

## TABLE OF CONTENTS

|                                                                                         | <i>Paragraphs</i> | <i>Page</i> |
|-----------------------------------------------------------------------------------------|-------------------|-------------|
| PREFACE . . . . .                                                                       | (i)-(vii)         | 1           |
| INTRODUCTION . . . . .                                                                  | 1-27              | 3           |
| <i>International instruments defining the term "refugee"</i> . . . . .                  | 1-27              | 3           |
| A. Early instruments (1921-1946). . . . .                                               | 1-4               | 3           |
| B. 1951 Convention relating to the Status of Refugees . . . . .                         | 5                 | 3           |
| C. 1967 Protocol relating to the Status of Refugees . . . . .                           | 6-11              | 4           |
| D. Main provisions of the 1951 Convention and the 1967 Protocol . . . . .               | 12                | 4           |
| E. Statute of the Office of the United Nations High Commissioner for Refugees . . . . . | 13-19             | 5           |
| F. Regional instruments relating to refugees . . . . .                                  | 20-23             | 6           |
| G. Asylum, Treatment . . . . .                                                          | 24-27             | 7           |

### Part one

|                                                                                                                          |        |    |
|--------------------------------------------------------------------------------------------------------------------------|--------|----|
| <i>Criteria for the Determination of Refugee Status</i> . . . . .                                                        | 28-187 | 9  |
| CHAPTER I — General Principles . . . . .                                                                                 | 28-31  | 9  |
| CHAPTER II — Inclusion Clauses . . . . .                                                                                 | 32-110 | 10 |
| A. Definitions . . . . .                                                                                                 | 32-34  | 10 |
| (1) Statutory Refugees . . . . .                                                                                         | 32-33  | 10 |
| (2) General definition in the 1951 Convention . . . . .                                                                  | 34     | 10 |
| B. Interpretation of terms . . . . .                                                                                     | 35-110 | 11 |
| (1) "Events occurring before 1 January 1951" . . . . .                                                                   | 35-36  | 11 |
| (2) "Well-founded fear of being persecuted" . . . . .                                                                    | 37-65  | 11 |
| (a) General analysis . . . . .                                                                                           | 37-50  | 11 |
| (b) Persecution . . . . .                                                                                                | 51-53  | 14 |
| (c) Discrimination . . . . .                                                                                             | 54-55  | 15 |
| (d) Punishment . . . . .                                                                                                 | 56-60  | 15 |
| (e) Consequences of unlawful departure or unauthorized stay outside country of origin . . . . .                          | 61     | 16 |
| (f) Economic migrants distinguished from refugees . . . . .                                                              | 62-64  | 16 |
| (g) Agents of persecution . . . . .                                                                                      | 65     | 17 |
| (3) "for reasons of race, religion, nationality, membership of a particular social group or political opinion" . . . . . | 66-86  | 17 |
| (a) General analysis . . . . .                                                                                           | 66-67  | 17 |
| (b) Race . . . . .                                                                                                       | 68-70  | 18 |

|                                                                                                                                                                                                            |         |    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|----|
| (c) Religion . . . . .                                                                                                                                                                                     | 71-73   | 18 |
| (d) Nationality . . . . .                                                                                                                                                                                  | 74-76   | 19 |
| (e) Membership of a particular social group . . . . .                                                                                                                                                      | 77-79   | 19 |
| (f) Political opinion . . . . .                                                                                                                                                                            | 80-86   | 19 |
| (4) "is outside the country of his nationality" . . . . .                                                                                                                                                  | 87-96   | 21 |
| (a) General analysis . . . . .                                                                                                                                                                             | 87-93   | 21 |
| (b) Refugees " <i>sur place</i> " . . . . .                                                                                                                                                                | 94-96   | 22 |
| (5) "and is unable, or, owing to such fear, is unwilling to avail himself of the protection of that country" . . . . .                                                                                     | 97-100  | 23 |
| (6) "or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it" . . . . . | 101-105 | 23 |
| (7) Dual or multiple nationality . . . . .                                                                                                                                                                 | 106-107 | 24 |
| (8) Geographical scope . . . . .                                                                                                                                                                           | 108-110 | 25 |
| CHAPTER III — Cessation clauses . . . . .                                                                                                                                                                  | 111-139 | 26 |
| A. General . . . . .                                                                                                                                                                                       | 111-117 | 26 |
| B. Interpretation of terms . . . . .                                                                                                                                                                       | 118-139 | 27 |
| (1) Voluntary re-avilment of national protection . . . . .                                                                                                                                                 | 118-125 | 27 |
| (2) Voluntary re-acquisition of nationality . . . . .                                                                                                                                                      | 126-128 | 29 |
| (3) Acquisition of a new nationality and protection . . . . .                                                                                                                                              | 129-132 | 30 |
| (4) Voluntary re-establishment in the country where persecution was feared . . . . .                                                                                                                       | 133-134 | 30 |
| (5) Nationals whose reasons for becoming refugees have ceased to exist . . . . .                                                                                                                           | 135-136 | 31 |
| (6) Stateless persons whose reasons for becoming refugees have ceased to exist . . . . .                                                                                                                   | 137-139 | 32 |
| CHAPTER IV — Exclusion clauses . . . . .                                                                                                                                                                   | 140-163 | 33 |
| A. General . . . . .                                                                                                                                                                                       | 140-141 | 33 |
| B. Interpretation of terms . . . . .                                                                                                                                                                       | 142-163 | 33 |
| (1) Persons already receiving United Nations protection or assistance . . . . .                                                                                                                            | 142-143 | 33 |
| (2) Persons not considered to be in need of international protection . . . . .                                                                                                                             | 144-146 | 34 |
| (3) Persons not considered to be deserving of international protection . . . . .                                                                                                                           | 147-163 | 35 |
| (a) War crimes, etc. . . . .                                                                                                                                                                               | 150     | 35 |
| (b) Common crimes . . . . .                                                                                                                                                                                | 151-161 | 36 |
| (c) Acts contrary to the purposes and principles of the United Nations . . . . .                                                                                                                           | 162-163 | 38 |
| CHAPTER V — Special Cases . . . . .                                                                                                                                                                        | 164-180 | 39 |
| A. War Refugees . . . . .                                                                                                                                                                                  | 164-166 | 39 |
| B. Deserters and persons avoiding military service . . . . .                                                                                                                                               | 167-174 | 39 |

|                                                                             |         |    |
|-----------------------------------------------------------------------------|---------|----|
| C. Persons having resorted to force or committed acts of violence . . . . . | 175-180 | 41 |
| CHAPTER VI — The principle of family unity . . . . .                        | 181-188 | 43 |

## Part two

|                                                                              |         |    |
|------------------------------------------------------------------------------|---------|----|
| <i>Procedures for the Determination of Refugee Status</i> . . . . .          | 189-219 | 45 |
| A. General . . . . .                                                         | 189-194 | 45 |
| B. Establishing the facts . . . . .                                          | 195-205 | 47 |
| (1) Principles and methods . . . . .                                         | 195-202 | 47 |
| (2) Benefit of the doubt . . . . .                                           | 203-204 | 48 |
| (3) Summary . . . . .                                                        | 205     | 48 |
| C. Cases giving rise to special problems in establishing the facts . . . . . | 206-219 | 49 |
| (1) Mentally disturbed persons . . . . .                                     | 206-212 | 49 |
| (2) Unaccompanied minors . . . . .                                           | 213-219 | 50 |
| CONCLUSIONS . . . . .                                                        | 220-223 | 53 |

## Annexes

|                                                                                                                                                            |    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| I Excerpt from the Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons (Article IV.) . . . . . | 55 |
| II 1951 Convention relating to the Status of Refugees . . . . .                                                                                            | 57 |
| III 1967 Protocol relating to the Status of Refugees . . . . .                                                                                             | 81 |
| IV List of States parties to the 1951 Convention and to the 1967 Protocol . . . . .                                                                        | 86 |
| V Excerpt from the Charter of the International Military Tribunal, (Article 6.) . . . . .                                                                  | 88 |
| VI International instruments relating to Article 1.F (a) of the 1951 Convention (crimes against peace, war crimes and crimes against humanity.) . . . . .  | 89 |
| INDEX . . . . .                                                                                                                                            | 91 |