

Index

- access to institutional asylum protections, 209–30
 - capacity, institutional, 222–6, 229
 - in extraterritorial situations, 213–17, 227
 - global surveillance and data collection, 209
 - isolation of asylum-seekers, 212
 - monitoring and knowledge-gathering problems, 216–17, 222–6, 227
 - ‘out of sight, out of mind’ effect of offshored and outsourced controls, 211–13, 228, 240–2
 - privatised migration controls and, 217–22, 227
 - wider effects of loss of, 236
- accountability, 229–30
 - extraterritorialisation as means of avoiding, 147
 - instrumentalisation of sovereignty norms to avoid, 239–40
- international refugee and human rights law
 - applicability of. *See under* international refugee and human rights law
 - influence on state behaviour, 242–4
- private actors, state responsibility for. *See under* privatisation of migration control
- privatisation and, 36, 41–2, 168, 207, 217–22
- ACLU (American Civil Liberties Union), 221
- ACM (Australasian Correctional Management), 220
- African Commission on Human and Peoples’ Rights, 213
- Agamben, Giorgio, 228
- airports and airlines. *See* ports and airports
- Albania, 123, 196
- Algeria, 136
- Alston, P., 207
- American Civil Liberties Union (ACLU), 221
- American Convention on Human Rights (1969), 87, 102
- Amnesty International, 216
- Articles on State Responsibility, ILC. *See under* International Law Commission
- Ashmore Islands, 141
- asylum, 1–10
 - access to institutional protections. *See* access to institutional asylum protections
 - extraterritorial control over. *See* extraterritorial migration control
 - globalisation of control over. *See* globalisation of migration control
 - mixed flows of irregular immigrants, bona fide refugees caught up with, 14
 - non-territorial extension of responsibility for, 26–7, 34
 - privatisation of control over. *See* privatisation of migration control
 - protection safeguards, need for, 234–6
 - state, defining encounter of refugee with, 1–3, 231–2
 - state responsibility for, 3–5, 9, 232–6
 - tightening of restrictions on, 14–16
- Australasian Correctional Management (ACM), 220
- Australia
 - excision of territory as deregulated area by, 36, 116, 119
 - international waters, migration controls on, 120
 - isolation of asylum-seekers, 212
 - Nauru and Papua New Guinea, third-country arrangements with, 33, 34, 76, 77, 116

Cambridge University Press

978-1-107-00347-7 - Access to Asylum: International Refugee Law and the Globalisation of Migration Control

Thomas Gammeltoft-Hansen

Index

[More information](#)

INDEX 271

- non-refoulement* principle, interpretation of, 75–7, 80
- 'Pacific Solution', 36, 75–7, 80, 116, 119, 120, 230
- privatised migration controls, 161, 220
- Belgium, 49, 56–7
- Bethlehem, Daniel, 65, 88
- bilateral agreements and extraterritorial jurisdiction, 136–40
- biopolitics, Foucauldian notion of, 228
- Blackmun, Harry A., 57, 61, 90
- boat refugees, 142
- Bodin, Jean, 40
- Boeing surveillance systems for US–Mexican border (SBI Net), 2, 36, 161, 166, 187, 191
- Boetzelaer, Baron van (Dutch representative to Refugee Convention drafting), 50, 52, 57, 70
- Bohr, Niels, 247
- border control
- immigration officers posted at foreign ports, airports, and border areas, 1, 8, 103, 126, 127, 130–3
 - internal border checks within EU, carriers co-opted to perform, 37
 - Minutemen patrolling US–Mexico border, 36, 162, 199
 - non-refoulement* principle applicable to. *See under non-refoulement* principle
 - private installation of surveillance system along US–Mexico border (SBI Net), 2, 36, 161, 166, 187, 191
 - privatisation of, 161
 - Schengen framework for cross-border access by law enforcement agencies in EU, 106
- British Airways, 212
- British Library, Cotton Tiberius Map, 209–10
- Budafel incident, 142, 143
- buffer zones, jurisdictional responsibilities in, 123, 150
- Canary Islands, 33, 120, 121, 126, 215
- capacity, institutional, 222–6, 229
- Cape Verde, 126
- Caribbean states, US shiprider agreements with, 106
- carrier responsibilities. *See* ports and airports
- case law
- A. v. United Kingdom* (ECHR, 1998), 197
 - Al-Adsani v. United Kingdom* (ECHR, 2001), 202
 - Amuur v. France* (ECHR, 1996), 116, 117, 119
 - Andreou v. Turkey* (ECHR, 2008), 150
 - Assanidze v. Georgia* (ECHR, 2004), 119
 - Banković and Others v. Belgium and Others* (ECHR, 2001), 22, 108, 110, 128, 130, 132, 137, 150, 151, 157, 226, 234
 - Boumediene et al. v. Bush* (USC, 2008), 154
 - Brothers to the Rescue (Armando Alejandro Jr. and Others v. Cuba)* (IACHR, 1999), 122, 124, 125
 - Chahal v. the UK* (ECHR, 1996), 109
 - Coard et al. v. United States* (IACHR, 1999), 110
 - Corfu Channel* (ICJ, 1949), 196
 - Cyprus v. Turkey* (ECHR, 2001), 110, 127, 153, 198
 - Drozd and Janousek v. France and Spain* (ECHR, 1992), 109
 - Elmi v. Australia* (Committee against Torture, 1999), 199
 - Freda v. Italy* (ECHR, 1980), 111
 - Genocide case (Bosnia and Herzegovina v. Serbia and Montenegro)* (ICJ, 2007), 23, 175
 - Gentilhomme and Others v. France* (ECHR, 2002), 109
 - Hirsi and Others v. Italy* (ECHR, 2009), xi, 124
 - H.L.R. v. France* (ECHR, 1997), 199
 - Ilascu and Others v. Moldova and Russia* (ECHR, 2004), 118, 119, 125, 151, 153, 190
 - Ilse Hess v. United Kingdom* (ECHR, 1975), 111
 - Isaak and Others v. Turkey* (ECHR, 2006), 122
 - Issa and Others v. Turkey* (ECHR, 2004), 127, 150, 226
 - Al-Jedda v. United Kingdom* (ECHR, 2008), xi
 - Kindler v. Canada* (UNHCR, 1993), 109
 - Las Palmas* (PCIJ, 1928), 13, 21
 - Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (ICJ, 2004), 110, 118, 203
 - Lilian Celiberti de Casariego v. Uruguay* (UNHCR, 1981), 111
 - Loizidou v. Turkey* (ECHR, 1996), 110, 153
 - López Burgos v. Uruguay* (UNHCR, 1979), 111, 124, 130, 133
 - Lotus* (PCIJ, 1927), 105, 106, 151
 - Marine I* (Committee against Torture, 2007), 129–30
 - Medvedev and Others v. France* (ECHR, 2008), 130, 155
 - N. v. Finland* (ECHR, 2005), 223

Cambridge University Press

978-1-107-00347-7 - Access to Asylum: International Refugee Law and the Globalisation of Migration Control

Thomas Gammeltoft-Hansen

Index

[More information](#)

272 INDEX

case law (*cont.*)

- Namibia (South West Africa)* (ICJ, 1971), 107, 110
- Ng v. Canada* (UNHCR, 1993), 109
- Nicaragua* (ICJ, 1986), 74, 188–91, 201
- Öcalan v. Turkey* (ECHR, 1993), 111, 124, 130, 133
- Osman v. United Kingdom* (ECHR, 1998), 196, 197
- Ramírez Sánchez v. France* (ECHR, 1996), 111
- Reinette v. France* (ECHR, 1989), 111
- R. (European Roma Rights Centre and Others) v. Immigration Officer at Prague Airport and Another* (UK, 2003, 2004), 93, 103, 131–3, 174
- Al-Saadoon and Mufdhi v. United Kingdom* (ECHR, 2010), 138
- Salas and Others v. United States* (IACHR, 1993), 110
- Sale v. Haitian Center Council* (US Supreme Court, 1993), 55–6, 57, 59, 60, 61, 72, 75, 77–9, 90, 122, 125, 245
- Siliadin v. France* (ECHR, 2005), 197
- Al-Skeini and Others v. United Kingdom* (ECHR, 2007), xi, 111, 128, 130, 133, 217
- Soering v. United Kingdom* (ECHR, 1989), 87, 109, 150, 198, 201, 203
- Stocke v. Germany* (ECHR, 1991), 111, 186, 187
- T. I. v. United Kingdom* (2000), 103, 154
- Tadić case* (ICTY, 1999), 190
- Trail Smelter (United States v. Canada)* (International Arbitral Tribunal, 1938), 201
- Velásquez Rodríguez v. Honduras* (IACHR, 1988), 196, 197
- W. M. v. Denmark* (ECHR, 1992), 134
- X. and Y. v. Switzerland* (ECHR, 1977), 109
- X. v. Federal Republic of Germany* (ECHR, 1965), 111
- Xhavara and Others v. Italy and Albania* (ECHR, 2001), 123, 124, 137, 138
- Z. v. United Kingdom* (ECHR, 2001), 197
- Cassel, D., 152
- Cayman Islands, 31
- Chicago Convention on Civil Aviation (1944), 37, 171, 183
- Child, Convention on the Rights of the (1989), 85, 92, 102
- Christmas Island, 116
- Civil and Political Rights, International Covenant on (1966). *See* International Covenant on Civil and Political Rights
- Cold War, 14

- commercial visa processing companies, 36, 163–4
- commercialisation of sovereignty, 12, 39–42
 - defined, 31–2
 - extraterritorial migration control as, 31–5
 - jurisdiction shopping, 32–5, 41
 - for non-migration purposes, 31, 35
 - privatisation of government functions, 35–8
 - privatisation of migration control as, 31–2, 35–8
- Committee against Torture, 129–30, 199
- confidentiality agreements required by private contractors, 220
- consulates and embassies
 - extraterritorial jurisdiction and, 133–5
 - individuals, jurisdiction over, 110–11
 - protected entry procedures at third-party embassies, 34
 - rights of refugees within a state's jurisdiction but outside its territory, 103
 - state, defining encounter of refugee with, 1–3
- Convention against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment (1984)
 - extraterritorial detention of migrants, 129–30
 - monitoring and knowledge-gathering mechanisms, 225
 - non-refoulement* principle, interpretation of, 86, 90, 91, 92, 95
 - Optional Protocol to, 221, 224
 - rights of refugees within a state's jurisdiction but outside its territory, 102
- Convention on Facilitation of International Maritime Traffic (1965), 184
- Convention on Maritime Search and Rescue (SAR, 1979), 142, 148
- Convention on the Rights of the Child (1989), 85, 92, 102
- Convention Relating to the International Status of Refugees (1933), 48, 83–4, 90, 91
- Convention Relating to the Status of Refugees (1951)
 - adequacy of, 3, 232
 - basis for establishing extraterritorial jurisdiction under, 9
 - de facto right of admission, explicit exclusion of, 63–4
 - due diligence requirements regarding private actors, 198, 207

Cambridge University Press

978-1-107-00347-7 - Access to Asylum: International Refugee Law and the Globalisation of Migration Control

Thomas Gammeltoft-Hansen

Index

[More information](#)

INDEX 273

- enforcement body, lack of, 222
- Haitian interdiction programme and, 122
- illegal entry or presence, refugee exemption from penalties for, 61
- non-refoulement* principle. *See non-refoulement* principle
- ports and airports covered by, 118
- rights of refugees within a state's jurisdiction but outside its territory, 101–4
- sovereign rights and international law, confrontation between, 11
- territorial variability of quality of protection and, 28–31
- territorially progressive nature of rights under, 28, 101–4
- violation of, privatisation and extraterritorialisation viewed as, 3
- corporate veil, piercing, 217–22
- Corrections Corporation of America, 162
- cost-efficiency of privatisation, 167, 168
- Cotton Tiberius Map, 209–10
- Council of Europe, 70, 72, 213, 226
- courts, asylum-seekers' access to, 217
- Craven, Matthew, 25, 153
- Cuba, 33, 34, 40, 115–16, 122
- Cuban Migration Agreement (1995), 115–16
- customary international law and *non-refoulement* principle, 88–9, 91
- Cyprus, 110, 123, 127, 153, 198
- Czech Republic, 131–3
- Davy, Ulrike, 57
- de facto right of admission, Refugee Convention (1951) explicitly excluding, 63–4
- de facto versus de jure jurisdiction (effective control test), 46, 107, 110, 118
- delegation of migration control. *See* privatisation of migration control
- Denmark, 29, 134, 215
- deregulation of territory. *See* excision of territory as deregulated area
- detention of migrants
 - extraterritorial jurisdiction over, 129–30
 - isolation of facilities and detainees, 212
 - privatisation of, 161, 221
- domestic law. *See* national or domestic law; sovereignty
- Dominican Republic, 137, 138
- Draft Convention on Territorial Asylum (1977), 69
- Dubai Ports World, 165
- due diligence obligations, 195–204, 206
- ECHR. *See* European Court of Human Rights
- economic approaches to globalisation of migration control, 6
- Economic, Social, and Cultural Rights, International Covenant on (1966), 90
- effective control test (de facto versus de jure jurisdiction), 46, 107, 110, 118
- effective realisation of refugee protections, 5, 10, 28–31
- effectiveness principle of interpretation, 96–9
- embassies. *See* consulates and embassies
- emigration. *See* asylum; migration control
- enforcement jurisdiction, 106
- EU. *See* European Union
- EU Fundamental Rights Agency, 213
- European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)
 - due diligence principle, 198, 203
 - non-refoulement* principle, interpretation of, 72, 82, 87, 91, 92, 95
 - ports and airports covered by, 118
 - practical applicability of, 226
 - practical limitations of extraterritorial jurisdiction and, 153
 - rights of refugees within a state's jurisdiction but outside its territory, 102, 129
 - visa requirements, 134
- European Council Carrier Liability Directive (2001), 172
- European Court of Human Rights (ECHR)
 - access of asylum-seekers to, 213
 - on assumption of territorial jurisdiction, 119
 - on bilateral agreements, 137
 - buffer zones, jurisdictional responsibilities in, 123
 - on de facto versus de jure jurisdiction, 118
 - due diligence principle, 196, 197–8
 - on extraterritorial jurisdiction, 109, 110, 130
 - functional approach of, 150
 - on international airport zones, 116, 117
 - international waters, migration controls in, 122, 124
 - on jurisdiction as concept, 108
 - monitoring and knowledge-gathering procedures, 223, 225
 - non-refoulement* principle, interpretation of, 83, 87, 91
 - on practical limitations of extraterritorial jurisdiction, 155

Cambridge University Press

978-1-107-00347-7 - Access to Asylum: International Refugee Law and the Globalisation of Migration Control

Thomas Gammeltoft-Hansen

Index

[More information](#)

274 INDEX

- European Court of Human Rights (ECHR) (*cont.*)
 - private actors, state responsibility for, 186, 190
 - third-country arrangements, 127
- European Union (EU). *See under* specific member countries
 - Asylum Procedures Directive, 119
 - commercial visa processing companies, 163
 - common asylum and immigration policy, 2
 - Frontex, 121, 126, 137, 138, 215, 217, 239
 - functional approach to jurisdiction in, 151, 152
 - HERA operations, 33
 - internal border checks, carriers co-opted to perform, 37
 - international waters
 - migration controls exercised on, 120–1
 - third-country territorial waters, efforts to move migration controls into, 8
 - labour immigration regimes in, 14
 - non-refoulement* principle, interpretation of, 74, 79–80
 - privatisation issues, 165, 171, 183
 - Schengen Convention, 106, 171, 183
 - third-country arrangements, 1, 2, 34, 126, 129
 - visa requirements, 133
- excision of territory as deregulated area, 115–20
 - application of concept of jurisdiction to, 145
- Australia's 'Pacific Solution', 36, 116, 119
- international maritime law, territorial waters in, 117
- jurisdiction bifurcation, 120
- jurisdiction shopping, 32–5, 41, 120
- ports and airports, 116, 117
- purpose of, 147
- US wet-foot, dry-foot policy for Cuban asylum-seekers, 115–16
- extraterritorial migration control, 1–3, 100–57
 - access to institutional asylum protections and, 213–17, 227
 - accountability, as means of avoiding, 147
 - bilateral agreements and, 136–40
 - as commercialisation of sovereignty, 31–5
 - consulates and embassies, 133–5
 - de facto versus de jure jurisdiction (effective control test), 46, 107, 110, 118
 - defined, 15
 - different frameworks for understanding, 6–8
 - domestic court investigation of, 217
 - double standard of jurisprudence regarding, 145–9
 - economic and political explanations of trend toward, 6
 - enforcement jurisdiction, 106
 - in excised territory. *See* excision of territory as deregulated area
 - functional approach to, 101, 149–57
 - human smuggling and trafficking, 136
 - individuals, jurisdiction over, 110–11, 127–30, 146, 152
 - international refugee and human rights law
 - applicability of, 3–5, 9, 232–6
 - basis of extraterritorial jurisdiction in general human rights law, 107–12
 - basis of extraterritorial jurisdiction in public international law, 104–7
 - effective realisation of, 5
 - facilitation and management of migration control by, 20
 - in international waters. *See* international waters, migration controls in
 - intersection of law and politics, operating in, 8, 37, 39–41
 - jurisdiction, migration control viewed as matter of, 100–1
 - jurisdiction shopping, 32–5, 147, 149
 - larger trend towards offshoring, as part of, 17
 - legal vacuum, efforts to avoid, 145–9
 - legality issues, 234
 - methodological approach to, 112–14
 - multiple non-exclusive jurisdictions, 155–7
 - non-refoulement* principle, reach of, 17, 232, 238. *See under non-refoulement principle*
 - 'out of sight, out of mind' effect of, 211–13, 228, 240–2
 - ports and airports. *See* ports and airports
 - practical limitations of, 152–5
 - prescriptive jurisdiction, 105
 - privatisation of, 163, 192–5, 200–2, 206
 - rescues at sea, 140–5, 148
 - rights of refugees within a state's jurisdiction but outside its territory, 101–4
 - state responsibility for, 3–5, 232–6

Cambridge University Press

978-1-107-00347-7 - Access to Asylum: International Refugee Law and the Globalisation of Migration Control

Thomas Gammeltoft-Hansen

Index

[More information](#)

INDEX 275

- third-country arrangements. *See* third-country arrangements
- violation of Refugee Convention, viewed as, 3
- visa requirements, 133–5
- wider effects of, 236
- Florida Keys, 115, 141
- Foucalt, Michel, 228
- France
 - carrier sanctions, 172
 - due diligence principle, 197
 - excision of international airport zone as deregulated area by, 116, 117
 - international waters, migration controls on, 120, 130, 155
 - juxtaposed controls scheme, Anglo-French, 126, 127, 163, 182, 193
 - New Hebrides, Anglo-French condominium over, 152
 - refouler* as legal term in, 56–7
 - Refugee Convention (1951), drafting of, 48
- French Huguenots, as refugees, 12
- Friedmann, Wolfgang, 37
- Frontex, 121, 126, 137, 138, 215, 217, 239
- functional approach to jurisdiction, 101, 149–57
- Genocide Convention (UN Convention on the Prevention and Punishment of the Crime of Genocide, 1948), 66, 90
- Geo Group, 162
- geographical scope
 - jurisdiction. *See* jurisdiction
 - of *non-refoulement* principle. *See non-refoulement* principle
 - non-refoulement* principle
 - sovereignty. *See* sovereignty
 - territory. *See* territory
- German Democratic Republic, 134
- Germany, Federal Republic of, 79, 99, 172
- Ghana, 35, 41
- global surveillance and data collection, 209
- globalisation of migration control, 10, 11–43
 - commercialisation of sovereignty, *via. See* commercialisation of sovereignty
 - different frameworks for understanding, 6–8
 - international refugee and human rights law
 - as means of escaping constraints of, 7–8, 11–12
 - problems related to, 20–4
 - as reason for expanding reach of, 19
 - jurisdiction shopping, 32–5
 - non-territorial extension of refugee responsibilities, 26–7, 34
 - ‘retreat of the state’, as sign of, 17–20
 - sovereignty rights and. *See* sovereignty
 - territoriality, principle of, 21–2, 24–31, 39–41
- good faith principle of interpretation, 97
- Goodwin-Gill, Guy, 11, 13, 75, 94, 131
- government. *See* state
- Grahl-Madsen, Atle, 51, 57, 58, 62–3, 228
- Greece, 120, 211
- Group 4 Securicor, 161, 162, 220
- Guantánamo Bay, US lease of, 33, 34, 40
- Guantánamo detainees, habeas corpus rights of, 154, 217, 230
- habeas corpus rights of Guantánamo detainees, 154, 217, 230
- Haitian interdiction programme
 - access of asylum-seekers to refugee referral mechanism, 216
 - individuals, jurisdictional control over, 129
 - international waters, migration controls on, 120, 122
 - non-refoulement* principle, interpretation of, 45, 78
- Haliburton, 162
- Hathaway, James, 81
- Henkin, Louis, 48, 60
- HERA operations, 33, 121, 137, 138
- high seas. *See* international waters, migration controls in
- Honduras, 196, 197
- Huguenots, as refugees from France, 12
- Human Rights Committee, UN (UNHRC)
 - access of asylum seekers to, 213–17
 - co-operative arrangements sought by, 235
 - global burden of refugee protection, extension of, 27
 - non-refoulement* principle
 - as customary international law, 88–9
 - interpretation of, 47, 69, 70–2, 75, 91, 95, 238
 - on primacy of territorial jurisdiction, 156
 - on privatisation of migration controls, 170, 174
 - on SAR situations, 145
- human rights law, international. *See* international refugee and human rights law
- human smuggling and trafficking, 136

Cambridge University Press

978-1-107-00347-7 - Access to Asylum: International Refugee Law and the Globalisation of Migration Control

Thomas Gammeltoft-Hansen

Index

[More information](#)

276 INDEX

- ICJ. *See* International Court of Justice
- ICTY (International Criminal Tribunal for the former Yugoslavia), 190
- ILC. *See* International Law Commission
- illegal entry or presence, refugee exemption from penalties for, 61
- immigration. *See* asylum; migration control
- immigration officers posted at foreign ports, airports, and border areas, 1, 8, 103, 126, 127, 130–3
- individuals, jurisdiction over, 110–11, 127–30, 146, 152
- institutional asylum mechanisms, access to. *See* access to institutional asylum protections
- instrumentalisation of sovereignty norms to avoid protection obligations, 239–40
- Inter-American Court/Commission on Human Rights
access of asylum-seekers to, 213
due diligence principle, 196, 197
international waters, migration controls in, 122, 124, 152
non-refoulement principle, interpretation of, 72, 95
- International Arbitral Tribunal, 201
- International Convention for the Safety of Life at Sea (SOLAS; 1974), 141, 142, 148
- International Convention on the Elimination of All Forms of Racial Discrimination (1965), 90
- International Court of Justice (ICJ)
on assumption of territorial jurisdiction, 118
on de facto jurisdiction, 107
on due diligence principle, 196, 203
Genocide Convention, advisory opinion on reservations to, 66
non-refoulement principle, interpretation of, 83, 85
on private conduct authorised, directed, or controlled by state, 188–91
- International Covenant on Civil and Political Rights (1966)
immigration officers posted to foreign territories, 132
monitoring and knowledge gathering mechanisms, 225
non-refoulement principle, interpretation of, 82, 84–5, 91, 92, 95
practical limitations of extraterritorial jurisdiction and, 153
right to leave home country under, 103, 174
- rights of refugees within a state's jurisdiction but outside its territory, 102
- International Covenant on Economic, Social, and Cultural Rights (1966), 90
- International Criminal Tribunal for the former Yugoslavia (ICTY), 190
- international institutional asylum mechanisms, access to. *See* access to institutional asylum protections
- International Law Commission (ILC)
Articles on State Responsibility, 9
extraterritorial jurisdiction, 140
human rights and, 179
privatisation, 158, 177, 179–85, 186–9, 191, 204, 205, 206, 208
on enforcement jurisdiction, 106
- international maritime law
Convention on Facilitation of International Maritime Traffic (1965), 184
SAR Convention (1979), 142, 148
SAR regime, 140–5, 148
SOLAS Convention (1974), 141, 142, 148
territorial waters under, 117
UNCLOS (1994), 141
- International Maritime Organisation,
Maritime Safety Committee, 142, 144
- international refugee and human rights law
applicability of, 232–6
challenges to, 237–9
in extraterritorial situations, 3, 9
limitations and gaps in, 237–42
in private control situations, 4, 9
effective realisation of, 5, 10
- extraterritorial migration control under.
See under extraterritorial migration control
- facilitation and management of migration control by, 20
- globalisation of migration control. *See under* globalisation of migration control
- human versus state values, human rights as expressive of, 24
- influence on state behaviour, 242–4
- intersection of law and politics,
privatisation and
extraterritorialisation operating at, 8, 37, 39–41
- methodological approach to, 112–14
- non-refoulement* principle in instruments other than 1951 Refugee Convention.
See under non-refoulement principle

Cambridge University Press

978-1-107-00347-7 - Access to Asylum: International Refugee Law and the Globalisation of Migration Control

Thomas Gammeltoft-Hansen

Index

[More information](#)

INDEX 277

- non-territorial extension of refugee responsibilities, 26–7
- privatisation and. *See under* privatisation of migration control
- refugees within jurisdiction but outside territory, 101–4
- relationship between refugee and human rights regimes, 25–6
- sollen* and *sein* (normative ideal and positive legal force), tension between, 244–5
- sovereign rights, confrontation with, 11, 245–8
- state responsibility for, 3–5
- territoriality, principle of, 21–2, 24–31, 39–41
- universalist claims of, tensions between sovereign/territorial jurisdiction and, 111
- international search and rescue (SAR) regime, 140–5, 148
- international waters, migration controls in, 120–5
 - application of concept of jurisdiction to, 145
 - bilateral agreements, 136–40
 - EU efforts to move migration controls into third-country territorial waters from, 8
 - functional approach to, 124–5, 152
 - human smuggling and trafficking, 136
 - jurisdiction shopping, 32
 - purpose of, 148
 - rescues at sea, 140–5, 148
 - state, defining encounter of refugee with, 1
 - third-country territorial waters cases distinguished, 114
- interpretation of *non-refoulement* principle. *See non-refoulement* principle
- interstate co-operation, private intermediaries of, 166, 192
- invisibility of offshored and outsourced controls, 211–13, 228, 240–2
- Iraq, 127, 138
- Ireland, 172
- Israel, 2, 36, 48, 161, 187
- Italy
 - Albania, Otranto tragedy and third-country arrangement with, 123, 137
 - carrier sanctions, 172
 - international waters, migration controls on, 120, 123
 - isolation of asylum-seekers, 212, 213
 - Lampedusa, 121, 141, 212, 213
 - Libya, third-country arrangement with, 33, 120, 139
- jurisdiction
 - assumption of territorial jurisdiction, 118
 - de facto versus de jure, 107, 110, 118
 - defined, 104
 - enforcement, 106
 - as exclusive, 151
 - extraterritorial. *See* extraterritorial migration control
 - functional approach to, 101, 149–57
 - methodological approach to, 112–14
 - migration control activities viewed as product of, 100–1
 - multiple and non-exclusive, 155–7
 - non-refoulement* principle and. *See under non-refoulement* principle
 - prescriptive, 105
 - private actors, extraterritorial acts of, 192–5
 - rights of refugees within jurisdiction but outside territory, 101–4
 - territorial, primacy of, 156
 - territoriality, relationship to, 22, 104
 - as total, 151–2
- jurisdiction bifurcation, 120
- jurisdiction shopping, 32–5, 41, 120, 147, 149
- juxtaposed controls scheme, Anglo-French, 126, 127, 163, 182, 193
- Kant, Immanuel, 24
- Kármán line, 21
- KLM, 172
- knowledge gathering and monitoring by public/international institutions, 216–17, 222–6, 227
- Koh, Harold, 122
- Krasner, Stephen D., 39
- labour market
 - Denmark, work rights of refugees in, 29
 - EU, changing immigration regimes in, 14
- Lampedusa, 121, 141, 212, 213
- Larsen, Knud, 51
- Lauterpacht, Elihu, 65, 88
- Lauterpacht, Hersch, 66, 96, 97
- law of the sea. *See* international maritime law
- Lawson, Rick, 203
- Liberia, 31

Cambridge University Press

978-1-107-00347-7 - Access to Asylum: International Refugee Law and the Globalisation of Migration Control

Thomas Gammeltoft-Hansen

Index

[More information](#)

278 INDEX

Libya

- international waters, interception of migrants in, 120, 121
- SAR protocols, 142, 145
- smuggled migrants, return of, 136
- third-country arrangements, 1, 33, 35, 120, 139

Malta, 121, 142, 144, 145

maritime migration controls

- in international waters. *See* international maritime law; international waters, migration controls in
- in territorial waters. *See* territorial waters

Maritime Safety Committee, International Maritime Organisation, 142, 144

Mauritanian waters, 33, 35, 126, 137, 138, 217

McAdam, J., 11

Meron, Theodor, 89, 245

Mexico, US border with

- Minutemen patrolling, 36, 162, 199
- private installation of surveillance system along (SBINet), 2, 36, 161, 166, 187, 191

migration control

- complete control, impossibility of, 18
- detention. *See* detention of migrants
- extraterritorial. *See* extraterritorial migration control
- functional approach to, 101
- jurisdictional approach to, 100–1. *See* *under* jurisdiction
- privatisation of. *See* privatisation of migration control
- right to leave country of origin, 103, 147, 174
- territorial approach to. *See* territory

Minderhoud, Paul, 168, 189

Minutemen, 36, 162, 199

Modiin Ezrahi, 161

Moldova, 118

monitoring and knowledge gathering by public/international institutions, 216–17, 222–6, 227

Montreux document, 203

Morgenthau, Hans, 39

Morocco, 1, 129

multiple non-exclusive jurisdictions, 155–7

Myanmar, 211

national or domestic law. *See under* sovereignty

- courts, asylum-seekers' access to, 217
- defined, 182

public and private, distinction between, 22–3, 39

territoriality, principle of, 21–2

Nauru, 33, 34, 76, 77, 116

NAUTILUS operations, 121

Netherlands

carrier sanctions, 172

private conduct authorised, directed or controlled by state, 189

Refugee Convention (1951), drafting of, 50, 52, 57, 70

New Hebrides, Anglo-French condominium over, 152

Newtonian physics and quantum mechanics, 247

NGOs (non-governmental organisations), access of asylum seekers to, 213–17

Nicholson, Frances, 164

Noll, Gregor, 68, 85, 134, 228

non-binding resolutions (soft law) on

non-refoulement principle, 68–72, 80

non-governmental organisations (NGOs), access of asylum seekers to, 213–17

non-refoulement principle, 9, 44–99

applicability to extraterritorial or private actions, 17, 232, 238

'blank cheque' for migrants, viewed as, 15

border situations, interpreted as applicable to, 45

American Convention on Human Rights (1969), 87

defining border or frontier for

purposes of, 93–4

OAU Convention on Refugees (1969), 86

refouler as term in French and Belgian law, 56–7

in Refugee Convention of 1933, 83–4, 91

in soft law, 69–70, 80

in state practice, 74–5, 80

telos or purpose of Convention and, 59–61

challenges to applicability of, 238

conclusions regarding, 94–6

country of origin of asylum-seeker,

applicability within, 46, 58, 93

de facto right of admission, explicit exclusion of, 63–4

defined, 14

different interpretations of, 45–7, 93–4

drafting history of Refugee Convention (1951) on, 47–53, 95

ad hoc committee, 47–50, 60, 64

Cambridge University Press

978-1-107-00347-7 - Access to Asylum: International Refugee Law and the Globalisation of Migration Control

Thomas Gammeltoft-Hansen

Index

[More information](#)

INDEX 279

- Conference of Plenipotentiaries, 48, 50–1
- conflicting interpretations of
 - Conference and committee, 51–3
 - refouler*, special use of, 56
- effectiveness principle of interpretation, 96–9
- good faith principle of interpretation, 97
- in international law and human rights instruments, 68, 81–93
- conclusions regarding, 91–3, 95
- Convention against Torture (1984), 86, 90, 91, 92, 95
- Convention on the Rights of the Child (1989), 85, 92
- customary international law, 88–9, 91
- European Convention on Human Rights (1950), 72, 82, 87, 91, 92, 95
- International Covenant on Civil and Political Rights (1966), 82, 84–5, 91, 92, 95
- jurisdiction as standard scope of application, 89–91
- OAU Convention on Refugees (1969), 86, 92
- Refugee Convention of 1933, 48, 83–4, 90, 91
- significance for interpretation of 1951 Refugee Convention, 82–3
- jurisdiction of acting state, interpreted as applicable to, 46
 - in American Convention on Human Rights (1969), 87
 - in Convention against Torture (1984), 86
 - in Convention on the Rights of the Child (1989), 85
- effectiveness principle supporting, 98
- in European Convention on Human Rights (1950), 87
- in International Convention on Civil and Political Rights (1966), 84–5
- international legal norms supporting, 91–3, 95
- in soft law, 70–2
- standard scope of application in international law, 89–91
- language of 1951 Refugee Convention Article 33 on, 53–9
- Article 33(2), 55–6
- conclusions regarding, 58–9, 67–8, 95
- explicit territorial conditions, lack of, 54–5
- full text of, 44
- ‘in any matter whatsoever’, 53–4
- refouler* as term in French and Belgian law, 56–7
- ‘to the frontiers of territories’, 57–8
- practical applicability of, 100–1
- presumptive nature of, 27
- privatisation of migration control and, 17, 174
- soft law (non-binding resolutions) on, 68–72, 80
- sovereignty
 - interpretation of principle and, 64, 65–7
 - principle as constraint on, 14
- state practice regarding, 68, 72–81, 95–6
- telos* or purpose of Refugee Convention (1951) regarding, 59–67
- conclusions regarding, 68
- general presumptions underlying, 65–7
- wider interpretation, arguments against, 62–5
- wider interpretation, arguments in favour of, 59–61
- territoriality principle and, 27–8, 41
- territory of acting state, interpreted as applicable solely within, 45
 - Conference of Plenipotentiaries sessions suggesting, 51
 - language of Article 33(2) suggesting, 55–6
 - in state practice, 74–5, 77–9, 80
 - telos* or purpose of Convention and, 62–5
- to where refugee may be returned, interpreted as only applicable to, 46
- ad hoc committee sessions suggesting, 51
- ‘in any matter whatsoever’ language, 53–4
- ‘to the frontiers of territories’ language, 57–8
- non-state entities, migration control entrusted to. *See* privatisation of migration control
- non-territorial extension of refugee responsibilities, 26–7, 34
- OAU Convention governing Specific Aspects of Refugee Problems in Africa (1969)
 - non-refoulement* principle, interpretation of, 86, 92
- O’Boyle, Richard, 114
- offshore migration control. *See* extraterritorial migration control
- Operation Hera, 33, 121, 137, 138
- Operation Nautilus, 121
- Optional Protocol to the Convention Against Torture, 221, 224

Cambridge University Press

978-1-107-00347-7 - Access to Asylum: International Refugee Law and the Globalisation of Migration Control

Thomas Gammeltoft-Hansen

Index

[More information](#)

280 INDEX

- Organized Crime, Transnational, UN Convention against (2000), 136
- Otranto tragedy, 123
- 'out of sight, out of mind' effect of
 - offshored and outsourced controls, 211–13, 228, 240–2
- outsourcing of migration control. *See* privatisation of migration control
- 'Pacific Solution', 36, 75–7, 80, 116, 119, 120, 230
- Papua New Guinea, 33, 34, 76, 77, 116
- Permanent Court of International Justice (PCIJ), 105, 106
- piercing the corporate veil, 217–22
- politics
 - globalisation of migration control, political approaches to, 6
 - intersection of law and politics, privatisation and extraterritorialisation operating at, 8, 37, 39–41
- ports and airports
 - Chicago Convention on Civil Aviation (1944), 37, 183
 - complete privatisation of, 161
 - effectiveness of requiring controls by, 7
 - excision of territory as deregulated area, 116
 - immigration officers posted at foreign airports, 1, 8, 103, 126, 127, 130–3
 - jurisdiction shopping, 32
 - privatisation and. *See under* privatisation of migration control
 - rejected passengers, responsibility for, 164
 - sanctions for improper document checks, 1, 36, 37, 160, 169–74, 183–5, 189–90, 212
 - security information requirements, 164
 - state, defining encounter of refugee with, 1
- prescriptive jurisdiction, 105
- privatisation of migration control, 1–2, 158–208
 - access to asylum protections and, 217–22, 227
 - accountability and, 36, 41–2, 168, 207, 217–22
 - border control, 161
 - as commercialisation of sovereignty, 31–2, 35–8
 - contractors, use of, 36, 160–7
 - as cost-efficiency issue, 167, 168
 - defined, 16, 159
 - detention facilities, 161, 221
 - development of, 160–7
 - different frameworks for understanding, 6–8
 - extraterritorial, 163, 192–5, 200–2, 206
 - ineffectiveness of government controls, as response to, 7
 - international refugee and human rights law
 - applicability of, 4, 9, 232–6
 - conflicts with, 169–75
 - due diligence obligations under, 195–204
 - effective realisation of, 5
 - facilitation and management of migration control by, 20
 - non-state actors, human rights obligations of, 177
 - public and private, distinction between, 22–3, 39
 - state responsibility under, 175–9
 - intersection of law and politics, operating in, 8, 37, 39–41
 - interstate co-operation, private intermediaries of, 166, 192
 - larger trend towards privatisation, as part of, 7, 17
 - legality issues, 234
 - multi-layered nature of, 165, 191
 - non-contracted private actors, 36, 162, 199
 - non-refoulement* principle, applicability of, 17, 174, 232, 238
 - 'out of sight, out of mind' effect of, 211–13, 228, 240–2
 - piercing the corporate veil, 217–22
 - ports and airports
 - carrier sanctions for improper document checks, 1, 36, 37, 160, 169–74, 183–5, 189–90, 212
 - complete privatisation of, 161
 - public and private, distinction between, 166–7
 - rejected passengers, responsibility for, 164
 - security concerns and, 164, 165
 - public and private, distinction between, 22–3, 39, 166–7, 175–9, 206
 - purpose of, 167–9, 207
 - security concerns, 164–6
 - sovereignty conflicts, avoiding, 169
 - state responsibility for, 3–5, 9
 - attribution of governmental authority to private actors, 179–85
 - conclusions regarding, 205–8
 - due diligence obligations, 195–204, 206

Cambridge University Press

978-1-107-00347-7 - Access to Asylum: International Refugee Law and the Globalisation of Migration Control

Thomas Gammeltoft-Hansen

Index

[More information](#)

- extraterritorial private actions, 192–5, 200–2, 206
- under international refugee and human rights law, 175–9
- private conduct authorised, directed, or controlled by state, 185–92
- public and private, distinction between, 175–9, 206
- retention of, 232–6
- in UK and US. *See under* United Kingdom; United States
- violation of Refugee Convention, viewed as, 3
- visa processing companies, commercial, 36, 163–4
- wider effects of, 236
- protected entry procedures, 34
- 'protection in the region', 26–7, 34
- protection safeguards for asylum-seekers, need for, 234–6
- Protocol against Human Smuggling on Land, Sea and Air, 136
- Protocol against the Smuggling of Migrants, 136
- public and private, distinction between, 22–3, 39, 166–7, 175–9, 206
- public institutional asylum mechanisms, access to. *See* access to institutional asylum protections
- quality of refugee protections, 5, 10, 28–31
- quantum mechanics and Newtonian physics, 247
- Racial Discrimination, International Convention on the Elimination of All Forms of (1965), 90
- refoulement*. *See non-refoulement* principle
- Refugee Convention (1933), 48, 83–4, 90, 91
- Refugee Convention (1951). *See* Convention Relating to the Status of Refugees
- refugees
 - asylum for. *See* asylum
 - effective realisation of protections for, 5, 10, 28–31
 - extraterritorial control over. *See* extraterritorial migration control
 - illegal entry or presence, exemption from penalties for, 61
 - international and human rights law protecting. *See* international refugee and human rights law
 - privatisation of control over. *See* privatisation of migration control
 - protection safeguards, need for, 234–6
 - rights within a state's jurisdiction but outside its territory, 101–4
 - sovereignty, as markers of, 12–17, 38
 - religion, freedom of, 29
 - rescues at sea, 140–5, 148
 - right to leave country of origin, 103, 147, 174
 - Robinson, Nehemiah, 45, 57, 58
 - Rohingya asylum-seekers, 211
 - Roma, 131–3
 - Russia
 - de facto versus de jure jurisdiction, 118
 - international transit zone, Moscow airport, 117, 164
 - Ukraine-Russia border, 130, 166, 192
 - safe countries of origin, 15
 - safe third countries, 15, 29, 30, 34, 35, 36, 102
 - SAR (search and rescue) regime, international, 140–5, 148
 - SBINet (private surveillance system on US–Mexican border), 2, 36, 161, 166, 187, 191
 - Schengen Convention, 106, 171, 183
 - Schily, Otto, 99
 - Schmitt, Carl, 228
 - Scholten, Sophie, 168, 189
 - search and rescue (SAR) regime, international, 140–5, 148
 - security concerns and privatisation of migration control, 164–6
 - Senegalese waters, 33, 35, 37, 106, 126, 137, 138, 217, 239
 - shiprider agreements, 106, 136–40
 - smuggling and trafficking in human beings, 136
 - soft law (non-binding resolutions) on *non-refoulement* principle, 68–72, 80
 - SOLAS (International Convention for the Safety of Life at Sea; 1974), 141, 142, 148
 - sollen* and *sein* (normative ideal and positive legal force) in international refugee and human rights law, tension between, 244–5
 - sovereignty, 38–43
 - commercialisation of. *See* commercialisation of sovereignty
 - decline or end of, 17–20
 - facilitation and management of private and extraterritorial migration control by national law, 20
 - instrumentalisation of norms to avoid protection obligations, 239–40
 - international law and, confrontation between, 11, 245–8
 - non-refoulement* principle as constraint on, 14

Cambridge University Press

978-1-107-00347-7 - Access to Asylum: International Refugee Law and the Globalisation of Migration Control

Thomas Gammeltoft-Hansen

Index

[More information](#)

282 INDEX

- sovereignty (*cont.*)
 interpretation of, 64, 65–7
 privatisation as means of avoiding
 conflicts of, 169
 refugees as markers of, 12–17, 38
 territoriality, principle of, 21–2
 universalist claims of international
 refugee and human rights law,
 tension with, 111
- Spain
 bilateral agreements, 106, 126, 137,
 138
 Canary Islands, irregular immigration to,
 33, 120, 121, 126, 215, 239
 globalisation of migration control by, 33,
 37, 41
 instrumentalisation of sovereignty
 norms to avoid protection
 obligations, 239
 international waters, migration controls
 on, 120
- state
 attribution of governmental authority to
 private actors, 179–85
 defining encounter of refugee with, 1–3,
 231–2
 extraterritorial actions, responsibility
 for, 3–5, 232–6
 international legal constraints, escaping,
 7–8
non-refoulement principle, state practice
 regarding, 68, 72–81, 95–6
 private actions, responsibility for. *See*
under privatisation of migration
 controls
 retention of responsibility in offshoring
 and outsourcing situations,
 232–6
- Sweden, 79
- Switzerland, 50, 52, 53, 57, 70, 109
- Tampa* incident, 75–7, 230
- Tampere EU summit (1999), 2
- Territorial Asylum, Draft Convention on
 (1977), 69
- Territorial Asylum, UN Declaration on
 (1967), 69
- territorial waters
 bilateral agreements, 136–40
 dumping of irregular immigrants in,
 211
 under international maritime law,
 117
 international waters cases distinguished,
 114
 rescues at sea, 140–5, 148
 shiprider agreements, 106, 136–40
- third-country territorial waters,
 migration controls operating in, 8,
 33, 35, 37, 103, 106, 125–36
 US wet-foot, dry-foot policy for Cuban
 asylum-seekers, 115–16
- territory
 assumption of territorial jurisdiction,
 118
 excision of. *See* excision of territory as
 deregulated area
 jurisdiction, relationship to, 22, 104
 migration control outside. *See*
 extraterritorial migration control
non-refoulement principle and. *See under*
non-refoulement principle
 primacy of jurisdiction based on,
 156
 principle of territoriality, 21–2, 24–31,
 39–41
 Refugee Convention (1951), territorially
 progressive nature of rights under,
 28, 101–4
 rights of refugees within a state's
 jurisdiction but outside, 101–4
 SAR regime as exception to principle of,
 141
 universalist claims of international
 refugee and human rights law,
 tension with, 111
- Thailand, 211
- third-country arrangements, 125–36
 application of concept of jurisdiction to,
 146–7
 EU, co-operation with migration controls
 of, 1, 2, 34
 geographic area, jurisdiction over, 127,
 146
 immigration officers posted at foreign
 airports, 1, 8, 103, 126, 127,
 130–3
 individuals, jurisdiction over, 127–30,
 146
 jurisdiction shopping, 32–4
 as means of migration/refugee control,
 16
non-refoulement principle, interpretation
 of, 79–80
 protected entry procedures, 34
 'protection in the region', 26–7, 34
 rights of refugees within a state's
 jurisdiction but outside its territory,
 103
 safe third countries, 15, 29, 30, 34, 35, 36,
 102
 territorial waters of third countries,
 migration controls in, 8, 33, 35, 37,
 103, 106, 125–36

Cambridge University Press

978-1-107-00347-7 - Access to Asylum: International Refugee Law and the Globalisation of Migration Control

Thomas Gammeltoft-Hansen

Index

[More information](#)

INDEX 283

- Thomas Aquinas, v
- Tiberius Map, 209–10
- torture. *See* Committee against Torture; Convention against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment
- Touquet Treaty, 127
- trafficking in and smuggling human beings, 136
- Transnational Organized Crime, UN Convention against (2000), 136
- Transnistria, 118
- Transport Security Administration (TSA), 165
- travaux préparatoires*, limitations of, 47, 51, 57, 95
- treaties. *See under* Vienna Convention on the Law of Treaties; specific treaties
- bilateral agreements and extraterritorial jurisdiction, 136–40
- extraterritorial jurisdiction based on, 106, 109
- TSA (Transport Security Administration), 165
- Turkey, 123, 127, 150, 211, 226
- Uganda, 29
- Ukraine–Russia border, 130, 166, 192
- UN buffer zones, jurisdictional responsibilities in, 123, 150
- UN Convention against Transnational Organized Crime (2000), 136
- UN Convention on the Law of the Sea (UNCLOS; 1994), 141
- UN Convention on the Prevention and Punishment of the Crime of Genocide (1948), 66, 90
- UN Declaration on Territorial Asylum (1967), 69
- UN Universal Declaration of Human Rights (1948), 14
- UNHCR. *See* Human Rights Committee, UN
- United Arab Emirates, 165
- United Kingdom
- bilateral agreements, 138
- domestic court investigation of extraterritorial actions, 217
- excision of territory as deregulated area, 116
- Haitian interdiction programme, UK Court of Appeal on *Sale* decision regarding, 122
- human rights and living standards in, 29
- Immigration Act 1971, 116
- Immigration, Asylum, and Nationality Act 2006, 161, 167, 182
- immigration officers posted to foreign territory, 126, 127, 130, 131–3
- juxtaposed controls scheme, Anglo-French, 126, 127, 163, 182, 193
- New Hebrides, Anglo-French condominium over, 152
- non-refoulement* principle, interpretation of, 62, 75, 79–80
- privatisation
- accountability issues, 220
- attribution of governmental authority to private actors, 182
- of border control, 161
- carrier sanctions, 172
- of detention facilities, 161
- due diligence principle, 196, 197, 198, 201
- of extraterritorial controls, 163, 193
- public and private, distinction between, 166, 167
- state, private conduct authorised, directed, or controlled by, 187, 190
- Race Relations Act 1976, 132
- security information requirements for carriers, 164
- United States
- Detainee Treatment Act of 2005, 154
- detention facilities, privatisation of, 162
- Dominican Republic, bilateral agreement with, 137, 138
- Florida Keys, 115, 141
- Guantánamo Bay leased from Cuba, 33, 34, 40
- Guantánamo detainees, *habeas corpus* rights of, 154, 217, 230
- Haitian interdiction. *See* Haitian interdiction programme
- Immigration and Nationality Act (1952), 125, 160
- immigration officers posted to foreign territory, 131
- Mexican border
- Minutemen patrolling, 36, 162, 199
- private installation of surveillance system along (SBI Net), 2, 36, 161, 166, 187, 191
- Military Commissions Act of 2006, 217
- non-refoulement* principle, interpretation of, 45, 55–6, 57, 59, 60, 61, 72, 75, 77–9, 84, 90, 99, 238
- Passenger Act (1902), 160

Cambridge University Press

978-1-107-00347-7 - Access to Asylum: International Refugee Law and the Globalisation of Migration Control

Thomas Gammeltoft-Hansen

Index

[More information](#)

284 INDEX

United States (*cont.*)

privatisation

accountability issues, 221

attribution of governmental authority

to private actors, 185

carrier sanctions, 160, 165

due diligence principle, 199, 201

extraterritorial migration controls,

193

public and private, distinction

between, 167

state, private conduct authorised,

directed, or controlled by, 187, 190

US–Mexican border, private

surveillance system at, 2, 36, 161,

166, 187, 191

Refugee Convention (1951), drafting of,

48, 49

security information requirements for

carriers, 164

shiprider agreements with Caribbean

states, 106

TSA, 165

wet-foot, dry-foot policy for Cuban

asylum-seekers, 115–16

Universal Declaration of Human Rights

(1948), 14

van Boetzel, Baron (Dutch

representative to Refugee

Convention drafting), 50, 52, 57, 70

Vattel, Emmerich de, 13, 40

Vienna Convention on the Law of Treaties

(1969)

good faith principle, 97

objective interpretation of wording,

precedence given to, 58

refouler as used in, 56

state practice, significance of, 72

on *travaux préparatoires*, 47, 57

on treaty interpretation within their

contemporary international legal

context, 82

vigilantes, 36, 162, 199

visas

commercial visa processing companies,

36, 163–4

extraterritorial jurisdiction and,

133–5

rights of refugees within a state's

jurisdiction but outside its territory,

103

state, defining encounter of refugee with,

1–3

West Bank, 2, 36, 161, 187

wet-foot, dry-foot US policy for Cuban

asylum-seekers, 115–16

Woomera Immigration Reception and

Processing Centre, Australia, 212

Zutter, Mr (Swiss representative to Refugee

Convention drafting), 50, 52, 53, 57,

70