

**Serious International Crimes, Human Rights, and Forced Migration**  
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**Indiscriminate violence in International Refugee Law**

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'Indiscriminate violence' is a key element of the subsidiary protection frameworks that have emerged to compensate for significant gaps in asylum law for war refugees in situations of forced displacement. The drafters of the 1951 Refugee Convention purposefully did not consider 'fleeing from hostilities' alone to be grounds for asylum, and this was reaffirmed as late as 1979 by UNHCR's landmark *Handbook on Procedures and Criteria for Determining Refugee Status*, which confirmed that 'persons compelled to leave their country of origin as a result of international or national armed conflicts are not normally considered refugees', except in special cases. Yet this became an increasingly serious issue as global refugee flows related to armed conflict soared in recent decades. There were more than 25 million refugees worldwide in 2017, with a large majority fleeing from countries experiencing conflict or ethnic violence; Syria and Afghanistan alone accounted for about 9 million refugees that year. The scale of the problem has led to a number of regional initiatives, such as the European Union's Qualification Directive of 2004, where Article 15(c) enables the granting of asylum if return to the state of origin would pose a 'serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict'.

Yet, the concepts of indiscriminate violence and internal relocation are interpreted in significantly different fashion across the regimes of international refugee law (IRL), international humanitarian law (IHL) and international human rights law (IHRL). In addition, the strategic studies discipline tends to interpret indiscriminate violence along IHL lines, and this is a potential obstacle for absorbing the findings of conflict scholars into the asylum decision-making process. This paper explores these different legal and analytical interpretations, and considers their implications for the legitimacy of internal relocation policies.