

INDEX

- Aaldersberg and Others v Netherlands*, 79, 134
AC (Tuvalu) case, 76, 80–81, 84, 86–87, 134
 NZIPT on, 78
 Aceh, 49–50
Acosta case, 2, 96
AD (Tuvalu) case, 84–85
 adversity, 1, 6, 47–48, 64–65, 82
 discrimination and, 68–69
 human agency in, 30
 indiscriminate, 48–54
 persecution and, 45, 92–93
 post-disaster, 63–64
 sea level rise and, 74
 state protection and, 66–67
 violence and, 63–64
AF (Kiribati) case, 54–55, 74, 76, 80–81, 83–84, 86–87, 134
 NZIPT in, 77, 79
 Afghanistan, 32–33
 African Court of Human and Peoples' Rights, 32
 Anderson, Adrienne, 105, 131
 anti-discrimination, 127–28. *See also* discrimination
Applicant A and Another, 52, 83, 89–90
 Dawson on, 2–4
 asylum criteria, 89
At Risk: Natural Hazards, People's Vulnerability, and Disasters (Wisner), 18–19
 Australia, 40. *See also* Federal Court of Australia
 persecution defined by, 70–71
 RSD in, 48
 Australian Bureau of Meteorology, 139–40
AV (Nepal) case, 85
- Bangladesh, 48
 cyclone in, 48–49
 state protection in, 68
 Bankoff, G.
 on hazard paradigm, 14
 on vulnerability, 20
 Bantu, 145–48
Barcelona Traction case, 112
 Bayerisches Verwaltungsgericht Ansbach, 102
 being persecuted. *See* persecution
BG Fiji case, 76

- Botswana, 58
- Briceño, Sálvano, 16
- Bridge (Lord), 49
- Budayeva* case, 87–88
- Burson, Bruce, 7–8
 - on imminence, 80
 - on RSD, 8
- Canadian Immigration Appeals Board, 97–98
- Cantor, D., 116–17
 - on discrimination and persecution, 117
 - on fundamental rights, 126
- Cardoza-Fonseca* case, 103–4, 141
- Case 3719 II/58*, 102
- Castan, Melissa, 115
- causation, 42
- CEDAW. *See* Convention on the Elimination of All Forms of Discrimination against Women
- CERD. *See* Convention on the Elimination of All Forms of Racial Discrimination
- CESCR. *See* Committee on Economic, Social and Cultural Rights
- Chan v Canada*, 58, 141
- Chen Shi Hai* case, 41
- Chetail, Vincent, 117
- children, vulnerability of, 67
- Christianity, 49
- Cilacap, 141, 149
- climate change
 - anthropomorphising, 52
 - in claims, 45–47
 - defining, 10
 - gender-based violence and, 64
 - harm and, 74
 - process of, 10
 - RSAA on, 53
- CMW. *See* Convention on Migrant Workers
- Collins (Lord), 106–7
- colonialism, 20, 28
- Committee on Economic, Social and Cultural Rights (CESCR), 91, 114–15
 - on discrimination, 114
- communities
 - defining, 18
 - vulnerability and, 18
- complementary protection, 79
- Conference of Plenipotentiaries, 3
- contributory cause approach, 144
 - UNHCR on, 42
- Convention on Enforced Disappearances, 112–13
- Convention on Migrant Workers (CMW), 112–13
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 91, 112–13
- Convention on the Elimination of All Forms of Racial Discrimination (CERD), 112–13
- Convention on the Rights of the Child (CRC), 67, 112–13
 - Article 2, 113
 - Article 3, 85
- Convention Relating to the Status of Refugees, 1
- conventional language, 121
- Cox, Theodore N., 101
 - on well-founded fear, 101–2

- CRC. *See* Convention on the Rights of the Child
 CRPD, 112–13
 crucible approach, 121
 customary international law, 91, 93–94, 112
 norms, 113
 Cyclone Nargis, 55
 impact of, 55–56
 relief, 56
 RSD and, 56
 cyclones, 139–40
 in Bangladesh, 48–49
- Dalits, 18, 26
 vulnerability of, 26
- Dawson (Judge), 4
 on *A and Another*, 2–4
 on natural disasters, 3
 on persecution, 3
- denial, 130, 157–58
 violation and, 92–93
- Desjardins (Judge), 58
- Diplock (Lord), 103–4
- disaster law, in EU, 13
- disaster relief, 54
 Cyclone Nargis, 56
 discriminatory denial of, 57–63
 for famine, 58, 136
 humanitarian, 78, 83
- discrimination, 28. *See also* non-discrimination norm; persecution
 adversity and, 68–69
 anti-discrimination, 127–28
 Cantor on, 117
 Committee on Economic, Social and Cultural Rights on, 114
 de facto, 114
 de jure, 114
 defining, 3, 22–28, 113, 122
 in disaster relief, 57–63
 ex-ante, 157–58
 Goodwin-Gill on, 128
 Hoffman on, 124
 human rights and, 123–24
 indirect, 114
 intention in, 42
 motivation for, 52, 71–72
 natural disasters and, 5–6
 persecution differentiated from, 3, 117,
 119–28
 prevalence of, 23
 Refugee Convention on, 132–33
 social paradigm and, 22
 systemic, 114–15
 Twigg on, 25
 vulnerability and, 22–25
 Wisner on, 24
- displacement, 25
 vulnerability to, 26–27

- dissent, 54
 - crackdowns on, 54–57, 157–58
- DJ (Bantu – Not Generally At Risk) Somalia v Secretary of State for the Home Department*, 146–47
- dominant view (of disasters), 155
 - Hewitt on, 12–13
 - of RSD, 1–6
 - Shacknove on, 5
- Doymus* case, 98–99
- Draft Articles on the Protection of Persons in Situations of Disaster, 10, 78
 - Article 3, 11
 - Article 3(a), 12
 - on natural disasters, 12
- DS (Iran)*, 108, 123–24, 130
- due diligence approach, 37
- Duffy (Judge), 123–24
- dynamic pressures, defining, 19

- earthquakes, 69
 - harm from, 73
 - Lisbon earthquake of 1755, 13
 - Nepal, 86
 - in Peru, 20
- ECHR. *See* European Convention on Human Rights
- economic refugees, 48
- Einarsen, Terje, 94, 121
- Elias Zacarias* case, 38
- environmental damage
 - intention and, 54
 - the state as cause of, 54–55, 157–58
- environmental degradation, 7–8
 - human agency and, 78
 - human rights and, 77–78
- ethnic divisions, 24
 - natural disasters and, 24–25
- European Convention on Human Rights (ECHR)
 - Article 2, 87–88
 - Article 3, 60
- European Court of Human Rights, 32
- European Union, disaster law in, 13
- event paradigm, 96–100
 - persecution in, 97
 - RSD under, 105–6

- famine, 145–46
 - relief, 58, 136
- Famine Early Warning Service (FEWS), 147–48
 - methodology of, 142
- Farmer, Paul, on structural violence, 30–31
- fascism, 101
- fear. *See also* well-founded fear
 - defining, 34–35
 - Noll on, 34–35
 - UNHCR on, 33–34
- Federal Court of Australia, 39, 41–42
 - on RSD, 66
- Federal Emergency Management Agency, 152–53

- Ferguson v Canada (Minister of Immigration and Citizenship)*, 63
 FEWS. *See* Famine Early Warning Service
 Fiji, 74
 First Optional Protocol (to International Covenant on Civil and Political Rights), 79
 Fletcher, Laurel E., 25–26
 floods, 69
 control systems, 151
 in Pakistan, 57
 plains, 27–28, 74, 139
 food aid, 61–62
 food deprivation, 7
 food insecurity, 142–48
 malnutrition, 67
 in Zimbabwe, 62
 forecasting, 142
 Foster, Michelle, 6, 43, 92–93, 105, 127–28, 131
 human rights approach of, 90
 on internal relocation, 44–45
 on motivation, 39
 on persecution, 35–36, 39
 RSD and, 92
 sustained and systemic formulation of, 99–100
 Frank, Anne, 106, 108–9
 Fugitive Offenders Act 1967, 103–4
 Fukushima Daiichi Nuclear Plant, 70–71, 73–74
 fundamental rights, Cantor on, 126
- Gaillard, J. C., 24–25
 Galtung, Johan, on structural violence, 28–30
 gender-based violence, 63
 climate change and, 64
 natural disasters and, 64
 Gilbert, G., 14
 Gill, T., 26
 Goff (Lord), 104
 Goodwin-Gill, Guy S., 126–27
 on discrimination, 128
 on human rights, 127
 on motivation, 39
 on persecution, 35
 persecution defined by, 97
 Goudron (Judge), 120
 Grahl-Madsen, A., 35, 97, 102
 on persecution, 102, 119
 Grenada, 63–64
 Guatemala, 26–27
 Guijt, J., 18
 Guterres, António, 4
- Hagi-Mohammed v Minister for Immigration and Multicultural Affairs*, 58
 Haiti, 30–31, 134–35
 structural violence in, 31
 Hansch, Steven, 145–46
 harassment, persecution and, 109
 harm, 96
 climate change and, 74

- from earthquakes, 73
 - intentional infliction of, 54–63, 69, 157–58
 - motivation to cause, 51–52
 - NZIPT on, 74
 - Refugee Review Tribunal on, 72–73
 - risks of, 98
- Hathaway, James, 4–6, 43, 51, 57–58, 92–93, 106, 129–30
 - human rights approach of, 90
 - on IHRL, 90
 - on internal relocation, 44–45
 - on motivation, 39
 - on persecution, 35–36, 39, 61, 97–98
 - on Refugee Convention, 6
 - RSD and, 92
 - on state protection, 7
 - sustained and systemic formulation of, 99–100
 - VCLT interpreted by, 95
- hazard events, 15
 - defining, 14–15
 - exposure to, 17
 - hazard paradigm and, 14
 - natural disasters and, 21–22
 - prediction of, 139
 - vulnerability and, 17
- hazard paradigm, 12–15, 50, 155
 - Bankoff on, 14
 - defining, 12–13
 - hazard events and, 14
 - Hewitt on, 12–14
 - Hilhorst on, 13–14
 - influence of, 48
 - natural disasters and, 14–15
 - Refugee Review Tribunal on, 69
 - for RSD, 52
- Hewitt, Kenneth
 - on dominant view, 12–13
 - on hazard paradigm, 12–14
- High Court of Australia, 2, 39
- Hilhorst, D., 13–14
- Hindus, 57
- HIV/AIDS epidemic, 30–31, 62
 - in Zimbabwe, 60
- HJ and HT* case, 106
- Hoffman (Lord), 36, 40, 123, 125
 - on discrimination, 124
- honour killing, 43
- Hope (Lord), 4–5
- Horvath* case, 4–5, 83
- HS (returning asylum seekers) Zimbabwe* case, 59
- human agency
 - in adversity, 30
 - environmental degradation and, 78
 - natural disasters and, 15, 155
 - persecution and, 78
 - structural violence and, 30
- human rights, 35–36, 73, 98, 154. *See also* international human rights law

- human rights (cont.)
 - discrimination and, 123–24
 - environmental degradation and, 77–78
 - Foster on, 90
 - Goodwin-Gill on, 127
 - Hathaway on, 90
 - international human rights law, 69–79
 - in natural disasters, 31
 - NZIPT on, 76–77
 - RSD and, 7, 91, 118, 132–48
 - UNHCR on, 36
 - violation of, 87–88
- humanitarian relief, 78, 83
- Hurricane Harvey, 12
- Hurricane Irma, 12
- Hurricane Ivan, 63
- Hurricane Katrina, 150–54

- IARLJ, 96
- ICCPR. *See* International Covenant on Civil and Political Rights
- ICESCR. *See* International Covenant on Economic, Social and Cultural Rights
- IFRC. *See* International Federation of Red Cross and Red Crescent Societies
- IHRL. *See* international human rights law
- Immigration Act of 2009 (New Zealand), Section 207, 84–85
- imminence, 79, 87, 105–6
 - Burson on, 80
 - McAdam defining, 105
- inaction, state protection and, 64
- India, 26
- Indian Ocean tsunami of 2004, 65
- Indonesia, 49–50
- inequalities, 18
 - systemic, 115
- Integrated Phase Classification (IPC), 62, 135–36
- intention, 41. *See also* motivation
 - in discrimination, 42
 - environmental damage and, 54
 - harm and, 54–63, 69, 157–58
 - in nexus clause, 108
 - relevance of, 120
- Inter-Agency Standing Committee, 23
- Inter-American Court of Human Rights, 32
- Inter-Governmental Panel on Climate Change, 23–24
- internal relocation, 149–50
 - Foster on, 44–45
 - Hathaway on, 44–45
 - refugee status and, 44–45
- International Association of Refugee Law Judges, 96
- International Court of Justice, 32
- International Covenant on Civil and Political Rights (ICCPR), 83, 112–13
 - Article 6, 78, 80–82, 84, 134
 - Article 7, 78, 80–82, 84, 134
 - protection claims under, 78
- International Covenant on Economic, Social and Cultural Rights (ICESCR), 91
 - Article 2(2), 62–63
 - Article 12(2)(b), 76–77

- International Federation of Red Cross and Red Crescent Societies (IFRC), 23
- international human rights law (IHRL), 69–79
- goals of, 91
 - Hathaway on, 90–93
 - non-discrimination norm in, 115–16
 - obligations under, 130–31
 - persecution and, 90–93
 - the state role in, 92, 130–31
- International Law Commission, 10, 78. *See also* Draft Articles on the Protection of Persons in Situations of Disaster
- on natural disasters, 10–11
- international refugee law
- basic principles of, 33–34
 - category 1 cases, 45, 48–54
 - category 2 cases, 45, 54–63
 - category 3 cases, 45
 - non-discrimination norm in, 115–17
 - peripheral cases, 47–48
 - persecution in, 35–37
 - scrutiny of, 49
 - well-founded fear in, 33–34
- interpretation
- of persecution, 98–99
 - supplementary means of, 94
 - of VCLT, 95
 - of well-founded fear, 100–1
- IPC. *See* Integrated Phase Classification
- Islam* case, 36, 40, 120, 123, 125, 130
- Jakarta, 49
- Japan, Refugee Review Tribunal on, 72
- Joint Internally Displaced Person Profiling Service, 25
- Joseph, Sarah, 115
- K v Refugee Status Appeals Authority*, 49
- Kälin, Walter, 5, 149
- Karanakaran* case, 89
- Katrina Canal Breaches Consolidated Litigation* case, 154–55
- Keith (Lord), 103–4
- Kolmannskog, Vikram, 7
- Lambert, Hélène, 98–99, 105, 131
- Lauta, K. Cedervall, 13, 16
- The Law of Refugee Status* (Hathaway and Foster), 6, 92–93, 97–98
- Linderfalk, Ulf, 121
- Lisbon earthquake of 1755, 13
- local risk index, 141
- Mahler, C.
- on persecution, 39
 - persecution defined by, 97
 - on risk assessment, 102–3
- Majid, M., 145–47
- malnutrition, 67
- McAdam, Jane, 131
- on imminence, 105
 - on motivation, 39

- McAdam, Jane (cont.)
 persecution defined by, 3–4, 35, 97
 on Refugee Convention, 48
 on risk assessment, 77–78
 on risk reduction, 73–74
 on RSD, 3
- McDowell, S., 145–47
- McHugh (Judge), 2, 89–90, 92, 104–5, 120–21, 141
 on persecution, 3, 119
- meteorology, 139
- methodology, 32–45, 73
 of FEWS, 142
 of NZIPT, 54, 86–87, 117
 of VCLT, 90, 92–95, 155–56
 of World Risk Index, 140–41
- Michigan Guidelines, 42
- Migration Act of 1958, 48
 Refugee Review Tribunal on, 73
 Section 5J(4), 42
- Migration Act of 1998, Section 91, 52–53
- Millett (Lord), 120
- MIMIA v VFAY*, 67
- Minister for Immigration and Multicultural Affairs v Respondents S152/2003*, 92
- Mohammed Motahir Ali v. Minister of Immigration, Local Government, and Ethnic Affairs*, 48
- motivation, 68, 70–87
 discriminatory, 52, 71–72
 Foster on, 39
 Goodwin-Gill on, 39
 harm in, 51–52
 Hathaway on, 39
 McAdam on, 39
 for persecution, 38–42
 of the state, 66–67
- Muslims, 57
- Myanmar, 55
 activism in, 55
- Nansen Initiative on Disaster-Induced Cross-Border Displacement, 23–24
- nationality, 44
 RSD and, 101
- natural disasters, 4–5, 140–41
 in claims, 45–47
 Dawson on, 3
 defining, 1, 10, 21–22
 discrimination and, 5–6
 Draft Articles on the Protection of Persons in Situations of Disaster on, 12
 ethnic divisions and, 24–25
 future scenarios, 133–36
 gender-based violence and, 64
 hazard events and, 21–22
 hazard paradigm and, 14–15
 human agency and, 15, 155
 human rights in, 31
 International Law Commission on, 10–11
 NZIPT on, 81
 ongoing situations, 133–34

- poverty and, 25–26
- Refugee Convention and, 5–6, 70
- Refugee Review Tribunal on, 71
- refugee status and, 31
- Refugee Status Review Committee on, 49
- Shacknove on, 6
- slow-onset, 20, 142
- social paradigm and, 14–15
- state protection and, 87
- sudden-onset, 20
- triggering, 14
- violence and, 63
- Nazis, 101, 106
- Nepal earthquake, 86
- New Zealand, 40
 - RSD in, 76
- New Zealand High Court, 82–83
- New Zealand Immigration and Protection Tribunal (NZIPT), 49–52, 54, 100, 117–18
 - in *AC (Tuvalu)* case, 78
 - in *AF (Kiribati)*, 77, 79
 - on harm, 74
 - on human rights, 76–77
 - intention of, 54
 - jurisprudence, 87
 - methodology of, 54, 86–87, 117
 - on natural disasters, 81
 - on persecution, 123
 - Refugee Convention and, 83
 - on risk assessment, 80–81
 - on RSD, 58–59
 - on sea level rise, 75–76
 - on state protection, 74
- nexus clause, 122–24, 128–29, 143–48
 - intention in, 108
 - non-discrimination norm in, 117–18
- Nigeria, vulnerability in, 19
- Noll, Gregor, 34–35
- non-discrimination norm, 112–15
 - in IHRL, 115–16
 - in international refugee law, 115–17
 - new theoretical model and, 116
 - in nexus clause, 117–18
 - in persecution, 118–21, 124–25
- non-refoulement, 78, 80, 91, 105–6
- NZIPT. *See* New Zealand Immigration and Protection Tribunal

- Oliver-Smith, Anthony, 15–16
 - on PAR model, 20
- Omar Mohamud Mohamud v MIMA*, 66
- Omoruyi* case, 127–28
- Ontario Federal Court, 64
- oppression, 127
 - persecution differentiated from, 92–93

- Padang, 141
- Pakistan, floods in, 57

- PAR model. *See* pressure and release model
- patriarchy, 28
- Paul, Bimal Kanti, 136–39
- Peacock, Walter Gillis, 18
- Perampalam* case, 149–50
- Perry, R., 12
- persecution, 2–3, 40, 43. *See also* intention; motivation
- actors identified in, 52
 - adversity and, 45, 92–93
 - Australian statutory definition of, 70–71
 - being persecuted, 96, 118–22, 129–31
 - Cantor on, 117
 - Dawson on, 3
 - defining, 4, 35–37, 87–88, 96, 98, 109, 121, 128–31
 - discrimination differentiated from, 3, 117, 119–28
 - in event paradigm, 97
 - Foster on, 35–36, 39
 - Goodwin-Gill on, 35
 - Grahl-Madsen on, 102, 119
 - harassment and, 109
 - Hathaway on, 35–36, 39, 61, 97–98
 - human agency and, 78
 - international human rights law and, 90–93
 - in international refugee law, 35–37
 - interpretations of, 98–99
 - liberal school of, 97
 - Mahler on, 39
 - McAdam on, 3–4, 35
 - McHugh on, 3, 119
 - motivation for, 38–42
 - non-discrimination norm in, 118–21, 124–25
 - NZIPT on, 123
 - oppression differentiated from, 92–93
 - Qualification Directive on, 108
 - reasons for, 37–38
 - restrictive school of, 97
 - risks of, 98
 - temporal scope of, 107, 122
 - UNHCR on, 61
 - Zimmerman on, 39
- persistency, requirements for, 98–99
- personal scope of refugee definition, 68, 87, 95, 155
- defining, 130
- Peru, 20
- Pobjoy, J., 106
- political beliefs, 44
- political ecology, 15–16, 21–22
- poverty, natural disasters and, 25–26
- precautionary planning, 15
- predicament approach, 41–42
- defense of, 108
 - judicial development of, 108
 - of RSAA, 89–90
 - in state protection failures, 66–67
 - to well-founded fear, 107–11

- pressure and release (PAR) model, 22
 - Oliver-Smith on, 20
 - unsafe conditions aspect of, 20
 - of vulnerability, 18–21
 - Wisner on, 20–21
- Priestly (Judge), 83
- private sphere, 130
- proof, standard of, 102–3
 - well-founded, 148–49
- protection (state), 35–36, 121
 - adversity and, 66–67
 - in Bangladesh, 68
 - ex-ante failures of, 69–79
 - ex-post failures of, 63–68
 - failures of, 37, 63–87, 157–58
 - Hathaway on, 7
 - inaction and, 64
 - natural disasters and, 87
 - NZIPT on, 74
 - predicament approach and, 66–67
 - RSAA on, 65
- protest, 57
- public order, 157–58
- public sphere, 130

- Qualification Directive, 61, 96
 - Article 9(1), 99
 - Article 9(3), 118
 - persecution defined by, 108

- R v Governor of Pentonville Prison ex Parte Fernandez*, 103–4
- R v Secretary of State for Home Department, Ex p Bugdaycay*, 49
- race, 44
- racism, 28, 113
- Ragsdale, A. K., 18
- Ram v MIEA and Anor*, 52, 120
- real risk, 110
- reasonable grounds, 103
- reasonable person test, 102
- Reewin, 145, 147–48
- Refugee Appeal No. 11/91*, 76
- Refugee Appeal No. 70074*, 117
- Refugee Appeal No. 70959/98*, 65
- Refugee Appeal No. 70965*, 64–65
- Refugee Appeal No. 72186/2000*, 53
- Refugee Appeal No. 72635/01*, 41, 43
- Refugee Appeal No. 74655/03*, 76, 89–90
- Refugee Appeal No. 74665/03*, 110
- Refugee Appeal No. 76237*, 60
- Refugee Appeal No. 76374*, 55, 77–78
- Refugee Convention, 36–37, 50–51, 82–83, 93, 129, 143
 - applicability of, 77
 - Article 1A(2), 6, 33–34, 38–39, 44–45, 72–73, 77, 83, 107, 109, 116, 122, 125–26, 129, 150
 - Article 33, 35
 - on discrimination, 132–33
 - goals of, 94

- Refugee Convention (cont.)
 - Hathaway on, 6
 - limits of, 4
 - McAdam on, 48
 - natural disasters and, 5–6, 70
 - NZIPT on, 83
 - Refugee Review Tribunal on, 68, 72–73
 - RSAA on, 53
 - on RSD, 132–33
- refugee law. *See* international refugee law
- Refugee Review Tribunal (of Australia), 65–67, 69
 - on harm, 72–73
 - on hazard paradigm, 69
 - on Japan, 72
 - on Migration Act of 1958, 73
 - on natural disasters, 71
 - on Refugee Convention, 68, 72–73
 - on religion, 71
 - on RSD, 69
- Refugee Status Appeals Authority of New Zealand (RSAA), 41, 43, 55–56, 107–8
 - on climate change, 53
 - predicament approach of, 89–90
 - on Refugee Convention, 53
 - on state protection, 65
- refugee status determination (RSD), 1, 84, 156. *See also* methodology; *specific topics*
 - in Australia, 48
 - Burson on, 8
 - Cyclone Nargis and, 56
 - defining, 45
 - dominant view of, 1–6
 - under event paradigm, 105–6
 - Federal Court of Australia on, 66
 - Foster on, 92
 - Hathaway on, 92
 - hazard paradigm for, 52
 - human rights and, 7, 91, 118, 132–48
 - internal relocation and, 44–45
 - McAdam on, 3
 - nationality and, 101
 - in New Zealand, 76
 - New Zealand Immigration and Protection Tribunal on, 58–59
 - Refugee Convention on, 132–33
 - Refugee Review Tribunal on, 69
 - risk assessment in, 53–54
 - Shacknove on, 6
 - test for, 132
 - unitary character of, 89–90
 - vulnerability and, 66–67
- Refugee Status Review Committee, 49
 - on natural disasters, 49
- ReliefWeb, 135
- religion, 44
 - Refugee Review Tribunal on, 71
- risk
 - exposure, 22
 - harm and, 98

- real, 110
- reduction, 73–74
- risk assessment, 108–10, 130, 139–40
 - Mahler on, 102–3
 - McAdam on, 77–78
 - NZIPT on, 80–81
 - in RSD, 53–54
 - well-founded fear as, 100–7
 - Zimmerman on, 102–3
- RN (Returnees) Zimbabwe CG case*, 58–62
- Robinson, Jacob, 3
- Rodger (Lord), 106
- Rodríguez, Havidán, 22
- Routledge Handbook of Hazards and Disaster Risk Reduction*, 18–19
- RRT Case No. 0901657*, 49
- RRT Case No. 0903555*, 56
- RRT Case No. 1001325*, 57
- RRT Case No. 1104064*, 57
- RRT Case No. 1200203*, 69–70
- RRT Case No. 060926579*, 57
- RRT Case No. 071295385*, 65
- RRT Case No. N93/00894*, 68
- RRT Case No. N96/10806*, 50–51
- RS and Others case*, 60
- RSAA. *See* Refugee Status Appeals Authority of New Zealand
- RSD. *See* refugee status determination

- S v Chief Executive of the Department of Labour and Anor*, 49
- salination, 74
 - sea level rise and, 75–76
- Scalia (Justice), 38–39
- Schrepfer, Nina, 5
- sea level rise, 74, 81
 - adversity and, 74
 - NZIPT on, 75–76
 - salination and, 75–76
- Sedley (Justice), 89, 120–21, 148–49
- Serje, J., 24
- Shacknove, Andrew, 5
 - on dominant view, 5
 - on natural disasters, 6
 - on refugee status, 6
- Shah, M. K., 18
- sharecropping, 146–47
- Sivakumaran case*, 103–4, 141
- slow violence, 31
- small-scale disasters, 11–12
- social groups, 44
- social paradigm, 8, 14–16
 - Cedervall Lautu on, 16
 - discrimination and, 22
 - natural disasters and, 14–15
 - vulnerability in, 16–18
 - Wisner on, 26–27
- Söderbergh, Carl, 26
- Somalia, 136–40, 142, 145–48

- Sri Lanka, 65–68
- the state
 - environmental damage caused by, 54–55, 157–58
 - IHRL and role of, 92, 130–31
 - motivation of, 66–67
 - violence from, 57
- state practice, 32–33
- state protection. *See* protection (state)
- Stevens (Justice), 38–39
- Steyn (Lord), 125
- Storey, Hugo, 98–99
- Stover, Eric, 25–26
- structural violence, 28–31, 108, 110
 - defining, 29
 - Farmer on, 30–31
 - Galtung on, 28–30
 - in Haiti, 31
 - human agency and, 30
 - root causes of, 31
 - slow, 31
 - temporal scope of, 31
 - UN Special Rapporteur on the Human Rights of Internally Displaced Persons on, 29
- super-majority principle, 113, 115–16
- Supreme Court (Canada), 2
- Supreme Court (New Zealand), 84
- Supreme Court (UK), 2, 106
- Supreme Court (US), 38
- surrogacy, principle of, 4–5, 44–45, 94
- Suu Kyi, Aung San, 56

- Taliban, 32–33, 57, 67
- Tamil, 65
- technocratic intervention, 13
- Teitiota, Ioane, 74
- Teitiota v The Chief Executive of the Ministry of Business
 Innovation and Employment*, 82–83
- temporal scope, 68, 109–10
 - of persecution, 107, 122
 - of structural violence, 31
- Togo, 56–57
- treatment, 84
 - defining, 78
- tsunamis, 65
 - Indian Ocean tsunami of 2004, 65
- Tuvalu, 50–51, 53, 75
 - government of, 79
- Twigg, J., 20–21
 - on discrimination, 25

- UDHR. *See* Universal Declaration on Human Rights
- Ullah v Special Adjudicator*, 61
- UN Framework Convention on Climate Change (UNFCCC), 10
- UN General Assembly, 101
- UN High Commissioner for Refugees (UNHCR), 118–19
 - on contributory cause approach, 42
 - on fear, 33–34

- on human rights, 36
 - on persecution, 61
- UN Human Rights Committee, 25, 32, 134
- UN Office for Disaster Risk Reduction (UNDRR), 11–12, 16
 - on vulnerability, 17
- UN Office for the Coordination of Humanitarian Affairs (UNOCHA), 135, 145
- UN Special Rapporteur on the Human Rights of Internally Displaced Persons, 25
 - on structural violence, 29
 - on vulnerability, 26–27
- UNDRR. *See* UN Office for Disaster Risk Reduction
- UNFCCC. *See* UN Framework Convention on Climate Change
- UNHCR. *See* UN High Commissioner for Refugees
- UNISDR. *See* UN Office for Disaster Risk Reduction
- United Kingdom, 40
 - protection obligations of, 59
- Universal Declaration on Human Rights (UDHR), 90, 94
 - Article 2, 125
 - on persecution, 97
- UNOCHA. *See* UN Office for the Coordination of Humanitarian Affairs
- unsafe conditions, in PAR model, 20

- VCLT. *See* Vienna Convention on the Law of Treaties
- Venezuela, 24
- Vernant, Jacques, 97
- Vienna Convention on the Law of Treaties (VCLT), 2, 90–91
 - Article 31, 90, 93–95, 109–10, 115–16, 121, 130–31, 155–56
 - Article 31(1), 93–94
 - Article 31(2), 93–94
 - Article 31(3), 94
 - Article 31(3)(c), 113, 115–16
 - Article 31(4), 109–10
 - Article 32, 90, 93–95, 130–31, 155–56
 - Article 33, 90, 93–95, 130–31, 155–56
 - Hathaway on, 95
 - methodology prescribed by, 90, 92–95, 155–56
- violation, denial and, 92–93
- violence. *See also* structural violence
 - adversity and, 63–64
 - gender-based, 63–64
 - natural disasters and, 63
 - state, 57
- vulnerability, 152
 - Bankoff on, 20
 - causes of, 67
 - of children, 67
 - communities and, 18
 - of Dalits, 26
 - defining, 19
 - discrimination and, 22–25
 - to displacement, 26–27
 - hazard events and, 17
 - in Nigeria, 19
 - PAR model of, 18–21
 - root causes of, 19
 - RSD and, 66–67
 - in social paradigm, 16–18

vulnerability (cont.)

- UN Special Rapporteur on the Human Rights of Internally Displaced Persons on, 26–27
- UNDRR, 17

de Waal, Alex, 145–46

Ward case, 83

Weinstein, Harvey M., 25–26

Weis, Paul, 35, 97

well-founded fear, 37, 92, 155

- circumstances not reflecting, 150–55

- Cox on, 101–2

- establishing, 52

- in international refugee law, 33–34

- interpretation of, 100–1

- predicament approach to, 107–11

- as risk assessment, 100–7

- subjectivity of, 102–3

Whitlam (Judge), 48

Wisner, Ben, 18–19

- on discrimination, 24

- on PAR model, 20–21

- on social paradigm, 26–27

World Disasters Report, 23

World Risk Index, 140, 143

- methodology of, 140–41

YC v Holder, 57

Zimbabwe, 59

- food insecurity in, 62

- HIV/AIDS epidemic in, 60

Zimmerman, A., 94

- on persecution, 39, 97

- on risk assessment, 102–3

Zink, Karl Friedrich, 97