INTRODUCTION

The greatest challenge facing refugees arriving in the developed world has traditionally been to convince authorities that they are, in fact, entitled to recognition of their refugee status.[1] What level of risk is required by the "well-founded fear" standard? What sorts of harm are encompassed by the notion of "being persecuted"? Is there a duty to seek an internal remedy within one's own country before seeking refugee protection abroad? What is the meaning of the five grounds for protection, and what causal connection is required between those grounds and the risk of being persecuted? Most recently, significant attention has also been paid to the nature of the circumstances under which a person may be excluded from, or deemed no longer to require, protection as a refugee.

While debate continues on these and other requirements for qualification as a Convention refugee,[2] there is no denying that the decade of the 1990s gave rise to a marked increase in both the extent and depth of judicial efforts to resolve the most vexing definitional controversies. Senior appellate courts now routinely engage in an ongoing and quite extraordinary transnational judicial conversation[3] about the scope of the refugee

[1] The core of the international legal definition of a refugee requires that "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, [the applicant] is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country": Convention relating to the Status of Refugees, 189 UNTS 2545, done July 28, 1951, entered into force Apr. 22, 1954 (Refugee Convention), supplemented by the Protocol relating to the Status of Refugees, 606 UNTS 8791, done Jan. 31, 1967, entered into force Oct. 4, 1967 (Refugee Protocol).

[2] In its recent Global Consultations on International Protection, the United Nations High Commissioner for Refugees (UNHCR) identified as issues of particular salience the scope of the "membership of a particular social group" category; gender-related persecution; the nature of the duty to seek internal protection or relocation; and the cessation and exclusion clauses. See E. Feller et al. eds., *Refugee Protection in International Law* (2003) (Feller et al., *Refugee Protection*), at 263–552.

[3] See A.-M. Slaughter, "A Typology of Transjudicial Communication," (1994) 29 *University of Richmond Law Review* 99.

definition,[4] and have increasingly committed themselves to find common ground.[5] Indeed, the House of Lords has suggested that courts have a legal responsibility to interpret the Refugee Convention in a way that ensures a common understanding across states of the standard of entitlement to protection:

> [A]s in the case of other multilateral treaties, the Refugee Convention must be given an independent meaning . . . without taking colour from distinctive features of the legal system of any individual contracting state. In principle therefore there can only be one true interpretation of a treaty . . .
>
> In practice it is left to national courts, faced with the material disagreement on an issue of interpretation, to resolve it. But in doing so, [they] must search, untrammelled by notions of [their] national legal culture, for the true autonomous and international meaning of the treaty.[6]

In contrast to the progress achieved by courts in conceiving a shared understanding of the Convention refugee definition, there has been only minimal judicial engagement with the meaning of the various rights which follow from recognition of Convention refugee status. Although most of the Refugee Convention is in fact devoted to elaborating these entitlements, there is only a smattering of judicial guidance on a small minority of the rights set by the treaty. Even in the academic literature, only the core duty of *non-refoulement* and, to a lesser extent, the duties of non-expulsion and non-penalization, have received any serious attention.[7] This analytical gap is

[4] The contemporary jurisprudence of leading asylum states on the scope of Convention refugee status is collected at the University of Michigan's Refugee Caselaw Site, www.refugeecaselaw.org.

[5] The establishment in 1995 of the International Association of Refugee Law Judges (IARLJ), now comprising members from some forty asylum states, is a particularly noteworthy means of advancing this sense of refugee law as a common enterprise. In 2002, the IARLJ convened its first Advanced Workshop on Refugee Law, in which appellate judges from around the world met to seek consensus on refugee definition issues identified by them as particularly challenging. See J. Hathaway, "A Forum for the Transnational Development of Refugee Law," (2003) 15(3) *International Journal of Refugee Law* 418.

[6] *R v. Secretary of State for the Home Department, ex parte Adan and Aitseguer*, [2001] 2 WLR 143 (UK HL, Dec. 19, 2000).

[7] The only refugee rights which have received relatively extensive academic attention are Arts. 31–33. See e.g. G. Stenberg, *Non-Expulsion and Non-Refoulement* (1989); W. Kälin, *Das Prinzip des Non-Refoulement* (1982). Even in the context of its recent Global Consultations on International Protection, UNHCR drew particular attention to only three refugee rights: the rights of *non-refoulement* (Art. 33), freedom from penalization or detention for illegal entry (Art. 31), and protection of family unity: Feller et al., *Refugee Protection*, at 87–179, 185–258, and 555–608. Those academic works that do address the full range of refugee rights are all quite dated, including N. Robinson, *Convention relating to the Status of Refugees: Its History, Contents and Interpretation* (1953); A. Grahl-Madsen, *Commentary on the Refugee Convention 1951* (1963, pub'd., 1997); and P. Weis, *The Refugee Convention, 1951: The Travaux Préparatoires Analysed with a Commentary by Dr. Paul Weis* (posthumously pub'd., 1995).

no doubt largely the result of the tradition of most developed states simply to admit refugees, formally or in practice, as long-term or permanent residents. While not required by the Refugee Convention,[8] this approach has led de facto to respect for most Convention rights (and usually more). Because refugee rights were not at risk, there was little perceived need to elaborate their meaning.

In recent years, however, governments throughout the industrialized world have begun to question the logic of routinely assimilating refugees, and have therefore sought to limit their access to a variety of rights.[9] Most commonly, questions are now raised about whether refugees should be allowed to enjoy freedom of movement, to work, to access public welfare programs, or to be reunited with family members. In a minority of states, doubts have been expressed about the propriety of exempting refugees from compliance with visa and other immigration rules, and even about whether there is really a duty to admit refugees at all. There is also a marked interest in the authority of states to repatriate refugees to their countries of origin, or otherwise to divest themselves of even such duties of protection as are initially recognized.

This movement towards a less robust form of refugee protection mirrors the traditional approach in much of the less developed world. For reasons born of both pragmatism and principle, poorer countries – which host the overwhelming majority of the world's refugees[10] – have rarely contested the eligibility for refugee status of those arriving at their borders.[11] Yet this conceptual generosity has not always been matched by efforts to treat the refugees admitted in line with duties set by the Refugee Convention. In far too many cases, refugees in less developed states have been detained, socially marginalized, left physically at risk, or effectively denied the ability to meet even their most basic needs. The imperative clearly to define the rights which follow from refugee status, while of comparatively recent origin in most

[8] See chapters 4.1 and 7.4 below.

[9] See e.g. J. Hathaway, "The Emerging Politics of *Non-Entrée*," (1992) 91 *Refugees* 40, also published as "L'émergence d'une politique de non-entrée," in F. Julien-Laferrière ed., *Frontières du droit, Frontières des droits* (1993), at 65; and, in particular, G. Noll, *Negotiating Asylum: The EU Acquis, Extraterritorial Protection, and the Common Market of Deflection* (2000).

[10] As of Dec. 31, 2003, for example, just under 80 percent of the world's refugees were protected in Africa, the Middle East, or South and Central Asia: US Committee for Refugees, *World Refugee Survey 2004* (2004), at 4–5.

[11] In some instances, particularly in Africa, the commitment to a more expansive understanding of refugee status has been formalized in regional treaty or other standards. See J. Hathaway, *The Law of Refugee Status* (1991) (Hathaway, *Refugee Status*), at 16–21; and G. Goodwin-Gill, *The Refugee in International Law* (1996) (Goodwin-Gill, *Refugee in International Law*), at 20–21.

industrialized states, is of long-standing duration in much of the less developed world.

The goal of this book is therefore to give renewed life to a too-long neglected source of vital, internationally agreed human rights for refugees. More specifically, the analysis here seeks to elaborate an understanding of refugee law which is firmly anchored in legal obligation, and which is accordingly detached from momentary considerations of policy and preference. The essential premise is that refugees are entitled to claim the benefit of a deliberate and coherent system of rights.

It will be clear from this formulation that the Refugee Convention and its Protocol are conceived here not as accords about immigration, or even migration, but as part and parcel of international human rights law. This view is fully in line with the positions adopted by senior courts which have analyzed the object and purpose of the Refugee Convention. In perhaps the earliest formulation, the Supreme Court of Canada embraced the view that the essential purpose of the Refugee Convention is to identify persons who no longer enjoy the most basic forms of protection which a state is obliged to provide. In such circumstances, refugee law provides surrogate or substitute protection of basic human rights:

> International refugee law was formulated to serve as a back-up to the protection one expects from the State of which an individual is a national. It was meant to come into play only when that protection is unavailable, and then only in certain situations.[12]

Complementing this analysis, the House of Lords more recently affirmed that the fundamental goal of refugee law is to restore refugees to affirmative protection:

> The general purpose of the Convention is to enable the person who no longer has the benefit of protection against persecution for a convention reason in his own country to turn for protection to the international community.[13]

Justice Kirby of the High Court of Australia has moreover linked the goals of refugee law directly to the more general human rights project:

> [The Refugee Convention's] meaning should be ascertained having regard to its object, bearing in mind that the Convention is one of several

[12] *Canada v. Ward*, (1993) 103 DLR 4th 1 (Can. SC, June 30, 1993). More recently, Justice Bastarache of the same court affirmed that "[t]he overarching and clear human rights object and purpose is the background against which interpretation of individual provisions must take place": *Pushpanathan v. Minister of Citizenship and Immigration*, 1998 Can. Sup. Ct. Lexis 29 (Can. SC, June 4, 1998), at para. 59.

[13] *Horvath v. Secretary of State for the Home Department*, [2000] 3 All ER 577 (UK HL, July 6, 2000), per Lord Hope of Craighead.

> important international treaties designed to redress "violation[s] of basic human rights, demonstrative of a failure of state protection" . . . It is the recognition of the failure of state protection, so often repeated in the history of the past hundred years, that led to the exceptional involvement of international law in matters concerning individual human rights.[14]

As these formulations make clear, refugee law is a remedial or palliative branch of human rights law. Its specific purpose is to ensure that those whose basic rights are not protected (for a Convention reason) in their own country are, if able to reach an asylum state, entitled to invoke rights of substitute protection in any state party to the Refugee Convention. As such, the right of entry which is undoubtedly the most visible consequence of refugee law is, in fact, fundamentally consequential in nature, and of a duration limited by the persistence of risk in the refugee's state of origin.[15] It is no more than a necessary means to a human rights end, that being the preservation of the human dignity of an involuntary migrant when his or her country of origin cannot or will not meet that responsibility. In pith and substance, refugee law is not immigration law at all, but is rather a system for the surrogate or substitute protection of human rights.

Despite its obvious relevance and widespread ratification,[16] the Refugee Convention has only rarely been understood to be the primary point of reference when the well-being of refugees is threatened. In particular, there has too often been a tendency simply to invoke non-binding UNHCR or other institutional policy positions. When legal standards are brought to bear, there appears to have been a tacit assumption that whatever concerns refugees face can (and should) be addressed by reliance on the more recently evolved general system for the international protection of human rights.[17]

[14] *Minister for Immigration and Multicultural Affairs v. Khawar*, [2002] HCA 14 (Aus. HC, Apr. 11, 2002), per Kirby J. See also *Applicant "A" and Ano'r v. Minister for Immigration and Multicultural Affairs*, (1997) 190 CLR 225 (Aus. HC, Feb. 24, 1997), per Kirby J. at 296–297, holding that the term "refugee" is "to be understood as written against the background of international human rights law, including as reflected or expressed in the Universal Declaration of Human Rights (esp. Arts. 3, 5, and 16) and the International Covenant on Civil and Political Rights (esp. Arts. 7, 23)."

[15] See chapter 4.1 below.

[16] As of October 1, 2004, 145 states were a party to either the Refugee Convention or Refugee Protocol. Madagascar, Monaco, Namibia, and St. Kitts and Nevis were a party only to the Convention; Cape Verde, the United States of America, and Venezuela were a party only to the Protocol: UNHCR, www.unhcr.ch (accessed Nov. 19, 2004).

[17] "In traditional international law, the 'responsibility of States for damage done in their territory to the person or property of foreigners' frequently appears closely bound up with two great doctrines or principles: the so-called 'international standard of justice', and the principle of the equality of nationals and aliens . . . What was formerly the object of these two principles – the protection of the person and his property – is now intended to be

It is, of course, true that all persons are today understood to possess legally defined human rights worthy of official validation across time and societies. States acknowledge in principle that they may not invoke raw power, sovereign political authority, or cultural diversity to rationalize failure to ensure the basic rights of persons subject to their jurisdiction – including refugees.[18] The range of international human rights instruments is moreover indisputably vast, and growing. Yet, more than half a century after inauguration of the United Nations system of international human rights law, we must concede that there are only minimal legal tools for the imposition of genuine and truly universal state accountability. The adjustment to an understanding of human rights law conceived outside the political processes of individual nation-states has required a painstaking process of reconciling divergent values and political priorities, which is far from complete. Instead of a universal and comprehensive system of human rights law, the present reality is instead a patchwork of standards of varying reach, implemented through mechanisms that range from the purely facilitative to the modestly coercive.[19] Despite all of its successes, the human rights undertaking is very much a work in progress, with real achievements in some areas, and comparatively little in others.

This fragmentary quality of international human rights law has too often been ignored by scholars and advocates. In a perhaps unconscious drive to will the universal human rights project to early completion, there has been a propensity to overstate the authentic reach of legal norms by downplaying, or even recasting, the often demanding standards which govern the recognition of principles as matters of international law. In the result, there is now a troubling disjuncture between law as declared and law recognized as a meaningful constraint on the exercise of state authority.

The view advanced here, in contrast, is that the protection of refugees is better pursued by the invocation of standards of indisputable legal authority,

accomplished by the international recognition of the essential rights of man. Under this new legal doctrine, the distinction between nationals and aliens no longer has any *raison d'être*, so that both in theory and in practice these two traditional principles are henceforth inapplicable. In effect, both of these principles appear to have been outgrown by contemporary international law": F. V. Garcia Amador et al., *Recent Codification of the Law of State Responsibility for Injuries to Aliens* (1974), at 1.

[18] Belgium at one point proposed incorporation in the Refugee Convention of at least Arts. 18 and 19 of the Universal Declaration of Human Rights. The proposal was defeated because of agreement with the views of the British representative "that a convention relating to refugees could not include an outline of all the articles of the Universal Declaration of Human Rights; furthermore, by its universal character, the Declaration applied to all human groups without exception, and it was pointless to specify that its provisions applied also to refugees": Statement of Sir Leslie Brass of the United Kingdom, UN Doc. E/AC.32/SR.11, Jan. 25, 1950, at 8.

[19] See generally P. Alston and J. Crawford eds., *The Future of UN Human Rights Treaty Monitoring* (2000).

and in particular by reliance on widely ratified treaty law. This study therefore seeks clearly to adumbrate, in both theoretical and applied terms, the authentic scope of the international legal rights which refugees can bring to bear in states of asylum. This approach is based on a firm belief that the creative synthesis of imperfect norms and mechanisms is the best means of pursuing meaningful state accountability in the present legal context, and that the international refugee rights regime provides an important, and thus far insufficiently exploited, opportunity to advance this goal.

In light of this purpose, this book does not address other than incidentally a variety of related issues. Most obviously, it is not a study of the refugee definition.[20] Neither does it seek to explain the work of the institutions charged with the protection of refugees at the domestic or international levels,[21] or the ways in which the refugee protection regime as a whole could be more effectively configured.[22]

Nor does this book present a detailed analysis of the full range of highly specialized human rights treaties established by the United Nations and regional bodies. This decision to avoid canvassing all potentially pertinent international human rights was not taken lightly, since it is clearly correct that particular refugees also benefit incidentally from the protection of specialized branches of international human rights law. Refugees who are members of other internationally protected groups, such as racial minorities, women, and children, may avail themselves of specialized treaty rights in most states.[23] Other refugees will be entitled to claim rights and remedies in consequence of their reasons for flight, a matter of particular importance to those who have escaped from war.[24] Still other refugees will be received in parts of the world

[20] The scope of the Convention refugee definition is discussed in detail in Hathaway, *Refugee Status*; in relevant portions of Goodwin-Gill, *Refugee in International Law*, at 32–79; and in A. Grahl-Madsen, *The Status of Refugees in International Law* (vol. I, 1966), at 142–304. Particularly influential analyses of the domestic interpretation of the Convention refugee definition include D. Anker, *The Law of Asylum in the United States* (1999); W. Kälin, *Grundriss des Asylverfahrens* (1990); and F. Tiberghien, *La protection des réfugiés en France* (1999).

[21] On this issue, see in particular G. Loescher, *The UNHCR and World Politics: A Perilous Path* (2001); and A. Helton, *The Price of Indifference: Refugees and Humanitarian Action in the New Century* (2002).

[22] See J. Hathaway ed., *Reconceiving International Refugee Law* (1997).

[23] Of particular importance are the International Convention on the Elimination of All Forms of Racial Discrimination, UNGA Res. 2106A(XX), adopted Dec. 21, 1965, entered into force Jan. 4, 1969; the Convention on the Elimination of All Forms of Discrimination against Women, UNGA Res. 34/180, adopted Dec. 18, 1979, entered into force Sept. 3, 1981; and the Convention on the Rights of the Child, UNGA Res. 44/25, adopted Nov. 20, 1989, entered into force Sept. 2, 1990.

[24] See e.g. T. Meron, *Human Rights and Humanitarian Norms as Customary Law* (1989), at 3–78.

that have adopted regional human rights conventions now clearly understood to embrace non-nationals, in particular the European Convention for the Protection of Human Rights and Fundamental Freedoms,[25] or in which there is a transnational human rights regime specifically designed to assist refugees, as in the case of the regional refugee convention adopted in 1969 by the Organization of African Unity.[26]

The decision not to engage in depth with the full range of regional and specialized human rights norms in no way reflects a view that these standards are not of real importance to refugees. They are not, however, standards that apply universally to all refugees: only a subset of refugees are women, or children, or members of racial minorities. An even smaller percentage of refugees can claim the protection of any one of the regional human rights or refugee treaties. Because of the specialized nature of these accords, they cannot reasonably be invoked in aid of the goal of this study, that being to define the common core of human rights entitlements that inhere in *all* refugees, in all parts of the world, simply by virtue of being refugees. This more foundational, and hence more limited, enterprise is designed to elaborate the common *corpus* of refugee rights which can be asserted by refugees in any state party to the Refugee Convention or Protocol, whatever the refugee's specific identity or circumstances. The hope is that others will build upon this basic analysis to define the entitlements of sub-groups of the refugee population entitled to claim additional protections.

One critical deviation from the commitment to this fairly strictly defined analytical focus has, however, been made. The rights regime presented here is the result of an effort to synthesize the entitlements derived from conventional refugee law with those rights codified in the two foundational treaties of the international human rights system, the International Covenant on Civil and Political Rights and its companion International Covenant on Economic, Social and Cultural Rights.[27] The specificity of analysis has been compromised in this way partly because it is clear that a treatment of refugee law which takes no account whatever of more general human rights norms would clearly present an artificially narrow view of the human rights of refugees. More specifically, though, this analytical synthesis was necessary in order to present an interpretation of the Refugee Convention which complies with the view, set out below, that the alignment of refugee law

[25] 213 UNTS 221, done Nov. 4, 1950, entered into force Sept. 3, 1953.
[26] Convention governing the Specific Aspects of Refugee Problems in Africa, 10011 UNTS 14691, done Sept. 10, 1969, entered into force June 20, 1974, at Arts. II–VI.
[27] International Covenant on Civil and Political Rights, UNGA Res. 2200A(XXI), adopted Dec. 16, 1966, entered into force Mar. 23, 1976 (Civil and Political Covenant); International Covenant on Economic, Social and Cultural Rights, UNGA Res. 2200A(XXI), adopted Dec. 16, 1966, entered into force Jan. 3, 1976 (Economic, Social and Cultural Covenant).

with international human rights law is required by the duty to interpret the Refugee Convention in context, and taking real account of its object and purpose.[28]

The specific decision to present a merged analysis of refugees' rights and of rights grounded in the two Human Rights Covenants is moreover defensible in view of the unique interrelationships between these particular treaties and refugee law.[29] At a formal level, more than 95 percent of the state parties to the Refugee Convention or Protocol have also signed or ratified both of the Human Rights Covenants.[30] Even more important, about 86 percent of the world's refugees reside in states which have signed or ratified the two Covenants on Human Rights, more even than the 68 percent who reside in a state party to the Refugee Convention or Protocol.[31] As such, both in principle and in practice, refugee rights will in the overwhelming majority of cases consist of an amalgam of principles drawn from both refugee law and the Covenants. Second, and of particular importance, the Covenants and the Refugee Convention aspire to comparable breadth of protection, and set consistently overlapping guarantees. As will be clear from the analysis

[28] See chapter 1.3.3 below.

[29] In principle, it would also have made sense to incorporate analysis of rights that are universally binding as authentic customary norms or general principles of law since, to the extent such standards inhere in all persons, refugees are clearly entitled to claim them. But because only protection from systemic racial discrimination is clearly so defined (see chapter 1.2 below) – and since that right is already included in the more general duty of non-discrimination set by the Civil and Political Covenant – the focus here is limited to the cognate rights stated in the two Human Rights Covenants.

[30] Of the 145 state parties to the Refugee Convention, only eight have not signed or ratified either of the Human Rights Covenants: Antigua and Barbuda, Bahamas, Fiji, Holy See, Mauritania, Papua New Guinea, St. Kitts and Nevis, and Tuvalu. Three have signed or ratified only the International Covenant on Civil and Political Rights: Botswana, Haiti, and Mozambique. One state party to the Refugee Convention has signed or ratified only the International Covenant on Economic, Social and Cultural Rights: Solomon Islands: United Nations High Commissioner for Human Rights (UNHCHR), www.unhchr.ch (accessed Nov. 19, 2004).

[31] Of the Dec. 31, 2003 world refugee population of 11,852,900, 86 percent (10,289,700) were residing in a state that has signed or ratified the International Covenant on Civil and Political Rights and 86 percent (10,269,200) were residing in a state that has signed or ratified the International Covenant on Economic, Social and Cultural Rights. In contrast, only 8,148,200 refugees – 68 percent of the total refugee population – resided in a state party to the Refugee Convention or Protocol. These figures are derived from statistics in US Committee for Refugees, *World Refugee Survey 2004* (2004), at 4–5; UNHCHR, www.unhchr.ch (accessed Nov. 19, 2004); and UNHCR, www.unhcr.ch (accessed Nov. 19, 2004). Most rights in the Covenants are granted to all persons physically present in the territory, including refugees, although less developed countries are afforded some latitude in deciding the extent to which economic rights will be extended to non-nationals: Civil and Political Covenant, at Art. 2(1), and Economic, Social and Cultural Covenant, at Art. 2(2)–(3).

below, even when refugee law is the source of a stronger or more contextualized form of protection on a given issue, it is usually the case that the Covenants contribute in some way to the clarification of the relevant responsibilities of states.

In conceiving this work, an effort has been made to be attentive to the central importance of facts. Because a work of scholarship on refugee law seems more likely to be of value if it does not restrict itself simply to the elucidation of legal norms in abstract terms, the treatment of each right in this book begins with an overview of relevant protection challenges in different parts of the world. Some cases present the current reality faced by refugees; others highlight important protection challenges in the recent past. An effort has also been made to include examples from all parts of the world, and impacting diverse refugee populations. The analysis that follows seeks to engage with these practical dilemmas, and to suggest how refugee law should guide their resolution. This approach reflects a strong commitment to the importance of testing the theoretical analysis of human rights standards against the hard facts of protection dilemmas on the ground. The hope is that by taking this approach, the reliability of the analysis presented here is strengthened, and the normative implications of the study are made more clear.

The opening chapter of the book presents an analysis of the fundamental background question of the sources of international law, with a focus on how principles about the sources of law should be applied to identify human rights of genuinely universal authority. This analysis is based upon a theory of modern positivism, which accepts that international law is most sensibly understood as a system of rules agreed to by states, intended to govern the conduct of states, and ultimately enforced in line with the will of states. The theory of international law embraced here is thus in a very real sense a conservative one, predicated on a rigorous construction of the sources of law. Drawing on this theoretical approach, the study identifies those universal rights of particular value to refugees, even as it explains why the rights of refugees are for the most part best defended not by reference to universal custom or general principles of law, but rather by reliance on clear duties codified in treaty law.

Because of this study's primary commitment to reliance on treaty law, chapter 1 concludes with an overview of the approach taken throughout the study to the interpretation of treaties, with specific reference to the construction of the treaties at the heart of this study, the Refugee Convention and Protocol, and the two Human Rights Covenants. It is suggested that there are powerful reasons to defer neither to literalism nor to state practice in discerning the true meaning of these accords. To the contrary, it is both legally correct and more substantively productive to construe the text of refugee and other human rights treaties in the light of their context, objects and purposes as discerned, in particular, from careful study of their drafting history. Equally important, the interpretations of cognate rights rendered by United