncertainty 211
 - case law and the rule of law 218
 - denial of the right to work as 219
 - ECtHR finding 219
 - enforceability of prohibition on 214
 - enforced destitution 215, 216–17
 - invoking 215
 - as means of dealing with inhuman/degrading treatment 217
 - as means of dealing with lack of protection in third countries 217
 - R v Secretary of State for Social Security ex parte Joint Council for the Welfare of Immigrants; R v Secretary of State ex parte B* 218–19
 - test for 217, 220–22
 - burden of proof 220
 - free consent 221–2
 - intent 220
 - severity threshold 221
 - unfair hearing 221
 - unclear threshold for 208
 - value of concept 214
- contactless control 85, 96–101
 - contested legality 97–8
 - diverting attention from 97
 - exonerating states from international legal responsibility 101
 - and human rights 92–6
 - incompatibility with right to leave 99
 - indiscriminate nature of 96
 - information campaigns 90–91, 96, 97
 - Malta Declaration 86, 97
 - Migration Partnership Framework 86
 - through prevention of departure 96
 - triple goals of 97
 - see also* EU migration control
- contactless responsibility 101, 107–8
 - bilateral agreements not removing 105
 - through direction and control of the acts of third countries 103–4
 - effective control 103–4
 - reciprocal agreements as 104
 - triggering responsibility under Art 17 ASR 103, 104
 - through directly attributable actions 105–7
 - indirect control 106
 - under ASR 105
 - under ECHR 106–7
 - ECtHR jurisprudence 105–6
 - in situations of complicity 101–3
 - Art 16 ASR 101, 102, 103
 - threshold 101–2
 - see also* EU migration control
- Convention against Torture 5, 6
 - Art 3 94
- Convention Governing the Specific Aspects of Refugee Problems in Africa (1969) *see* OAU Convention
- Convention on the Elimination of All Forms of Racial Discrimination (1965), Art 5 39–40
- Convention on the Elimination of Discrimination Against Women *see* CEDAW
- Convention on the Rights of Persons with Disabilities 366
- Convention on the Rights of the Child *see* CRC
- Convention Relating to the Status of Refugees 1951 *see* Refugee Convention
- cooperative *non-entré* policies 10
- Cotonou Agreement 74
- CRC 6–7 366
 - Art 4 258–9
 - Art 9(3) 257–8
 - Art 10 257, 258
 - best interest principle 257, 258
 - right to family care 258
 - right to family reunification 257–8
 - interpretation 258
 - limitations 258
- criminalisation of same-sex relationships 314
 - enforcement-centric approach 315, 316
 - constrained by evidentiary difficulties 317–18
 - failure to understand human cost of criminal sanctions 320–21

- as flawed 316, 318, 320
 - as problematic 316
 - reintroduction of enforcement 317
 - fuelling culture of hatred and immunity 317, 319
 - Ghana 318
 - as legitimating persecution of minority
 - sexual identities 316–17
 - limited decriminalisation 318
 - MASY005* case 318, 319, 320
 - mere existence approach 315, 316, 322
 - persecutory impact 314–16
 - persecutory nature of
 - UK not acknowledging 319, 320
 - US acknowledging 319
 - transforming status of individual 316
 - XY and Z v Minister voor Immigratie Integratie en Asiel* 311, 314
- degrading treatment 217
- deterrence 170–72, 180
- (shared) responsibility 178–9
 - Australia 172–3
 - as burden shifting 179
 - cooperation arrangements 172, 173
 - equipment and training 173–4
 - extraterritorial processing 172, 175–7
 - funding 174
 - interdiction/turn-backs 175
 - joint patrols 174
 - people exchange 175
 - as dominant policy paradigm in global north 171
 - forms of 173
 - international 172–3
 - Italy 172
 - legal challenges to 177–8
 - mechanisms 173
 - Namah v Pato* 178
 - as non-entrée regime 171
 - policies designed to avoid scrutiny 178
 - possible burden-sharing approach 179–80
 - restricting rights of asylum seekers 209
 - US 172
 - see also* migration control
- displacement
- forced 33, 40, 57
 - as human rights violation 40
 - implicit prohibition on 39–40
 - jurisprudence 40–43
 - precluding return to home state 40
 - record levels of 44
- ECHR
- Art 1 106
 - Art 2 197, 287, 291
 - Art 3 40, 100, 106, 129, 287, 291, 331, 335, 422, 423, 427
 - violation 107, 196, 208, 219
 - Art 4 287, 332
 - Art 5(1), UK derogation from 380–81
 - Art 6 421–2, 427
 - Art 8 40, 260, 291
 - Art 9 291
 - Art 13 40, 196, 197, 198, 422, 423, 427
 - Art 14 287
 - Protocol 1, Art 1 40
 - Protocol 4
 - Art 2 94, 95, 106
 - Art 2(3) 99, 100
 - Art 4 196
 - right to family unity in 260
- EM-DAT 345
- EU
- asylum policy gaps 165
 - Charter of Fundamental Rights
 - Art 2 366
 - Art 6 366
 - CJEU
 - Elgafaji v Staatssecretaris van Justitie* 140
 - lacking jurisdiction over asylum cases 97
 - Common Asylum Policy 73
 - Common European Asylum System 380
 - Common Position 2001/931 385
 - Convention on Action against Trafficking in Human Beings 334–5
 - Art 16(1) 327
 - Art 26 336–7
 - recovery and reflection period for victims of trafficking 335
 - Directive 2001/55/EC (temporary protection) 58

- non-implementation 65, 69
- Directive 2003/86/EC (family reunification)
 - 259, 260, 262
- Directive 2011/36/EU (human trafficking)
 - Art 8 337
- Directive 2011/95/EU (qualification) 39, 380
 - Art 9 313
 - Art 12(2) 381, 383, 386, 387
 - Art 15(b) 331
 - Art 15(c) 147 lots to add
 - Art 21 384
 - Art 24 385
 - preamble 381–2
 - reform *see* Qualification Directive
 - reform below
- Directive 2013/32/EU (asylum procedures)
 - 87, 325, 333, 424
 - Art 24(3) 333
 - Art 39 425
- Directive 2013/33/EU (reception conditions)
 - 325, 333
- Dublin Regulations 75, 334
- Dublin System 75–6, 334
 - as race to the bottom 83
- ECtHR 40
 - Catan v Moldova and Russia* 105
 - Golder v the UK* 137
 - Illascu v Moldova and Russia* 105–6
 - KAB v Sweden* 41
 - Salah Sheekh v Netherlands* 40, 129
 - Sufi and Elmi v the United Kingdom*
 - 40–41, 42
 - see also* non-refoulement jurisprudence
- European Asylum Support Office
 - Afghanistan country guidance 163
- European Border Agency 80
- European Convention on Human Rights
 - see* ECHR
- Frontex 79–80
- Fundamental Rights Agency 174
- Istanbul Convention 286, 296
 - Art 60 291–2
 - Art 61 291–2
- Joint Operation Triton 193
- member states granting temporary
 - protection 65–6
- migration control *see* EU migration control
- migration crisis 352
- Qualification Directive reform 164–5
 - accountability 168
 - COI promulgated at EU level 165
 - normative shift 167–8
 - use of UNHCR criteria on internal
 - relocation 165–7
- Regulation 2016/1624/EU (European Border
 - and Coastguard Agency) 79
- relocation test 369–70
- Schengen Information System 410
- subsidiary protection 8
- TFEU, Art 79(3) 91
- EU migration control
 - contactless control *see* contactless control
 - consensual containment strategy 85, 86, 89, 97
 - as direct interference with right to leave 95
 - incompatibility with human rights law 96
 - member state accountability 105
 - contactless responsibility *see* contactless
 - responsibility
 - EU-Libya cooperation
 - funding Border Assistance Mission to
 - Libya (EUBAM) 90, 91
 - training Libyan Coastguard 89
 - EU-Libya cooperation not exonerating
 - member state of own obligations
 - EU-Turkey Deal 75, 85, 87–9, 97, 106
 - conditional refugees 87–8
 - EU Special Coordinator 87
 - Joint Action Plan 87
 - not exonerating member states of own
 - responsibilities 105
 - one-for-one programme 87, 97, 175
 - Turkey as safe third country 87, 88, 99
 - externalisation of border controls 85
 - ‘illegal’ migrants 91, 92
 - Italy-Libya Memorandum of Understanding
 - 85, 89–90
 - readmission agreements 90
 - reception centres in Libya 90
 - and necessary interference 99
 - Operation Sophia 89, 90
 - readmission policy 91–2
 - linked to access to protection 97

- linked to resettlement 97
 - refugee/migration crisis 84, 85, 165
 - restraining onwards movement 84
 - support conditional on third country cooperation 98
- European Council on Refugees and Exiles 42, 65
- European Migration Network 65
- Europe-route
- exclusion 390
 - JS (Sri Lanka) v Secretary of State for the Home Department* 56, 387, 393, 394, 395
 - under Art 1F(a) Refugee Convention 390–95, 401
 - aggression 391
 - complicity test 393
 - crimes against humanity 391
 - crimes against peace 391
 - extended liability 392–5
 - personal and knowing participation test 393, 394
 - underlying crimes 391–2
 - voluntary significant and knowing contribution test 394–5
 - war crimes 390–91, 392
 - under Art 1F(b) Refugee Convention 99, 395–9
 - applicable definition of crime 395
 - complicity 398
 - expiation 397
 - extended liability 398–9
 - foreign convictions 395–6
 - political crimes 397–8
 - serious crime 396–7
 - terrorist activities 397
 - under Art 1F(c) Refugee Convention 399–400, 402
 - test for 400
 - X & Y v Refugee Status Appeals Authority* 393
- extraterritorial jurisdiction 170
- family
 - defining 262–5
 - Australia 264
 - extended family 263
 - immediate/nuclear family 263
 - as means of state control 263
 - restrictively 263
 - UNHCR principle of dependency 263
 - need for culturally sensitive situation-specific definition 264
 - need to expand definition 263, 265
 - as wide-ranging concept 264–5
 - family reunification/reunion 253, 267
 - administrative difficulties 266–7
 - benefits of
 - to refugees 265
 - to state 265
 - as conditional right 263
 - and CRC 257–9
 - definition 253, 260
 - as discriminatory against women 288
 - as essential part of resettlement 253
 - as facilitated by international human rights law 261
 - as group right 261
 - international rights and obligations 254, 265
 - difficulty determining 259–60
 - non-enforceable 260–61
 - sovereign rights as qualifier to 261, 265
 - low priority of wider family 264
 - no specific right to 261
 - principle of family unity supporting 257
 - and relationships of care 264
 - UNHCR support 256–7
 - family unity 253
 - definition 253, 260
 - essential right of 256
 - family reunification/reunion distinction 260, 261
 - in IHR law 254–5, 259
 - in refugee law 255–6
 - right to
 - high threshold 262
 - implementation 260, 266–7
 - not extending to reunification 259
 - sovereign rights as qualifier to 261
 - state compliance with 259
 - whether customary international law 261–2
 - state obligation not to interfere with 261–2
 - first country of asylum 10, 69, 128
 - forced displacement

- illegal 158
- legal humanitarian 158
- forced return 158–9
 - absent asylum grounds 160
 - as human rights violation 214
- freedom of movement 95
- future behaviour 279–80
 - Ahmad and Others v Secretary of State for the Home Department* 272–3
 - Applicant NABD of 2002 v Minister for Immigration and Multicultural and Indigenous Affairs* 273
 - core/margins approach 274, 276–7
 - Danian v Secretary of State for the Home Department (Appeal)* 270, 272
 - discretion requirement 268–9, 271, 273, 277
 - UK Supreme Court avoiding 279
 - dispute 269–71, 274
 - argument for modification of behaviour 275
 - calls for protected/unprotected activity distinction 274
 - core of 277–78
 - fundamental characteristics approach 278, 279
 - surrogacy approach 278, 279
 - HJ (Iran) and HT (Cameroon) v Secretary of State for the Home Department* 268, 271–2, 273, 274
 - Mendis v Immigration Appeal Tribunal and Secretary of State for the Home Department* 270, 272
 - Refugee Appeal No. 74665* 274
 - rejection of reasonable requirement standard 272
 - S395/2002 v Minister for Immigration and Multicultural Affairs; Appellant S396/2002 v Minister for Immigration and Multicultural Affairs* 268, 273, 274–5
 - shift in analysis 271–2, 275–6
- gender-based violence
 - AA and Others v Sweden* 290–91
 - continuum of 292
 - FGM 289
 - forced marriage 290
 - Fornah v Secretary of State for the Home Department* 290
 - In re Fauziya Kasinga* 289
 - Islam v Secretary of State for the Home Department; R v Immigration Appeal Tribunal ex parte Shah* 289
 - Minister for Immigration and Multicultural Affairs v Khawar* 289
 - Olimpia Lazo-Majano v INS* 290
 - play-the-game approach 290–91
 - protection against 281, 289–92
 - in human rights law 290, 291
 - in refugee law 289, 290
 - Refugee Appeals Nos 71427 76044* 290
- Geneva Conventions
 - Additional Protocol I 149
 - Common Article (1) 158–9
- Global Compact for Refugees 14, 83
- human rights
 - derogatory in times of public emergency 312
 - doctrine of implied limits 136–8
 - law *see* international human rights law
 - non-derogatory 312
 - right to leave 94–6
 - no parallel right of entry 94
 - not absolute 339
 - restrictions on 95–6
 - significance of 100
 - rights incorporated in ICESCR 312
 - rights not carried forward from UDHR 312
- human trafficking 324, 341–2
 - anti-trafficking instruments 324, 327
 - criminalising certain forms of migration 339
 - objectives 340, 341
 - and right to leave 339–41
 - UN Smuggling Protocol 339, 340
 - UN Trafficking Protocol 339, 340
 - criminal law regime underpinned by assumption of repatriation 327
 - law/refugee law conflict 326–8, 338–41
 - anti-trafficking campaigns 339
 - law/refugee law interaction 324–6
 - L.E. v Greece* 333–4

- M.S.S. v Belgium and France* 335–6
Ould Barar v Sweden 332
Rantsev v Cyprus and Russia 332
 severity threshold 329
Tarakhel v Switzerland 336
 types of claims 328–9
 victims *see* victims of human trafficking
 vulnerability of asylum seekers to 327
- ICCPR 312
 Art 6 355, 366
 Art 7 93–4, 331, 355
 Art 9 366
 Art 12 94, 95
 (2) 339
 (3) 99, 100, 339
 Art 17 261, 262
 Art 23 254, 262
 Art 26 354
- ICESCR 37, 371
 Art 2(2) 354
 Art 6 215, 216
 Art 10(1) 254
 Art 11 39
- in-country programs 44, 54
 applicants falling outside refugee definition 44
 Australia 45, 48
 eligibility 50
 Canada 47–8
 eligibility 50
 political prisoners and oppressed
 persons designated class 47
 source country designated class 47–8
 challenges 53–4
 as complementary 53
 criticism of 51
 as justifying restrictive border controls
 51–2
 as putting applicants at risk 52
 as discretionary acts of the state 44–5
 eligibility 46, 49–51
 evidentiary standards 49
 individuals with connection to settling
 state 50–51
 for particular groups 49
 under Refugee Convention 49
 and encouragement to exile 54–5
 El Salvador 55
 Poland 55
 as last resort 56
 and non-refoulement 51–4
 not well publicised 56
 processing times 53
 as protected entry procedures 44
 referral arrangements 52–3
 transfer of successful applicants 53
 USA 45–6
 Central American Minors program 46, 49
 cessation of 46
 eligibility 46, 49
- indiscriminate violence
 disruptive effects of 151
 incentives to engage in 150
 indiscriminate impact of 149
 in international humanitarian law 149–51
 Additional Protocol I 149
 in international refugee law 147–9
 interpretation 146–7, 155
 IRL/IHL convergence on 151–7
 see also international humanitarian law;
 international refugee law
 as key element in subsidiary protection
 frameworks 147
 lack of clear definition 147, 148, 149–50
 facilitating asylum restriction 148
 legal conceptualisation of indiscriminate
 attacks as basis for concept 149, 151
 and loss of civilian cooperation 151
 and loss of legitimacy 150–1
 no conformity of interpretation 152
 in strategic studies 149
 strategic violence contrast 150
 targeted violence not mutually exclusive 148
 test for 147–8
- inhuman and degrading treatment 7, 10, 40, 43,
 92, 180, 196, 216, 217, 312, 363
- Intergovernmental Committee for Migration 55
- Internal Displacement Monitoring Centre 345
- internal flight alternative 35, 36, 42
 analysis as exclusion enquiry 160–61
 demanding high level of IDP protection 43
 Mogadishu as 41, 42–3

- and non-state actors 38–9
- protection-based understanding 160
- reasonableness test 129, 161
- see also* internal relocation
- internal protection alternative 126, 138, 221, 222
 - as based on subsidiary nature of refugee protection 128, 135–6
 - endorsement under certain conditions 136
 - expansion 128–30
 - application in claims to subsidiary protection 129
 - and ECtHR jurisprudence 130
 - international consideration of 129
 - as implied exclusion clause 132–3, 134–5
 - implied limits approach 136–7
 - as integral aspect of refugee status 133–4
 - interpreting 137
 - as mandatory consideration in EU 128
 - Michigan Guidelines (1991) 132
 - no clear parameters for 136
 - origins 126–8
 - legal-political context 127–8
 - removal to as violation of Art 3 ECHR 129
 - treaty basis 130–31
 - well-founded fear of persecution test 129, 130, 131–2
 - see also* internally displaced persons
- internal relocation 157–8
 - and country guidance 164
 - and international humanitarian law 140–41
 - IRL-compliant 157
 - in practice 161–4
 - as protection issue 161
 - reasonableness test 161
 - transforming asylum seekers into internally displaced persons 157
- UK policy 139–40
 - Afghanistan 162–3
 - CPINS in 162
 - EU guidance contrast 163
 - explicitly linking to determinations of indiscriminate violence 162
 - Iraq 162
 - logic 159–61
 - threshold 161–2
 - troubling aspects of 166–7
 - UNHCR criteria comparison 165–6
 - see also* forced displacement; internal flight alternative
- internally displaced persons
 - camps 43
 - definition 31, 157
 - forced displacement 33
 - as internal refugees 33
 - IRL not generally applying to 157
 - outnumbering refugees 31
 - protection 31–2, 34–5
 - cluster approach 39
 - as complementary to refugee protection 43
 - as internal flight alternative 35, 36
 - preventive protection 35, 36
 - safe zones 35–6
 - refugees
 - distinction 31, 32, 43
 - practical similarities 32, 33, 43
 - responsibility for 33
 - see also* internal protection alternative
- International Bill of Rights 312
- International Court of Justice
 - Corfu Channel (UK v Albania)* 107
 - Statute Art 38(1) 218
- International Covenant on Civil and Political Rights (1966) 5, 37
 - Art 12 39
- International Covenant on Civil and Political Rights *see* ICCPR
- International Covenant on Economic Social and Cultural Rights *see* ICESCR
- International Criminal Court
 - Rome Statute 380, 391–2
 - Art 25 398
- international human rights law
 - and defining persecution 291
 - and gender-based violence 290, 291
 - and protection of women 291–2
 - recognising specific concerns of women 296
- international humanitarian law
 - aims 152
 - as distinct from IRL 153
 - indiscriminate violence in 149–51
 - IRL convergence debate 151–7
 - interpretation of Art 15(c) 153, 154–5

- shared elements 152, 155
 - see also* international refugee law
- as *lex specialis* 152
- not all harm to civilians unlawful 153
- as relevant to treatment of refugees 156–7
- International Law Commission
 - Articles on State Responsibility
 - Art 16 101
 - Art 17 103, 104
 - Art 47 105
 - disguised expulsions intent requirement 220
 - Draft Articles on Responsibility of International Organizations 104
- International Lesbian and Gay Human Rights Commission 318–19
- International Organization for Migration 344, 408
- international refugee law
 - aims 151–2
 - as distinct from IHL 153
 - flexibility of interpretation 170
 - IHL convergence debate 151–7, 293
 - case law 153–6
 - feasibility of importing IHL norms into IRL 152–3, 156
 - shared elements 152, 155
 - synergistic approach 156
 - see also* IHL
 - impossible to predict evolution 187–8
 - indiscriminate violence in 147–9
 - women’s claims under 281
- International Refugee Organization 374
- Iraq Operation Provide Comfort 36
- irregular migrants 75, 85, 87, 96, 173, 404
 - interception 197
 - as potential terrorists 378
- Khartoum Process 74
- Latin America
 - Brazil
 - Brazil Plan of Action 113–14, 119, 120
 - leadership on refugee protection 114, 118–19
 - normative resolution No17 115, 123
 - normative resolution No20 115
 - Refugee Act (Law 9474/1997) 114, 123
 - special asylum visas 114, 122–3
- Cartagena Declaration 25, 109, 114
 - allowing expansion of national systems 119
 - continuous re-evaluation 119, 120
 - definition of refugee 20, 112, 119–20
 - ensuring minimum standards of refugee protection 119
- Colombia
 - humanitarian situation 111–12
 - peace negotiations 111
- Colombia *see* Colombia
- Mexico Plan of Action 113, 114, 119, 121–2
 - aims 120
 - dual responsibility in 122
 - as humane dialogue 121
 - roots of 120
- numbers of refugees 111
- refugee protection 112, 114
 - spread of best practices 120
- regional asylum policy
 - developing 112
 - refugee protection approach 119
 - reversing trend of asylum restriction 110–11
- responsibility-sharing 111, 113, 114, 115–18
 - as alternative to burden-sharing 117–18, 121
 - see also* responsibility-sharing
- San Jose Declaration 113, 119, 120
- solidarity 113, 114, 117, 120
 - Borders of Solidarity 121
 - emphasising need for sharing responsibility 121
 - Solidarity Cities 120–21
 - Solidarity Resettlement 121
 - Spirit of Cartagena 112, 114, 119, 123
- lawful stay 7, 208, 216
- League of Nations Convention relating to the International Status of Refugees (1933) 189, 190, 193
- market of deflection 83
- Michigan Guidelines on Protection Elsewhere 180, 217
- migration

- drivers of 345
- forced 34, 57
- illegal 90, 352
- international cooperation on 83
- management *see* migration control
- pull factors 79, 405
 - avoiding 83
 - pull-back 9, 84, 90, 97, 99, 104
- push factors 79, 405
 - ameliorating 34–5
 - push-backs 97, 174, 205, 283, 388, 407
- migration control 8, 82–5
 - based on state sovereignty and national interest 82–3
 - border operations in other states 9
 - carrier sanction 9
 - cooperative deterrence model 84
 - deputational containment 84
 - deterrence paradigm 84
 - entry barriers 83
 - EU *see* EU migration control
 - exit vetting 84
 - extraterritorial 8–9
 - forced return 77
 - pre-entry controls 84
 - privatization 9
 - pull-back operations 9, 84
 - see also* deterrence
- most favoured foreigner status 215, 216

- Nansen Initiative on Disaster-Induced
 - Cross-Border Displacement 28, 347
 - Protection Agenda 343, 351–2
 - see also* climate refugees
- Nansen Principles 345
- Netherlands Repatriation and Departure Service 408
- New York Declaration for Refugees and Migrants (2016) 82–3
- New Zealand Immigration and Protection Tribunal 354
 - see also* climate refugees
- non-entrée
 - as evolving 178
 - forms of 173
 - see also* deterrence
- non-refoulement 2, 6, 9–10, 14, 37, 92–4, 170, 183
 - as a central element of human rights 190
 - as cardinal obligation to refugees 207
 - continuance of constraints on 188–9
 - definition 21
 - exceptions 384, 385
 - extraterritorial application 177
 - first appearance 189
 - as fundamental to refugee protection 21, 92, 183, 190
 - future of 205–6
 - humanitarian 158
 - as injunctive relief against return 220
 - jurisprudence *see* non-refoulement jurisprudence
 - limitations 185, 205
 - non-applicability under Refugee Convention 185, 193–4
 - Arts 1F/33(2) distinction 194–5
 - under Art 1(C)(D) & (E) 193
 - under Art 1F 193–4
 - obligations 148
 - as peremptory norm 189–3, 205
 - customary international law 190–91
 - jus cogens* 191–2
 - principle protecting everyone 184
 - questions regarding absolute nature of 187
 - rejection at the frontier 22
 - restrictive interpretation 93
 - return to countries below threshold 10
 - return to countries with poor protections 10
 - right to work gap 215–17
 - standard of proof 220
 - of the undesirable and unreturnable 185–6
 - as well-established 185
- non-refoulement jurisprudence 6–7, 93, 187–8, 205–6
 - Australia
 - CPCF v Minister for Immigration & Border Protection* 187, 203–5
 - Ruddock v Vadarlis* 187, 202–3
 - Canada *Suresh v Canada (Minister of Citizenship and Immigration)* 187, 200–201
 - ECtHR 196
 - Hirsi Jamaa and Others v Italy* 174, 187, 196–7

- M.S.S. v Belgium and Greece* 73, 100, 187, 197–8, 216–17, 219–20
- Soering v United Kingdom* 6, 187, 196
- UK 198
- R (on the application of Limbuela Tesema Adam) v Secretary of State for the Home Department* 217
- R v Secretary of State for the Home Department ex parte Sivakumaran and Conjoined Appeals* 198
- R v The Secretary of State for the Home Department Immigration Appeals Tribunal ex Parte Anthonypillai Francis Robinson* 198–9
- US
- Acting Commissioner Immigration and Naturalization Service et al. v Haitian Centers Council Inc. et al.* 187, 199–200
- Haitian Centre for Human Rights v United States Inter-American Commission of Human Rights* 200
- OAU Convention (1969) 16, 30
- 1951 Convention differences 18
- adaptability 27–30
- Art I 19, 22
- Art II 21, 22, 23–4
- asylum 22–3
- definition of refugee 17, 18
- expanded 19–21, 28
- exclusion provisions 21–2
- humanitarian approach 17
- implementation 17–18
- intentions 16–17
- interpretation 29
- non-refoulement 17, 18–19, 21–2
- normative significance 25–6
- application to future refugee flows 29
- practical implementation 26–7
- provisions 17
- ratification 17
- refugee protection 18–19
- recognition of security dimensions 19, 24–5
- strengthened 21
- as regional complement to 1951 Convention 17, 25–6
- responsibility-sharing 19, 23–4
- persecution
- acts constituting 313
- criminal punishment of same-sex relationships as 314–15
- see also criminalisation of same-sex relationships
- enforcement-centric analysis 315
- human rights approach to defining 311–13
- adoption in UK 313
- categorisation of rights 312
- R v Secretary of State for the Home Department ex parte Blanusca; Ravichandran (No1)* 313
- Shah and Islam v Secretary of State for the Home Department* 313
- state complicity in harm 311
- state failure to meet protection obligations 311
- threshold as sustained or systemic denial of core human rights 312
- as serious harm + failure of state protection 313
- threshold
- proposed Convention on Territorial Asylum 20–21
- prosecution of asylum seekers 224–5
- Arbaoui v Minister of Justice* 232
- areas of concern 233–4
- B010 v Canada* 226–7
- In re Ouakli Abdi and Zaouche* 232
- Ministry of the Interior v Felicitas LJ* 233
- R v Appulonappa* 226, 227
- R v H* 233
- R v Uxbridge Magistrates Court and another ex parte Adimi* 228
- Re Gonzales* 233
- without consideration of merits 228
- without reference to Art 31(1) 233
- see also Article 31(1) Refugee Convention
- protected entry procedures
- and encouragement to exile 54–5
- humanitarian visas 44
- in-country programs see in-country programs

- Orderly Departure Program out of Vietnam 54
- planned annual resettlement programs 44
- potential use of 45
- where country of departure has veto 54
- protection
 - elsewhere 10, 217
 - from gender-based violence 281
 - subsidiary 196, 281, 331
 - M'Bodj v Belgium* 8
 - surrogate 278
 - temporary *see* temporary protection
 - women's access to *see* women's access to protection
- Protocol relating to the Status of Refugees (1967) 238
- readmission agreements 85, 88, 90, 91–2, 110
 - EU-Turkey 98
- re-bordering 281, 282–3
 - challenging 285–6, 287
 - differential treatment of women justifying 288–9
 - effects of 283–4
 - gendered impacts of 281
 - Hirsi Jamaa and others v Italy* 287
 - legal 283
 - carrier sanctions 288
 - disproportionate impact on women 288
 - reduction in number of Schengen visas granted 288
 - restrictive family reunion policies 288
 - limitations of IHL/IRL 285, 286–7
 - Opuz v Turkey* 287
 - physical 283
 - Rantsev v Cyprus and Russia* 287–8
 - risks to women
 - death 284
 - gender-based violence 284–5
 - sexual exploitation 284
 - and state ability to deny access to jurisdiction 286
- refoulement
 - chain 217
 - constructive *see* constructive refoulement
 - definition 207
 - direct 98–9
 - indirect 40
 - non- *see* non-refoulement
 - push-backs as 174
 - refugee
 - African Union definition 168
 - concept centered on persecution 33
 - internally displaced persons distinction 31, 32, 43
 - nondiscriminatory rights of 34
 - Refugee Convention definition 328
 - right to access to procedure for determining status as 100–101
 - status
 - contingent on crossing a border 33, 34
 - determination *see* refugee status determination
- Refugee Convention (1951) 2, 33
 - access to protection 8–9
 - African states' ratification 16
 - alienage 3
 - Art 1A 328
 - Art 1A(2) 44, 51, 62, 269
 - inclusion criteria 353, 368
 - Art 1D *see* Article 1D Refugee Convention
 - Art 1F 185, 378, 380
 - (a) 379–80, 390–92
 - (b) 379
 - (c) 379, 380, 384
 - exclusion of anyone who has committed a serious crime 378–9
 - interpretation 380
 - terrorism included in scope of 380, 381 *see also* exclusion
 - Art 2 378
 - Art 16 419–20
 - Art 24 218
 - Art 31(1) *see* Article 31(1) Refugee Convention
 - Art 32 378
 - Art 33(1) 21, 51, 92, 93, 170, 183–4, 189–90
 - application 93
 - Art 33(2) 93, 185, 190, 378, 384
 - exceptions to non-refoulement principle 194, 195
 - Art 35 13
 - Australia and *see* Australia

- challenges facing 14–15
 - compliance 12–14
 - contingent on right to leave 100
 - at critical juncture 14
 - Declaration of State Parties to the Convention and the Protocol (2001) 11
 - definition of refugee 2–3, 11, 126–7, 269, 328
 - entitlement 7–8
 - evolution of 3–4
 - harm 4
 - gender-specific 4
 - inflicted by non-state actors 3–4
 - relevant 4 5
 - human rights approach 4–5
 - and human rights law 6–8
 - internal flight alternative requirement 20
 - interpretation 12, 250
 - contentious issues 12
 - gendered 295
 - intentionalist 250
 - teleological 250
 - textualist 250
 - as losing relevance 8
 - nexus requirement 5
 - no individual right to asylum 22
 - no reporting or complaint mechanism 14
 - non-refoulement 2, 6–7, 21, 183
 - see also* non-refoulement
 - not defining persecution 310
 - particular social group concept 5–6
 - preamble burden sharing 72, 117
 - prohibition on forced return of refugees 170
 - Protocol Relating to the Status of Refugees (1967) 11, 207
 - restricted application 11
 - restrictionist asylum policies weakening
 - refugee protection 110
 - rights as contingent and relative 215–16
 - on solidarity 9–10
 - temporal limitation 11
 - travaux préparatoires* 33
 - universality 11–12
 - well-founded fear of being persecuted 3, 4
- refugee crisis
- Bosnia and Kosovo 69
 - Europe 74, 78, 85, 165, 176, 376
 - Syrian 114, 239
- refugee law
- exclusion clauses in *see* exclusion and sexual orientation *see* sexual orientation
 - UNSC resolutions becoming 380–82
- refugee status determination 209
- burden of proof 307–8
 - credibility assessments 306–8
 - criticism of 306
 - and culture of disbelief 306–7
 - late disclosure 308
 - threshold 307
 - as declaratory process 225
 - discretion requirement 268
 - see also* future behaviour
 - impact of trauma on 303
 - preceding prosecution 227–8
 - standard of review *see* standard of review
- refugees
- by choice 275
 - climate/environmental *see* climate refugees
 - lack of protection 110
 - numbers of 109–10
 - Palestinian
 - exclusion from Art 1D 359–60, 364
 - leaving UNRWA protection 369, 372
 - relocation test 369–70
 - stateless 368, 369–70
 - UNRWA protection 361, 363, 367
 - see also* Article 1D Refugee Convention; UNRWA
 - terrorism discourse 374–8, 380, 388–9
 - emergence 375
 - limitation of refugee resettlement 376–7
 - Muslim ban in US 376
 - overshadowing protection 378
 - permeating global refugee frameworks 377–8
 - in public consciousness 375–6, 377, 381
- removal of failed asylum seekers 403, 404, 413–16
- Art 1F-excluded individuals 407
 - no coherent policy on 414–15
 - no sharing of information on 410–11
 - forced return 408–9
 - from Netherlands 408–9

- relocation to third country 409–11
 - self-arranged 409–10
 - temporary residence permits 410
- voluntary return 404–8
 - factors affecting 405–6
 - government promotion of 407–8
 - as important component of EU regime 405
 - and stay factors 407
 - see also* undesirable asylum seekers
- responsibility to protect (R2P) 38
- responsibility-sharing 109, 115–18
 - as alternative to burden sharing 117–18
 - as change in outlook on refugee protection 115
 - as key to refugee protection 118
 - Latin American 115
 - need for both regional and national 117
 - no universal system of 116
 - regionalised 116
 - benefits 116
 - relevance of 115
 - see also* Latin America
- safe third country 10
 - application of rule 326, 334–6
 - rights protection threshold 217
 - Turkey as 87
- safe zones 32, 35–6, 43
 - issues under international human rights law 36–8
 - unsafe 38
- sexual orientation
 - and asylum claims 310–11
 - criminalisation of same-sex relationships
 - see* criminalisation of same-sex relationships
 - as grounds for protection 313
 - and persecution 314, 322–3
 - application of Refugee Convention 310
 - defining persecution 311–13
 - see also* persecution
 - stigmatisation of minority sexual identities 321
 - compounded in refugee situations 321–2
 - psychological harms of 322
- solidarity 9–10
 - refugee regime in need of 179
- Somalia humanitarian situation 42
- Sri Lanka Open Relief Centres 36
- standard of review 417, 418, 428
 - Committee Against Torture 420–21
 - ECHR 421–4
 - EU 424–5
 - Hilal v United Kingdom* 424
 - in ICCPR 420
 - minimum procedural guarantees 419–20
 - and national autonomy 419
 - Nirmal Singh v Canada* 420–21
 - in Refugee Convention 418–20
 - Salah Sheekh v the Netherlands* 424
 - Soering v United Kingdom* 6, 423
 - Vilvarajah v United Kingdom* 423, 427
 - ECtHR 427–8
 - and effective access to justice 426
 - Kudla v Poland* 427–8
 - legality review 417, 426
 - merits review 417–18, 425
 - articulation of right to 426
 - providing most procedural protection 426
 - Tsfayo v United Kingdom* 427
 - UK 426–7
- state responsibility 9
- temporary protection 57–8, 69
 - Australia 61
 - eligibility 62
 - end of protection 64
 - policies undermining Refugee Convention 68
 - rights and entitlements 63
 - Temporary Humanitarian Concern Visas 59
 - Temporary Protection Visas 59, 61, 67–8
 - time limits 62
 - see also* Australia
 - benefits to host states 67
 - Comprehensive Plan of Action (Vietnamese) 58
 - eligibility 62
 - as emergency response to mass-influx 60
 - EU 65–6
 - definition 60
 - eligibility 61
 - end of protection 64

- at national level 65–6
- not having major role in protection of
 - forced migrants 66
- rights and entitlements 63
- Temporary Protection Directive 58–9, 60
- time limits 62
 - see also* EU
- expanding protection 67
- no clear definition of 57
- pivotal role in protection of forced migrants 67
- purposes of 68
- Turkey 59, 60, 66–7
 - definition 60–61
 - eligibility 62
 - end of protection 64
 - rights and entitlements 63
 - Temporary Protection Regulation 60–61
 - time limits 62
 - see also* Turkey
- US 67
 - eligibility 62
 - end of protection 64
 - rights and entitlements 63–4
 - Temporary Protected Status 59, 61, 67
 - time limits 62–3
 - see also* USA
- as warehousing 77
- terrorism
 - Al-Sirri v Secretary of State for the Home Department and Anor* 382–3
 - and Art 1F Refugee convention 378–9
 - attacks 375, 376
 - Bundesrepublik Deutschland v B and D* 383
 - Commissaire général aux réfugiés et aux apatrides v Mostafa Lounani* 386–8
 - home-grown 377
 - HT v Land Baden-Württemberg* 384–6
 - JS (Sri Lanka) v Secretary of State for the Home Department* 383
 - narrowing definition of 382–4
 - refugees discourse 374–8, 380, 381, 388–9
 - overshadowing protection 378
 - see also* refugees
 - UNSC resolutions 375
 - becoming refugee law 380–82
 - echoing Refugee Convention exclusion clause 375
 - and pre-emptive action by states 375
 - war on terror 375, 378, 388–9
 - torture prohibition on 217
- Turkey
 - conditional refugees 87–8
 - and EU migration control *see* EU migration control
 - Law on Foreigners and International Protection (2014) 87–8
 - open door temporary protection policy 59
 - readmission agreements 88, 89
 - as safe third country 87, 88, 99
 - Syrian refugees in 66
 - illegal mass returns 88
 - visa entry requirements 89
- UK
 - AE and FE v Secretary of State for the Home Department* 166
 - Anti-terrorism Crime and Security Act (2001) 380–81
 - anti-terrorism mechanisms 380–81
 - Asylum and Immigration Tribunal 142–3
 - AA (Article 15(c)) Iraq CG* 162
 - BA (Returns to Baghdad) Iraq CG* 162, 164
 - HM and Others (Article 15(c))* 148
 - KH (Article 15(c) Qualification Directive) Iraq CG* 153–5
 - asylum claim rejection rates 140, 145
 - Asylum Policy Instruction: Assessing Credibility and Refugee Status (2015) 146, 159–60
 - Compliant Environment Policy 79
 - Country of Origin Information Services 304
 - Country Policy and Information Notes 139
 - Afghanistan 162–3
 - combining country information and explicit policy guidance 144–5
 - concerns over 141, 142
 - creating reverse burden of proof 145–6
 - cut-and-paste approach to 164
 - determination of indiscriminate violence 139–40

- inconsistent use of 143
 - Iraq 162
 - objectivity 142–3
 - policy summaries 162
 - role of 141
 - sources 142
 - use of country of origin information 143–4
 - see also* internal relocation
 - Country Policy and Information Team 141
 - as inadequately resourced 144
 - forced returns 140–41
 - justification of 139
 - routine deportation of failed asylum seekers 139
 - gender guidelines for asylum procedures 298–9
 - Hostile Environment Policy 77–8, 79
 - House of Lords R (Hoxha) v Special Adjudicator* 133
 - Immigration Act (2014) 426
 - Immigration Asylum and Nationality Act (2006) 381
 - Immigration Rules 141, 159
 - Independent Advisory Group on Country Information 141
 - Independent Chief Inspector of Borders and Immigration 141, 145, 303
 - internal relocation policy 139–40, 159
 - see also* internal relocation
 - New Vision for Refugees (2003) 175
 - R v Secretary of State for the Home Department ex parte Robinson* 160
 - Rashid v the Secretary of State for the Home Department* 143–4
 - Roma Rights* case 38
 - Terrorism Act (2000) 382
 - Visas and Immigration 303
 - initial decision-making 304
- UN
- Charter Art 2(7) 44
 - Committee on Economic, Social and Cultural Rights 39
 - Conciliation Commission for Palestine 364
 - mandate 365
 - Convention Against Torture 420
 - Convention on the Rights of the Child 337
 - Declaration on Territorial Asylum Art 3 184–5
 - Economic and Social Council 32
 - Framework Convention on Climate Change 351
 - General Assembly
 - Declarations on Measures to Eliminate International Terrorism 374–5
 - Resolution 37/120 365
 - Resolution 69/88 370–71
 - Global Compact for Safe, Orderly and Regular Migration 83
 - Guiding Principles on Internal Displacement 157
 - Principle 15(d) 158
 - Human Rights Committee 93–4
 - General Comment No. 27, Art 12 340
 - New York Declaration for Refugees and Migrants 11
 - Office of the High Commissioner for Refugees *see* UNHCR
 - Protocol against the Smuggling of Migrants by Land Sea and Air 178
 - Protocol to Prevent Suppress and Punish Trafficking in Persons Especially Women and Children
 - Art 7(1) 334
 - Art 8(1) 327
 - Regional Conference on Migration (for the Americas) Protection for Persons Moving across Borders in the Context of Disasters: A Guide to Effective Practices for RCM Member Countries 352
 - Relief and Works Agency for Palestinians in the Near East *see* UNRWA
 - Security Council
 - Resolution (1373) 375, 399
 - Resolution (1377) 375, 387
 - Resolution (1624) 375, 387
 - Resolution (2178) 387
 - Special Rapporteur on the Human Rights of IDPs 32
 - Special Representative on Migration 45
 - undesirable asylum seekers 404
 - and Art 1F Refugee Convention 404

- Art 1F-excluded individuals 407
- decreasing numbers of 415
- levels of 404
- link with crime/security issues 404
- most undesirable 408
- public perception of 407
- removal of *see* removal of failed asylum seekers
- unreturnable 403
 - detention 413
 - lack of coherent policy 414–15
 - prosecution of 411–12
 - residence permits 413, 414
 - Undesirable and Unreturnable project 186, 403
 - and unrellocatable 411
- UNHCR 4
 - Annual Tripartite Consultations on Resettlement (2001) 263
 - competence 13
 - Convention Plus initiative 14
 - criteria for assessing internal flight alternative 165–6
 - estimation of global numbers of refugees 16
 - Executive Committee Conclusions on family reunification 255, 256, 257, 258
 - on gender-sensitive approaches 295–6
 - Global Compact on Refugees 83
 - Global Trends report 109
 - good offices role 13–14
 - Guidelines
 - on Internal Protection 165
 - on Reunification of Refugee Families 256–7, 263
 - Guiding Principles on Internal Displacement 38
 - Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status 141, 147, 261, 299
 - Note on the Standard of the Burden of Proof 307
 - primary mandate 39
 - Safe at Last? report 163–4
- Summary Conclusions on International Protection of Persons Fleeing Armed Conflict and Other Situations of Violence 28
 - supervisory role 13
- Universal Declaration of Human Rights 312
 - Art 13 37, 74
 - Art 14 37, 170
 - Art 16(3) 254
- universality 11–12
- UNRWA 361
 - 1993 Peace Implementation Program 366
 - and application of Art 1D Refugee Convention 360–61
- EU jurisprudence on cessation of protection 363–4, 367–70
 - focus on personal safety and living conditions 367
 - involuntary departure test 364, 368, 369
 - Mostafa Abed El Karem El Kott and Others* 363–4
 - relocation test 369–70
 - triggering Art 1D inclusionary paragraph 364, 367–8, 372
- mandate
 - human development 366
 - humanitarian assistance 365
 - protection 365–6
 - providing education 365
- NZ jurisprudence on cessation of protection 370–73
 - AD (Palestine)* case 370
 - detailed consideration of protection mandate 370–71
 - involuntary departure test 371–2
 - triggering Art 1D inclusionary paragraph 371, 372
- protection 361
 - ceased for any reason 363, 364, 366
 - leaving 368, 369
 - providing humanitarian assistance 365
 - responsibility for addressing women's human rights issues 367
 - see also* Article 1D Refugee Convention
- USA
 - Alien Migrant Interdiction 192

- Immigration Act (1990) § (244) 61
- Immigration and Nationality Act (1952), § 101(a)(42)(B) 46
- Migration Policy Institute 45
- Refugee Assistance Program 376–7
- temporary protection as national status protecting nationals of certain countries 67

- VCLT 12, 29
 - Art 31 224–5, 311
 - (3)(c) 137
- victims of human trafficking
 - access to territory 326–7
 - application of the ‘safe third country’ rule 326, 334–6
 - averting deportation 325, 327–8, 335
 - children 337–8
 - eligibility for assistance measures 325–6
 - entitlement to non-punishment 326, 336–7
 - Refugee/Trafficking Conventions differences 337
 - extension of non-refoulement guarantee for 331
 - identifying 326
 - and refugee status determination 333–4
 - international protection
 - complementary protection 330–31
 - procedural guarantees 332, 333
 - qualifying for 324
 - reception conditions 332–3
 - refugee status 328–30
 - subsidiary protection 331–2
 - qualifying for refugee status 329–30
 - recovery and reflection period for 335 as vulnerable persons under EU legislation 324–5
 - see also* human trafficking
 - Vienna Convention on the Law of Treaties *see* VCLT
 - violence
 - civil war 151
 - indiscriminate *see* indiscriminate violence
 - targeted 156

 - war on terror *see* terrorism
 - women’s access to protection 281, 282, 292–3, 303, 308–9
 - evidential barriers 299–301
 - credibility assessment 306
 - officials restricting disclosure 302
 - procedural barriers 297–9
 - lack of country-specific information 303–5
 - lack of knowledge of gender issues 304
 - psychological factors 301
 - depression 301
 - PTSD 301–2
 - undermining of rights 306