

# Contents

Acknowledgements IX

List of Abbreviations X

## 1 Introduction 1

A The Undeserving Refugee 1

B Objective and Methodology 4

## 2 Exclusion at the Intersection of Different Legal Systems 9

A Introduction 9

B Implications of International Refugee Law 10

I *Objectives of International Refugee Law* 10

II *The Nature of Granting Asylum* 19

III *Conclusion* 48

C Exclusion 49

I *Objectives of the Exclusion Clause* 50

II *Consequences of Exclusion* 55

III *Consequences of Non-exclusion* 64

IV *Conclusion* 68

D Implications of International Criminal Law 69

I *Interrelations with Exclusion in Refugee Law* 71

II *Conclusion* 80

E Implications of Human Rights Law 80

I *Differences between Human Rights Law and Refugee Law* 81

II *Relationship between Human Rights Law and Refugee Law* 83

III *International Human Rights Law and Non-refoulement Obligations* 85

IV *Conclusion* 91

F Intersections with Extradition Law 91

I *Principles of Extradition Law* 93

II *Hierarchy of Obligations* 99

III *Intersections of Refugee Law and Extradition Law* 101

IV *Intersections of Article 1F CSR<sup>51</sup> and Extradition Law* 103

V *Conclusion* 109

G Conclusion: Complementarities of International Refugee Law, International Criminal Law, Human Rights Law, Extradition Law, and the Exclusion Clause 110

<b>3</b>	<b>Harmonizing Interpretation in International Law</b>	<b>112</b>
A	Introduction	112
B	The Objective: Including Principles with a Principled Method	115
C	Interpretation According to Article 31(1) VCLT69	118
	I <i>Ordinary Meaning</i>	119
	II <i>Context</i>	122
	III <i>Object and Purpose</i>	123
	IV <i>Good Faith</i>	126
D	Interpretation beyond Article 31(1) VCLT69	128
	I <i>Subsequent Agreement and Subsequent Practice</i>	130
	II <i>Evolutionary/Dynamic Interpretation</i>	131
	III <i>Analogy</i>	138
	IV <i>Fundamental Change Pursuant to Article 62 VCLT69</i>	139
E	Harmonizing Interpretation	140
	I <i>"Systemic Integration" Pursuant to Article 31(3)(c) VCLT69</i>	140
	II <i>Practical Concordance</i>	151
	III <i>Harmonizing Interpretation of Article 1F CSR51</i>	154
F	Conclusion	161
<b>4</b>	<b>Exclusion in the Light of Harmonizing Interpretation</b>	<b>163</b>
A	Introduction	163
B	General Matters in Article 1F CSR51	167
	I <i>Exclusion Assessment v. Criminal Trial</i>	167
	II <i>Proportionality</i>	170
	III <i>Inclusion before Exclusion</i>	187
	IV <i>Procedural Matters</i>	202
	V <i>Substantive Matters</i>	235
	VI <i>Terrorism</i>	299
C	Article 1F(a) CSR51	306
	I <i>International Instruments</i>	307
	II <i>Crimes against Peace</i>	308
	III <i>War Crimes</i>	311
	IV <i>Crimes against Humanity</i>	314
	V <i>Genocide</i>	318
D	Article 1F(b) CSR51	319
	I <i>Crime</i>	320
	II <i>Serious</i>	322
	III <i>Non-political</i>	325
	IV <i>Outside the Country of Refuge/Prior to His Admission</i>	331

E	Article 1F(c) CSR51	332
I	<i>Residual Character</i>	332
II	<i>"Guilty"</i>	334
III	<i>Acts Contrary to the Principles and Purposes of the United Nations</i>	334
IV	<i>Offenders within Article 1F(c) CSR51</i>	338
F	Conclusion	340
5	Conclusion	343
	Bibliography	347
	Index	382