

Refugee Law and Policy

*Carolina Academic Press
Law Casebook Series
Advisory Board*



Gary J. Simson, Chairman
Dean, Case Western Reserve University School of Law

Raj Bhala
University of Kansas School of Law

John C. Coffee, Jr.
Columbia University Law School

Randall Coyne
University of Oklahoma College of Law

John S. Dzienkowski
University of Texas School of Law

Paul Finkelman
Albany Law School

Robert M. Jarvis
*Shepard Broad Law Center
Nova Southeastern University*

Vincent R. Johnson
St. Mary's University School of Law

Michael A. Olivas
University of Houston Law Center

Kenneth Port
William Mitchell College of Law

Michael P. Scharf
Case Western Reserve University School of Law

Peter M. Shane
*Michael E. Moritz College of Law
The Ohio State University*

Emily L. Sherwin
Cornell Law School

John F. Sutton, Jr.
Emeritus, University of Texas School of Law

David B. Wexler
*John E. Rogers College of Law
University of Arizona*

Refugee Law and Policy

A Comparative and International Approach

Third Edition

Karen Musalo

UNIVERSITY OF CALIFORNIA
HASTINGS COLLEGE OF THE LAW

Jennifer Moore

UNIVERSITY OF NEW MEXICO
SCHOOL OF LAW

Richard A. Boswell

UNIVERSITY OF CALIFORNIA
HASTINGS COLLEGE OF THE LAW

CAROLINA ACADEMIC PRESS

Durham, North Carolina

Copyright © 2007
Karen Musalo, Jennifer Moore, and Richard A. Boswell
All Rights Reserved.

ISBN-10: 1-59460-299-9
ISBN-13: 978-1-59460-299-3
LCCN: 2006936993

Carolina Academic Press
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America.

This book is dedicated to the many teachers from whom I've learned that being human means not to turn away from suffering, but to embrace it with compassion and an abiding belief in transformation and healing.

And to my husband, mentor, and co-author, Richard, one of the most gentle souls on earth, whose love and faith in me never fails to illuminate my path.

—K.M.

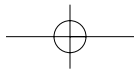
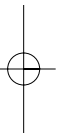
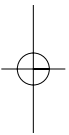
*To Jallah Kanneh
who journeyed from Liberia to New York City in the 1990's
and helped the people of New Orleans in 2005*

*To John, Kyra and Tessa
who are always there
no matter where*

—J.M.

*To Karen,
and to my parents, William P. and Dorothy E. Boswell*

—R.B.



Contents

Table of Cases	xxvii
Acknowledgments (K. Musalo)	xxxv
Acknowledgments (J. Moore)	xxxvi
Acknowledgments (R. Boswell)	xxxvii
Chapter 1 The International Origins of Refugee Law	3
A. Overview	3
B. The Ancient Roots of Refugee Protection	5
1. Protection of the Stranger in the Arab World: The Ancient Concepts of “ijara” and “aman”	5
Ghassan Maârouf Arnaout, <i>Asylum in the Arab-Islamic Tradition</i>	5
Notes	7
2. Refugee Protection in the Judeo-Christian Tradition: Sanctuary in Ancient Greece, Rome and the Early Christian Church	8
Ignatius Bau, <i>This Ground is Holy: Church Sanctuary and Central American Refugees</i>	8
Notes	11
C. Twentieth Century Ultra-Nationalism and the Creation of the “New Refugees”	12
Hannah Arendt, <i>The Origins of Totalitarianism</i>	12
Notes	18
D. The Crystallization of an International Refugee Protection Regime (1921–1951)	19
1. Early Efforts to Establish Formal Mechanisms for the Protection of Refugees (1921–1946)	19
United Nations High Commissioner for Refugees, <i>An Introduction to the International Protection of Refugees</i>	19
Notes	21
2. The International Refugee Organization (1947)	21
Constitution of the International Refugee Organization	21
Notes	23
3. The Birth of UNHCR (1951)	23
United Nations High Commissioner for Refugees, <i>An Introduction to the International Protection of Refugees</i>	23
Notes	24
E. The Evolution of the Modern International Law Definition of the Refugee (1920–1951)	24

1. Early Twentieth Century Concepts of the Refugee	25
James C. Hathaway, <i>The Development of the Refugee Definition in International Law, The Law of Refugee Status</i>	25
Notes	27
2. The IRO Refugee Definition (1947)	27
Constitution of the International Refugee Organization	27
Notes	31
3. The Refugee Definition Found in the UNHCR Statute (1950)	33
The Statute of the Office of the United Nations High Commissioner for Refugees	33
Notes	33
4. The Convention Refugee Definition (1951)	34
1951 Convention relating to the Status of Refugees	34
Notes	34
James C. Hathaway, <i>The Development of the Refugee Definition in International Law, The Law of Refugee Status</i>	35
Notes	37
F. The U.N. Relief and Works Agency for Palestine Refugees (UNRWA)	37
1. The 1951 Convention and Palestinian Refugees	38
1951 Convention relating to the Status of Refugees, Art. 1(D)	38
Note	38
2. UNHCR and Palestinian Refugees	38
United Nations High Commissioner for Refugees, <i>The State of the World's Refugees: A Humanitarian Agenda</i>	38
Notes	41
3. Responding to the "Protection Gap" for Palestinian Refugees	41
No Man's Land: Government Mistreatment of Palestinian Asylum Seekers	41
Note	43
4. Closing the Gaps Between Protection and Durable Solutions: Inter-Agency and NGO Efforts to Make the Refugee Protection Regime Relevant for Palestinian Refugees	44
A Memorandum Prepared by BADIL Resource Center for the UNHCR Pre-Excom NGO Consultation	44
Notes	47
G. The Fundamental Challenges of Refugee Protection	48
1. The Non-entitlement to Asylum and the Norm of Non-refoulement	48
Guy S. Goodwin-Gill, <i>The Refugee in International Law</i>	49
Notes	50
2. Full Membership in a Political Community: the Search for Durable Solutions	51
United Nations High Commissioner for Refugees, <i>The State of the World's Refugees 1993: The Challenge of Protection</i>	51
Notes	54
H. Contemporary and Expanded Notions of the Refugee	54
1. Regional Organizations, Armed Conflict and Human Rights Abuses: New Definitions of the Refugee	55
a. Refugees in the Region of Africa	55

CONTENTS

ix

OAU Convention governing the specific aspects of refugee problems in Africa	55
b. The Central American Region and Refugees	56
Cartagena Declaration on Refugees	56
Notes	56
2. International Humanitarian Law and the Refugee	57
United Nations High Commissioner for Refugees, The State of the World's Refugees 1993: The Challenge of Protection	57
The Geneva Convention Relative to the Protection of Civilian Persons in Time of War	58
Notes	58
James C. Hathaway, The Development of the Refugee Definition in International Law, The Law of Refugee Status	59
Notes	60
Jennifer Moore, Simple Justice: Humanitarian Law as a Defense Against Deportation	60
Notes	62
3. Refugees from within: UNHCR and the Protection of Internally Displaced Persons	62
UNHCR, The State of the World's Refugees: A Humanitarian Agenda	63
Note	64
 Chapter 2 International Norms and State Practice	65
A. Introduction	65
B. U.S. Law and International Norms	66
1. International Law as the "Law of the Land"	67
Restatement (Third) of the Foreign Relations Law	68
2. The Period Preceding the 1980 Refugee Act: Was the Protocol the "Law of the Land"?	68
a. The Protocol's Definition of Refugee and the Obligation of Non-refoulement	69
b. The Historical Context	70
Center for Civil and Human Rights, Admission of Refugees and Asylees Under the Law: Reports on Current United States Procedures and Policies, and Their Origins, with Recommendations for Change	70
Notes	72
Cong. Research Serv., Library of Congress, 96th Cong., 1st Sess., Review of U.S. Refugee Resettlement Programs and Policies	72
Notes	73
3. The 1980 Refugee Act	74
a. The U.S. Definition of Refugee	74
b. Overseas Refugee Program/ Resettlement Program	75
Notes	80
Tahl Tyson, The Refugee Act of 1980: Suggested Reforms in the Overseas Refugee Program to Safeguard Humanitarian Concerns from Competing Interests	81
Notes	83

c. Asylum and Restriction on Removal: Applications for Protection at the Border and Within the U.S.	85
Political Asylum Procedure	85
Restriction on Removal	85
C. Selected Issues: Bias in the Adjudicatory Process & Access to the Territory	86
1. Bias in the Adjudicatory Process	86
James Silk, U.S. Committee for Refugees, Despite A Generous Spirit, Denying Asylum in the United States	87
Note	88
American Baptist Churches v. Richard Thornburgh	89
Notes	90
2. Access to the Territory and Process	92
Cheryl Little, United States Haitian Policy: A History of Discrimination	92
Notes	96
Harold Hongju Koh, Reflections on Refoulement	97
Sale v. Haitian Centers Council	102
Note	122
Louis Henkin, Notes from the President,	123
Harry A. Blackmun, The Supreme Court and the Law of Nations	124
Notes	127
a. Interdiction in the Wake of the Sale Decision	130
b. Expedited Removal as a Means of Limiting Access	132
Karen Musalo, Lauren Gibson, Stephen Knight & J. Edward Taylor, The Expedited Removal Study, Report on the First Three Years of Implementation of Expedited Removal	133
Note	134
Testimony of Eleanor Acer, Lawyers Committee for Human Rights, Hearing on Asylum Policy, U.S. Senate Committee on the Judiciary, Immigration Subcommittee	135
Notes	137
U.S. Comm'n on Int'l Religious Freedom, Report on Asylum Seekers in Expedited Removal	137
Notes	139
i. Bias, Access, and Foreign Policy Considerations: U.S.-Cuban Migration Policies	140
Notes	143
D. Asylum Policy in the European Union	144
Johannes van der Klauuw, Towards a Common Asylum Procedure in Implementing Amsterdam: Immigration and Asylum Rights in EC Law	145
E. An Overview of Select Issues in State Practice within the E.U.	146
1. Accelerated Procedures	146
2. Safe Country of Origin	147
3. Safe Third-Country	147
4. Right of Appeal/Suspensive Effect	148
5. Visa Requirements	149
6. Carrier Sanctions	149
Notes	150

CONTENTS

xi

F. South Africa's Emerging Refugee Protection System	150
1. Background	150
2. The South Africa Refugee Act and Regulations	151
Jacob van Garderen & Vinodh Jaichand, Preface in Jeff Handmaker, Lee Anne de la Hunt, Jonathan Klaaren, Perspectives on Refugee Protection in South Africa	152
Notes	154
Chapter 3 Degrees of Risk: The Standard of Proof in Claims for Protection	157
A. Introduction	157
1. Definitions in U.N. Refugee Convention/Protocol	158
2. U.S. Statutory Provisions	158
B. Standards Defined by the United States Supreme Court	159
1. The Standard of Proof for Withholding (Non-refoulement)	159
I.N.S. v. Predrag Stevic	159
Notes	170
2. The Standard of Proof for Refugee Status	171
I.N.S. v. Luz Marina Cardoza-Fonseca	171
Notes	187
C. A Critique of U.S. Standards from an International Perspective	188
Joan Fitzpatrick, The International Dimension of U.S. Refugee Law	188
Notes	191
D. The Interpretation of the Well-Founded Fear Standard	193
1. UNHCR and State Practice	193
Notes	194
2. The Board Applies the Well-Founded Fear Standard	194
Matter of Mogharrabi	194
Notes	199
3. U.S. Courts Distinguish the Asylum and Withholding/ Restriction Standards	201
Jose Garcia-Ramos v. I.N.S.	201
Notes	205
E. Issues Related to Well-Founded Fear and Clear Probability Standards of Proof	206
1. The Standard in Expedited Removal—A “Credible Fear of Persecution”	206
Notes	207
2. The Relationship Between the Standard of Proof for Likelihood of Harm and The Burden of Proof/Burden of Persuasion	208
Notes	209
3. Regulations Addressing the Standard of Proof	209
a. Regulations on Prospective Risk	210
Notes	210
b. Past Harm and its Relevance to Claims for Protection	211
i. The INS Regulation on Past Persecution	212
8 C.F.R. §208.13	212
ii. Parsing the Regulation	213
Notes	214
4. The Relationship Between Countrywide Persecution and a Well-Founded Fear	215

Canada: Interpretation of the Convention Refugee Definition in the Case Law (December 2002)	215
Switzerland: Klaus Hullman, Switzerland, in Jean-Yves Carlier, et. al. Who is a Refugee?: A Comparative Case Law Study	217
European Union: E.U. Qualifications Directive	217
Notes	218
F. The Role of Discretion in the Refugee Determination Process	219
1. Considering the “Totality of Circumstances” in the Exercise of Discretion	219
Matter of Pula	219
Notes	225
Appendix	227
8 C.F.R. § 208.16(b)	227
Chapter 4 The Definition of Persecution—Its Forms and Sources	229
A. Introduction	229
B. The Relationship Between Human Rights Norms and Persecution	229
Guy Goodwin-Gill, <i>The Refugee in International Law</i>	230
Refugee Status Appeals Authority (1999) 2000	230
Notes	233
C. The Forms of Persecution	234
1. Economic Harms as Persecution	234
Djordje Kovac v. I.N.S.	234
Notes	238
2. Physical and Mental Violations and the Issue of Punitive Intent	240
Alla Konstantinova Pitcherskaia, Petitioner, <i>The International</i> <i>Human Rights Law Group, Intervenor v. INS</i>	240
Notes	246
3. Severe & Atrocious Persecution—The Requirement for a Humanitarian Grant	246
Matter of Chen	247
Notes	250
4. Discrimination as a Form of Persecution	252
Brian Brosnahan & Robert Borton of Heller, Ehrman, White & McAuliffe and Mark Silverman of the Immigrant Legal Resource Center—Applicant’s Brief in Support of a Request for Political Asylum & Withholding of Deportation	254
Notes	259
David Stephen & Phillip Wearne, <i>Central America’s Indians</i>	260
Notes	264
Vera Korablina v. INS	265
Notes	271
5. Distinguishing Prosecution from Persecution	275
Ebrahim Sadeghi v. I.N.S.	276
Notes	282
D. The Source of Persecution: State and Non-State Agents	282
1. Protection and Accountability/Complicity Views, and State Practice	282
a. UNHCR—the “Protection” View	283
i. The Protection View in the U.S. and Canada	

CONTENTS

xiii

Tatiana Pavlova v. Immigration and Naturalization Service,	283
Notes	286
b. The Accountability or Complicity Approach	287
c. Evolving Practice—The Qualifications Directive: State and Non-State Agents of Persecution and the Question of Effective Protection	287
d. Sending an Asylum Seeker from a Protection to an Accountability Regime—The Implications of the “Safe Third Country” Principle	288
Notes	290
Chapter 5 The Nexus Requirement	291
A. Introduction	291
B. United States Jurisprudence	292
1. 1980–1992: The Period Preceding Zacarias	292
Sofia Campos-Guardado v. I.N.S.	293
Notes	296
Olimpia Lazo-Majano v. I.N.S.	298
Notes	306
a. Proving “On Account Of” — The Use of a Rebuttable Presumption	307
Adela Hernandez-Ortiz v. I.N.S.	307
Notes	311
Jairo Jonathan Elias Zacarias v. I.N.S.	312
Note	315
2. The U.S. Supreme Court’s Imposition of an Intent Requirement	316
I.N.S. v. Jairo Jonathan Elias Zacarias	316
a. A Critique of the Zacarias Decision	322
b. Statutory Interpretation: Plain Meaning and Deference	323
Karen Musalo, Irreconcilable Differences? Divorcing Refugee Protections from Human Rights Norms	323
Note	329
3. Mixed Motives and the “Central Reason” Requirement of the REAL ID Act of 2005	329
a. Mixed Motives	329
In re S—P—	329
Notes	334
b. The “Central Reason” Requirement of the REAL ID Act of 2005	334
The REAL ID Act of 2005	335
C. International and Comparative Practice on the Requirement of Nexus	336
1. UNHCR	336
Written Submission on Behalf of the U.N. High Comm’r for Refugees in the [U.K.] Court of Appeal in Yasin Sepet and Erdem Bulbul v. Secretary of State for the Home Department	336
Notes	340
2. Australia	340
a. The High Court’s Approach	340
Chen Shi Hai (an infant) by his next best friend Chen Ren Bing v. The Minister for Immigration and Multicultural Affairs	340

Notes	346
b. The Legislature’s Approach	347
3. A Bifurcated Analysis in International Jurisprudence	347
D. Protection Under the Torture Convention	349
1. Background	349
2. CAT Implementation in U.S. Law	350
a. The Court Compares Asylum to CAT Relief	354
Navaratwam Kamalthas v. INS	354
Note	358
3. An International Perspective—Decisions of the U.N. Committee	
Against Torture in Cases of Asylum Seekers Who Have Been Tortured	358
Decision of the Committee Against Torture In the Matter	
of Pauline Muzonzo Paku Kisoki Against Sweden	359
Notes	364
Chapter 6 Persecution on Account of Political Opinion	367
A. Introduction	367
B. Persecution on Account of Political Opinion: When are Activities &	
Opinions Political?	368
1. Anti-communism as a Political Opinion	368
Fidele Sanon v. I.N.S.	369
Notes	373
2. Trade Union Activity as an Expression of Political Opinion	373
Vicente Osorio v. I.N.S.	373
Notes	382
3. Neutrality as Political Opinion	384
Espectación Bolanos-Hernandez v. I.N.S.	384
Notes	387
4. Imputed Political Opinion	390
Jose Doney Argueta v. I.N.S.	390
Notes	392
a. Canadian Perspective on Neutrality and Imputed	
Political Opinion	394
Immigration and Refugee Board of Canada Guidelines on Civilian	
Non-Combatants Fearing Persecution in Civil War Situations	394
Notes	394
5. Opposition to Corruption as a Political Opinion/	
Refugee Status for “Whistle-Blowers”	395
Alexander Klinko, Lyudmyla Klinko, and Andriy Klinko v.	
Canada (Minister of Citizenship and Immigration)	395
Notes	400
C. Selected Issues—Prosecution vs. Persecution, Refusal to Serve	
in the Military and Coercive Population Control	402
1. When is Prosecution Persecution?	402
a. Prosecution for a Convention Reason	403
Li Wu Lin, v. Immigration and Naturalization Service	403
Notes	407
b. Prosecution for a Convention Reason/Pretextual Prosecution	408
Efrain Carranza-Hernandez v. I.N.S.	408

CONTENTS

xv

Notes	411
c. Prosecution vs. Persecution: Is there a Legitimate Governmental Investigation and Prosecution?	411
Hugo Ivan Bellido, Miriam Puna-Villaneuvam v. John Ashcroft. Attorney General	411
Notes	416
d. Punishment for a Crime Committed: Resistance to Repressive Regimes	419
Nana Asante Dwomoh v. Sava	419
Notes	427
2. Refusal to Serve in the Military	429
a. UNHCR Guidance	429
Notes	431
b. Evolving U.S. Jurisprudence	432
i. Double Standard in Application of the Handbook	432
ii. Religiously-Motivated Conscientious Objection	432
iii. Political Objections to Military Action, and Condemnation by the International Community	435
Jose Antonio Barraza-Rivera v. I.N.S.	437
Notes	439
Slavko Ciric and Slavica Ciric v. Canada (Minister of Employment and Immigration)	440
Notes	444
3. Coercive Population Control (CPC)	445
a. Background—Nexus Barriers in CPC Cases	445
Guo Chun Di v. Carroll	446
Note	454
b. Congress “Legislates” Nexus in 1996	454
c. Canada—A Different Approach to Nexus	455
d. UNHCR Guidelines	457
e. Selected Issues in Population Control Cases under the 1996 Legislation	458
Chapter 7 Persecution on Account of Religion	463
A. Introduction	463
B. Freedom of Religion in International Practice and its Relationship to Refugee Norms	464
Karen Musalo, Irreconcilable Differences? Divorcing Refugee Protections from Human Rights Norms	464
Notes	466
C. Different Degrees of Consistency with International Norms: United States, United Kingdom and Australia	467
1. United States	468
Matter of Liadakis	468
Notes	470
2. United Kingdom	471
Ahmad and Others v. Sect’y of State for the Home Department	471
Notes	476
Amnesty International, Report on Religious Intolerance	477

Note	478
3. Australia	479
Commonwealth of Australia	479
Notes	483
Amnesty International, Conscientious Objection to Military Service	484
Notes	486
D. U.S. Constitutional Law Principles: First Amendment	
Free Exercise of Religion	486
Jason W. Rockwell, When Congress Answers Religion's Prayer: The Religious Liberty Protection Act of 1999	487
Notes	490
Religious Land Use and Institutionalized Persons Act of 2000	490
E. Select Issues in U.S. Jurisprudence	492
1. Credibility and Knowledge of Religious Doctrine	492
Yong Ting Yan, v. Alberto R. Gonzales, Attorney General	492
Notes	498
2. Overlapping Grounds of Persecution	499
a. Religion and its Overlap with Political Opinion Claims	499
Masood Shirazi-Parsa, et al. v. I.N.S.	499
Notes	503
b. Religion and its Overlap with Gender/Social Group Claims	503
In re S—A—	503
Notes	509
Susan Musarrat Akram, Orientalism Revisited in Asylum and Refugee Claims	510
Note	513
Appendix	514
Guidelines on International Protection, Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees	514
Chapter 8 Persecution Based on Race or Nationality	525
A. Introduction	525
B. Basic Concepts	527
1. Race	527
Cheikh Anta Diop, Civilization or Barbarism, An Authentic Anthropology	528
The 1950 UNESCO Statement on Race	528
Ashley Montagu, Race, Science, and Humanity	528
The 1967 UNESCO Statement on Race and Racial Prejudice	529
Notes	529
2. Nationality	529
Elizabeth Kiss, Is Nationalism Compatible with Human Rights? Reflections on East Central Europe, Identities, Politics and Rights	530
Notes	531
C. Historical Perspective on Nationalism and Persecution	531
Hannah Arendt, The Origins of Totalitarianism	531
Notes	534

CONTENTS

xvii

D. An Analysis of Asylum Claims Based Upon Race or Nationality from the Perspective of the UNHCR Handbook	535
1. Persecution on Account of Race	535
United Nations High Commissioner for Refugees, Handbook on Procedures and Criteria for Determining Refugee Status	535
Notes	535
2. Persecution on Account of Nationality	536
United Nations High Commissioner for Refugees, Handbook on Procedures and Criteria for Determining Refugee Status	536
Notes	536
E. Treatment of Race and Nationality Claims by U.S., U.K. and Australian Courts	537
1. Ethnicity, Politics and Social Status	537
a. Elite Oromo Opposition Member from Ethiopia: The Case of Makonnen Elizabeth Makonnen v. I.N.S.	537
Notes	542
b. Roma Family from the Czech Republic: the Case of ZL and VL v. [United Kingdom] Secretary of State for the Home Department and Lord Chancellor's Department	544
Notes	553
2. Ethnicity and Gender in the Case of Shoafera, an Amhara Woman from Ethiopia	554
Nigist Shoafera v. I.N.S.	554
Notes	558
3. Ethnicity and Religion	560
a. Russian Jews from the Ukraine: the Case of O—Z— and I—Z—	560
In re O—Z— & I—Z—	560
Notes	563
b. Moslem Arab from Israel: The Case of Baballah	565
Abraham Baballah, Ula Baballah, Ahmad Baballah v. Ashcroft	565
Notes	572
c. Ethnic Hazara Shi'a from Afghanistan: The Case of Wahk	574
Wahk v. Minister for [Australian] Immigration and Multicultural & Indigenous Affairs	574
Notes	582
d. Ethnic Chinese Christians from Indonesia: The Cases of Lie and Lolong	583
Imela Laurencia Lie, Soyono Liem Andre, Yulius Suyono v. Ashcroft	583
Marjorie Konda Lolong v. Gonzales	588
Notes	594
F. International Treaties Relating to Crimes Against Humanity	596
1. The Genocide Convention and Ethnic Persecution	596
Convention on the Prevention and Punishment of the Crime of Genocide	596
Notes	597
2. The International Criminal Court	598
Rome Statute of the International Criminal Court	598

Note	599
G. Contemporary Case Studies of Ethnic Persecution and the Establishment of International Criminal Tribunals	599
1. The Former Yugoslavia and the ICTY	599
Steve Coll, War Crimes and Punishment: Bosnia in the Shadow of the Holocaust	599
Notes	606
2. Rwanda and the ICTR	608
3. Darfur, Sudan and the International Criminal Court	609
Jennifer Moore, Stop Genocide and Protect Civilians in Darfur, Sudan	609
Notes	611
H. Humanism in the Face of “Organized Ethnic Hatred:”	
A Further Commentary	612
Marieme Helie-Lucas, The Face of Women Refugees from Muslim Communities: Algeria to ex-Yugoslavia, The Suitcase: Refugee Voices from Bosnia and Croatia	612
Notes	616
Majana Burazovic, Don’t Call Me That Way, The Suitcase: Refugee Voices from Bosnia and Croatia	616
Chapter 9 Persecution Based on Membership in a Particular Social Group	619
A. Introduction	619
B. Conceptual Background	621
1. Social Group Membership under International Refugee Law	622
Guy S. Goodwin-Gill, The Refugee in International Law	623
Notes	623
2. Social Group Membership from the Perspective of the UNHCR Handbook	624
United Nations High Commissioner for Refugees, Handbook on Procedures and Criteria for Determining Refugee Status	624
Notes	624
C. Nexus and Social Group	625
D. Treatment of Social Group Claims in U.S. Courts	627
1. Social Groups Defined by Immutable or Fundamental Characteristics: The Legacy of Acosta	627
Matter of Acosta	627
Notes	632
2. Sexual Orientation as Immutable or Fundamental	637
Nasser Mustapha Karouni v. Alberto Gonzales	637
Notes	644
3. Femaleness as Immutable or Fundamental	647
In re Fauziya Kasinga	647
Notes	656
Hong Ying Gao v. Alberto Gonzales	657
Notes	665
4. Social Groups Based on Family Relationships: Tchoukhrova	666
Victoria Tchoukhrova, et al. v. Alberto Gonzales	666
Notes	677

CONTENTS

xix

E. Comparative Law Analysis of Social Group Claims	681
1. Comparative Social Group Jurisprudence in Germany, Canada and the United States	681
Maryellen Fullerton, A Comparative Look at Refugee Status Based on Persecution Due to Membership in a Particular Social Group	681
Notes	688
2. Integrating Human Rights Jurisprudence into Social Group Asylum Jurisprudence	689
Krista Daley & Ninette Kelley, Particular Social Group: A Human Rights Based Approach in Canadian Jurisprudence	689
Notes	695
3. Toward an Integrative Jurisprudence: UNHCR Guidelines on Social Group Claims	697
United Nations High Commissioner for Refugees, Guidelines on International Protection	697
Notes	701
4. New Zealand Jurisprudence on Social Group Claims	703
Refugee Appeal No. 74665/03	703
Notes	720
Chapter 10 Gender-Related Claims to Refugee Status	723
A. Introduction	723
B. Conceptual Background: The Women’s Human Rights Movement and the Challenge of International Protection for Refugee Women	727
Declaration on the Elimination of Violence Against Women	728
Notes	729
C. An Analysis of Gender-Related Grounds and Forms of Persecution from the Perspective of the UNHCR	730
1. UNHCR’s First Guidelines on Refugee Women (1991)	730
United Nations High Commissioner for Refugees, Guidelines on the Protection of Refugee Women	730
Notes	731
2. UNHCR’s Executive Committee and Refugee Women (1985)	733
Executive Committee Conclusion No. 39 (XXXVI) on Refugee Women and International Protection	733
Notes	734
3. UNHCR’s Executive Committee and Refugee Women (1993)	735
Executive Committee Conclusion No. 73 (XLIV) on Refugee Protection and Sexual Violence	735
Notes	737
4. UNHCR’s 2002 Gender Guidelines	738
United Nations High Commissioner for Refugees, Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees	738
Notes	742
D. Comparative Law Analysis: Administrative Guidelines for the Adjudication of Women’s Asylum Claims	743
1. Canadian Gender Guidelines	744

Women Refugee Claimants Fearing Gender-Related Persecution: Guidelines Issued by the Chairperson Pursuant to Section 65(3) of the Immigration Act	744
2. U.S. Gender Guidelines	744
Considerations For Asylum Officers Adjudicating Asylum Claims From Women	744
3. Australian Gender Guidelines	745
Refugee and Humanitarian Visa Applicants Guidelines on Gender Issues for Decision Makers	745
4. U.K. Gender Guidelines	746
Immigration Appellate Authority, Asylum Gender Guidelines	746
5. Proposed U.S. Federal Asylum Regulations	746
Asylum and Withholding Definitions	746
Notes	750
E. The Treatment of Refugee Women's Claims: The Still-Exceptional Character of Gender Asylum Jurisprudence	752
1. Rape as a Weapon of War: Violence Against Women in Time of Widespread Repression In re D—V— Notes	753 753 755
2. The Chador Cases: Feminism and the Religious State	758
a. Iranian Feminist Cases in the United States	758
Saideh Fisher v. I.N.S.	758
Notes	764
b. Comparative Law Approach to Feminism and Political Islam [“New Zealand Iranian feminist case”] New Zealand Refugee Status Appeals Authority Notes	767 767 773
3. Female Genital Cutting: Women, “Culture” and Sexual Domination	774
a. The Board of Immigration Appeals and Female Genital Cutting In re Fauziya Kasinga Notes Khadija Mohamed v. Alberto Gonzales Notes	774 774 777 777 786
4. Mothers and their Daughters: Anguished Choices in Interrelated Asylum Claims	788
Yayeshwork Abay & Burhan Amare v. John Ashcroft Notes	788 794
5. Domestic Violence: Persecution in the Home	797
a. The Board of Immigration Appeals and Domestic Violence In re R—A— Notes	797 797 813
b. Comparative Law Approach to Domestic Violence [“New Zealand Iranian domestic violence case”] New Zealand Refugee Status Appeals Authority Notes	818 818 818 827
F. Some Concluding Remarks About “Gender-Related” Claims	829
1. “Nexus” to Gender	829
2. The Personal is Universal	830

CONTENTS

xxi

Chapter 11	Qualifications Upon Protection	831
A.	Introduction	831
B.	Overview of the Statutory Bars in U.S. Law	831
C.	Persons Excluded for Being Unworthy of Protection or for Posing a Danger to the Host Country within the Context of the 1951 Refugee Convention and U.S. Law	832
	Note	833
	1. International Commentary on Art. 1.F and Art. 33.2	833
	Volker Turk, Forced Migration and Security	833
	Notes	836
	The European Council on Refugees and Exiles, Position on Exclusion from Refugee Status	837
	Notes	842
	2. Caselaw on the Application of Article 1.F	844
	(Australia)	844
	RRT Reference	844
	Notes	851
	(Canada)	852
	Moreno v. Canada (Minister of Employment & Immigration)	852
	Notes	858
	3. U.S. Law	859
	a. Persecutor of Others	859
	Matter of Rodriguez-Majano	860
	Notes	863
	4. Serious Non-Political Crimes—International and U.S. Perspectives	864
	a. International Framework	864
	b. Serious Non-Political Crimes in U.S. Law	866
	Juan Anibal Aguirre-Aguirre v. INS	867
	I.N.S. v. Juan Anibal Aguirre-Aguirre	870
	Notes	875
	Brief for Amicus Curiae In Support of The Respondent Submitted by Iris Gomez, Esq., Counsel of Record, Massachusetts Law Reform Institute, James F. Smith, Esq., Amagda Perez, Esq., Immigration Law Clinic, University of California School of Law, Davis	875
	Notes	879
D.	Particularly Serious Crimes and Security Risk to the Host Country	880
	1. Introduction	880
	2. International Guidance	881
	Rene Bruin & Kees Wouters, Terrorism and the Non-Derogability of Non-Refoulement	881
	Notes	882
	3. Application of the Particularly Serious Crime Bar in the United States	882
	a. Rejecting the International Approach: All Particularly Serious Crime Offenders Constitute a Danger to the Community	883
	Matter of Carballe	883
	Notes	885
	b. The “Per Se” Approach to Defining “Particularly Serious Crimes”	886
	Note	887

4. Danger to Security of the Host Country	887
a. Application of Security Bar in the United States	887
Georgetown University Law Center, Human Rights Institute, Unintended Consequences: Refugee Victims of the War on Terror	888
Notes	895
E. Applying the Exclusion Clauses	896
Notes	896
F. Not in Need of Protection	897
1. The Cessation Clauses of Art. 1.C.—International Standards	898
Notes	898
Guy S. Goodwin-Gill, <i>The Refugee in International Law</i>	899
Notes	901
2. “Termination” of Asylum Status under U.S. Law	902
Note	902
3. Preclusion—Safe Third Country—The U.S.-Canadian Agreement	903
4. The Exclusion Clause of Art. 1.E and Firm Resettlement Under U.S. Law—Effective Protection in a Third State	904
Matter of Soleimani	905
Notes	908
G. Filing Deadline as a Basis for Exclusion under U.S. Law	909
Leena Khandwala, Karen Musalo, Stephen Knight and Maria Anna K. Hreshchyshyn, <i>The One Year Bar: Denying Protection to Bona Fide Refugees Contrary to Congressional Intent and Violative of International Law</i>	910
Notes	915
Statutory Appendix The Qualifications on Protection— Governing Domestic Statutory Provisions	917
The Refugee Definition—Persecutor of Others Exclusion	917
Asylum Procedure and Statutory Bars	917
Restriction on Removal & Statutory Bars	920
Aggravated Felonies as a Bar	921
The “Terrorism Bars”	923
INA §237(a)(4)(B), 8 U.S.C. §1227(a)(4)(B)	925
Nazi Persecution or Genocide	925
Chapter 12 The Process and Rights of Asylum Seekers	929
A. Introduction	929
B. An International Perspective on Procedures	929
Guy S. Goodwin-Gill, <i>The Refugee in International Law</i>	930
Note	931
C. Realpolitik Constraints	932
Stephen H. Legomsky, <i>An Asylum Seeker’s Bill of Rights in a Non-Utopian World</i>	932
Notes	937
D. Limits on Constitutional Protections for Asylum Seekers in the United States	938
Kendall Coffey, <i>The Due Process Right To Seek Asylum in the United States: The Immigration Dilemma and Constitutional Controversy</i>	939

CONTENTS

xxiii

Notes	944
E. Selected Issues in State Practice	945
1. An Overview of Determination Procedures in the United States	945
a. Affirmative Applications for Asylum	945
b. Applications as a Defense to Removal	947
INA §240, 8 U.S.C. § 1229a	947
c. A Critique of the Adjudicatory System	949
Deborah E. Anker, Determining Asylum Claims in the United States: a Case Study on the Implementation of Legal Norms in an Unstructured Adjudicatory Environment	949
Notes	954
2. Conditions and Components of a Fair Refugee Determination Procedure	954
a. Legal Representation	954
Margaret H. Taylor, Promoting Legal Representation for Detained Aliens: Litigation and Administrative Reform	955
Notes	958
b. Detention of Asylum Seekers	959
United Nations High Commissioner for Refugees, Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum-Seekers (1999)	960
Notes	966
Wendy Young, U.S. Detention of Women and Children Asylum Seekers: A Violation of Human Rights	968
Notes	972
c. An Independent and Unbiased Adjudicator	974
i. A Journalist's Exposé of the Immigration Courts	974
Fredric N. Tulsy, Judges Who Grant Asylum Show Extreme Differences in Rulings	974
Notes	979
3. A Litany of Criticism from the Federal Courts	981
Lorraine Fiadjoe v. Attorney General of the U.S.	982
Notes	999
a. Right to Appeal	1000
Note	1002
Tarek Gheblawi v. I.N.S.	1003
Notes	1006
b. Language Interpretation as a Guarantor of Related Rights	1007
El Rescate v. Exec. Office for Imm. Rev.	1007
Notes	1010
4. Right to Work/Social Benefits	1012
Ryszard Cholewinski, Economic and Social Rights of Refugees and Asylum Seekers in Europe	1013
Note	1016
Chapter 13 Proving the Claim	1017
A. Introduction	1017
B. International Perspectives	1018
Atle Grahl-Madsen, The Status of Refugees in International Law	1018

U.N. High Comm'r for Refugees, Handbook on Procedures and Criteria for Determining Refugee Status	1018
Notes	1020
C. The Burden of Proof	1021
D. Establishing Credibility	1022
REAL ID Act of 2005	1022
1. Demeanor	1023
Jeremy A. Blumenthal, A Wipe of the Hands, A Lick of the Lips: The Validity of Demeanor Evidence in Assessing Witness Credibility	1024
Note	1026
Pensaquitos Village, Inc., v. NLRB	1026
Notes	1028
In re Berta Lidia Iraheta	1028
Notes	1033
2. The Impact of Psychological Factors on Credibility— Demeanor, Consistency and Detail	1034
Physicians for Human Rights, Medical Testimony on Victims of Torture: A Physician's Guide to Political Asylum Cases	1034
Notes	1035
Psychological Evaluation of R—C— by Adrienne Aron, Licensed Clinical Psychologist	1036
Notes	1039
3. Inconsistencies—Another Look at the Expedited Removal Process Chenthilkumaran Senathirajah v. Immigration and Naturalization Service	1042
Notes	1051
4. Cross-Cultural Issues and their Relationship to the Determinants of Credibility	1053
Juan Francisco Cordero-Trejo v. I.N.S.	1054
Notes	1061
Walter Kälin, Troubled Communication: Cross-Cultural Misunderstandings in the Asylum-Hearing	1062
Notes	1069
Veronika Kot, The Impact of Cultural Factors on Credibility in the Asylum Context	1070
Notes	1071
Everth Ceballos-Castillo v. I.N.S.	1072
Commonwealth of Australia	1073
Notes	1078
5. Medical Testimony Relating to Persecution	1079
Physicians for Human Rights Medical Testimony on Victims of Torture: A Physician's Guide to Political Asylum Cases	1080
Notes	1081
6. The Use of Experts	1081
Rachael Keast, Using Experts for Asylum Cases in Immigration Court	1082
Notes	1089
7. The Corroboration Requirement: From Mogharrabi to the REAL ID Act of 2005	1090

CONTENTS

xxv

REAL ID Act of 2005	1090
Note	1091
Abdelhadi Hor v. Alberto R. Gonzales	1091
Notes	1095
8. The Requirement of Corroboration within the European Union Qualifications Directive	1096
Note	1098
9. Special Guidance for Child and Women Applicants	1098
a. Child Applicants	1098
Office of the United Nations High Commissioner for Refugees, Refugee Children: Guidelines on Protection and Care	1098
Notes	1099
b. Women Applicants	1101
Australian Department of Immigration and Multicultural Affairs, Guidelines on Gender Issues for Decision Makers	1101
UNHCR, Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees	1102
Note	1103
E. Credibility Determinations from the Perspective of the Examiner	1103
Audrey Macklin, Truth or Consequences: Credibility Determinations in the Refugee Context	
International Association of Refugee Law Judges	1103
Notes	1110
Appendix A	1111
American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders	1111
Chapter 14 Current and Future Challenges in Refugee Protection	1117
A. Introduction	1117
B. UNHCR: The United Nations Refugee Agency Renews its Commitment to Refugee Protection in the Twenty-first Century	1119
Erika Feller, Statement by the Director, UNHCR Department of International Protection, to the 18th Meeting of the UNHCR Standing Committee (Jul. 5, 2000)	1120
Notes	1123
C. Temporary Protection and Complementary Protection: A Retreat from Asylum or an Overture to Protection?	1123
1. UNHCR and Temporary Protection	1124
United Nations High Commissioner for Refugees, The State of the World's Refugees 1993: The Challenge of Protection	1124
United Nations High Commissioner for Refugees, The State of the World's Refugees 1995: In Search of Solutions	1125
Notes	1127
UNHCR, Complementary Forms of Protection: Their Nature and Relationship to the International Refugee Protection Regime	1129
Notes	1135

2. The European Union and Complementary Protection	1135
[EU] Council Directive 2004/83/EC of 29 April 2004 On minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted	1135
Notes	1137
D. Non-Refoulement to Human Rights Emergencies: Harbinger of a Customary Norm?	1139
Jennifer Moore, Simple Justice: Humanitarian Law as a Defense Against Deportation	1140
Notes	1142
E. Responding to the Internally Displaced: The Problem of Failed States and the Concept of Effective Protection	1143
1. The London Declaration on IDP's	1144
Luke T. Lee, The London Declaration of International Law Principles on Internally Displaced Persons	1144
Notes	1148
2. Action by the United Nations Secretary General on Behalf of the Internally Displaced	1149
F. Resolving the Problem of Exile: The Seamless Web of Prevention, Protection and Solutions	1150
1. Voluntary Repatriation: Return in Safety and Dignity, or Return to Exile?	1151
United Nations High Commissioner for Refugees, The State of the World's Refugees 1993: The Challenge of Protection	1151
Notes	1154
2. Nation-building: Principled Pragmatism as a Response to Global Interdependence	1155
Jonathan Moore, The U.N.'s New Mission: Nation-Building	1155
Notes	1158
3. Tolerance vs. Fear: the Global War on Terror and the Need for a Renewed Commitment to Refugee Protection	1158
Marisa Silenzi Cianciarulo, Terrorism and Asylum Seekers: Why the Real ID Act is a False Promise	1159
Notes	1160
G. Refugees as Survivors of Conflicts and Healers of Communities	1161
Steve Coll, The Other War	1161
Notes	1176
Judith Mayotte, Beyond the Balkans, The Suitcase: Refugee Voices from Bosnia and Croatia	1177
H. Conclusion	1182
Index	1183

Table of Cases

Page numbers in bold indicate cases which appear in the text.

- A—G—, Matter of, 321, 331
 A—E—M—, Matter of, 585
 A—M—, Matter of, 912
 A—N—, Matter of, 124, 174, 209, 222–223, 250, 353, 359, 377, 400–401, 446, 458, 505, 507, 509, 557, 569, 573, 637, 662, 676, 766, 776, 791, 817, 872–873, 885, 887, 905, 932, 1009, 1031, 1060, 1086, 1089–1090
 A—S—, Matter of, 505
 Acosta, Matter of, 174, 182, 195, 244, 279, 585, 620–621, 625, **627**, 632–633, 652, 655, 660–663, 671, 691–692, 695, 775–776, 801, 804–806, 862–863, 1031
 Adamska, Matter of, 176
 Annang, Matter of, 907
 Abay & Amare v. Ashcroft, **788**, 795
 Abay v. Ashcroft, 250, 662, 725, 778, 780–781, **788**
 Abdulai v. Ashcroft, 1090, 1093
 Abdulrahman v. Ashcroft, 587, 596
 Abebe v. Ashcroft, 796
 Abedini v. INS, 763, 868
 Acewicz v. INS, 382
 Aguilera-Cota v. INS, 1046
 Aguirre-Aguirre v. INS, **867**
 Aguirre-Cervantes v. INS, 816–817
 Ahmad v. Sect’y of State for the Home Department [U.K.], 471
 Ahmed (Ifikhar) v. Secretary of State for the Home Department, 476
 Ahmed v. Ashcroft, 274, 1091–1092
 Al Najjar v. Ashcroft, 274
 Ali v. Ashcroft, 643, 645, 785
 Ali v. Gonzales, 1033
 Ali v. Reno, 909
 Alonzo v. INS, 759
 Alvarado-Castillo v. INS, 659
 Alvarez-Flores v. INS, 388
 Amanfi v. Ashcroft, 394
 Amare v. Ashcroft, 725, **788**, 795
 American Baptist Churches v. Meese, 1140
 American Baptist Churches v. Thornburgh (ABC), **88–90**, 265, 378,
 American Immigration Lawyers Association v. Reno, 1001
 American Tobacco Co. v. Patterson, 175
 Ananeh-Firempong v. INS, 635, 661
 Argueta v. INS, 203, 309, **390**
 Arizona v. California, 117
 Arkansas v. Oklahoma, 1005
 Arriaga-Barrientos v. INS, 269
 Arteaga v. INS, 269, 314, 317, 439, 862, 1005
 Artiga Turcios v. INS, 313, 568
 Aruta v. INS, 1087
 Asghari v. INS, 755
 Auguste v. Ridge, 352
 Awale v. Ashcroft, 218, 784
 B—, Matter of, 424, 506, 508, 561–563, 651, 653, 691, 801, 1071, 1090
 Baballah v. Ashcroft, 274, **565**, 677, 782
 Bahramnia v. INS, 295
 Baires v. INS, 1087
 Balasubramanrim v. INS, 406, 1042, 1052–1053
 Balazoski v. INS, 371–372
 Banjeglav, Matter of, 236
 Barraza Rivera v. INS, **437–439**
 Bastanipour v. INS, 282, 372, 763, 948
 Becerra-Jimenez v. INS, 371
 Begzatowski v. INS, 432
 Bellido v. Ashcroft, 411
 Benslimane v. Gonzales, 981
 Bevc v. INS, 371
 Blanco-Comarribas v. INS, 247

- Blanco-Lopez v. INS, 277, 280, 416, 811, 1031
- Blazina v. Bouchard, 236, 469–470
- Board of Education v. Barnette, 386
- Bolanos-Hernandez v. INS, 196, 203, 300, 304, 308, 310, 314, 320, 322, 384, 439, 570
- Borca v. INS, 239, 434
- Borja v. INS, 334, 557, 1094
- Braniff Airways, Inc. v. CAB, 238
- Bregman v. INS, 238
- Brima, Kamara and Kanu, 757
- Bulbul v. Secretary of State, 336
- C—Y—Z—, Matter of, 458, 791
- Cadet v. Bulger, 351
- Camposeco v. Ashcroft, 909
- Campos-Guardado v. INS, 293–296, 322, 1006, 1033, 1106
- Canada v. Ward, 231, 283, 396, 636, 684, 690, 696, 709–710
- Canad v. Obstoj, 211
- Cañas-Segovia I, 433
- Cañas-Segovia II, 433, 484
- Cantisani v. Holton, 161
- Cantwell v. Connecticut, 469
- Capital Cities Cable, Inc. v. Crisp, 181
- Carballe, Matter of, 883, 885
- Carcamo-Flores v. INS, 175, 184, 197
- Cardoza-Fonseca v. INS, 100, 120, 128, 157, 171, 184, 195–197, 221, 247, 304, 318–320, 332–333, 415, 503, 539, 659, 670, 762, 782, 808, 869, 872–873, 875, 907, 950, 1004, 1051
- Carey v. Population Serv. Int'l., 452
- Carranza-Hernandez v. INS, 408, 411
- Carvajal-Munoz v. INS, 173, 184, 196
- Castaneda-Hernandez v. INS, 1088
- Castillo-Arias v. U.S. Att'y Gen., 402, 702–703
- Ceballos-Castillo v. INS, 414, 1032, 1072, 1078–1079
- Chai, Matter of, 908
- Chan v. Canada, 691, 696
- Chang, Matter of, 445–447, 449–450, 454, 652
- Chaplinsky v. New Hampshire, 469
- Chavez v. INS, 203
- Chen Shi Hai v. Min. for Imm. & Multicultural Aff., 339–340, 708
- Chen, Matter of, 246–247, 250, 483, 507–508
- Chen v. Ashcroft, 458
- Chen v. Gonzales, 1090
- Cheng Fan Kwok (The Chinese Exclusion Case), 125
- Cheng Kai Fu v. INS, 160
- Cheung v. Canada, 455, 691
- Chevron, U.S.A., Inc. v. Natural Resources Defense Council, 181, 185, 187, 872, 1006
- Chinese Am. Civic Council v. Atty. Gen. of U.S., 908
- Chisolm v. Georgia, 124
- Chi-Wai Lui v. Pilliod, 908
- Choudry, 637
- Christian College v. City of Morgan Hill, 491
- Chu, Matter of, 450
- Ciric v. Canada, 440
- Citizens to Preserve Overton Park, Inc. v. Volpe, 541
- Clark v. Allen, 110
- Cleveland v. U.S., 630, 679, 796
- Commonwealth of Australia, 1073
- Consolidation Coal v. NLRB, 1056
- Cook v. U.S., 110
- Cordero-Trejo v. INS, 876, 1054, 1093
- Coriolan v. INS, 164, 295
- Costello v. INS, 183, 320
- Cox v. New Hampshire, 469
- Cruz-Lopez v. INS, 388
- Cutter v. Wilkinson, 491
- D—, Matter of, 96, 359, 507–508, 860, 862, 870, 908, 1032
- D—J—, Matter of 96
- D—V—, In re, 753
- D—V—, Matter of, 508, 753
- Damaize-Job v. INS, 1032
- Daniel v. INS, 164
- Dass, Matter of, 653, 1031, 1060
- De Valle v. INS, 801, 803, 805
- Desir v. Ilchert, 247, 270, 401, 453, 812, 1006
- DeSouza v. INS, 272–273, 275
- Dia v. Ashcroft, 1028
- Diaz-Escobar v. INS, 197
- Diminich v. Esperdy, 469
- Duarte de Guinac v. INS, 432, 508, 556, 571, 676, 780
- Dunar, Matter of, 69, 178, 182, 187
- Dunat v. Hurney, 164, 236
- Dwomoh, In re, 420

TABLE OF CASES

xxix

- Dwomoh v. Sava, 419, 428
Echeverria-Hernandez v. INS, 61, 1140
Edwards v. South Carolina, 387
El Himri v. Ashcroft, 274, 642
El Rescate Legal Services, Inc. v. EOIR, 1011–1012
Elnager v. INS, 269
El-Sheikh v. Ashcroft, 1090
Elsinore Christian Center v. City of Lake Elsinore, 491
Employment Division v. Smith, 487
Espinoza-Martinez v. INS, 203, 310
Estrada-Escobar v. Ashcroft, 492, 1095
Estrada-Posada v. INS, 635, 680
Exilus, Matter of, 755, 1008–1009
Ex parte Adan and Aitseguer, 289
Ex parte Shah [U.K. Immigration Appeal Tribunal], 347, 815
Ex parte Sivakumar, 418
Faddoul v. INS, 245, 273
Faronda-Blandon, Matter of, 637
Fatin v. INS, 585–586, 652, 660, 765, 781
Fedorenko v. U.S., 861
Fedorenko, Matter of, 862
Fiadjoe v. Attorney General of the U.S., 286, 982
Fiallo v. Bell, 122
Figeroa v. INS, 1032
Filartiga v. Peña-Irala, 417, 1140
Fisher I, 269, 509–510, 725, 759, 764, 817
Fisher II, 243–244, 508, 509–510, 556–570, 656, 724–725, 734–744, 758, 764–765
Fleurinor v. INS, 164
Flores v. Meese, 968
Fong Foo v. Shaughnessy, 238
Fong Haw Tan v. Phelan, 183, 320
Francois, Matter of, 755
Frentescu, Matter of, 178, 884–887
Fuentes, Matter of, 332–333, 557, 660, 862
G—, Matter of, 96, 321, 331, 353, 450–451, 508, 652–653, 662, 775, 791, 811, 862, 887, 1023
Gao v. Gonzales, 620, 657, 665–666, 725, 788
Garcia-Martinez v. Ashcroft, 756
Garcia-Ramos v. INS, 197, 201
Gena v. INS, 164
General Electric Co. v. Gilbert, 181
Ghaly v. INS, 509
Gheblawi v. INS, 1003, 1005
Ghebremedhin v. Ashcroft, 434
Gil v. Canada, 880
Gomez v. INS, 509, 662, 744
Gomez-Vigil v. INS, 760
Gonzalez v. INS, 567, 569
Grava v. INS, 400
Griggs v. Duke Power Co., 327
Griswold v. Connecticut, 452
Guan v. Gonzales, 1052
Guevara-Flores v. INS, 175, 184
Gulf Oil Corp. v. Copp Paving Co., 180
Guo Chun Di v. Carroll, 446
H—, Matter of, 176, 180, 224, 403, 561–563, 652–653, 755, 775–776, 801, 805, 1023
H—M—, Matter of, 372
Habtemicael v. Ashcroft, 353
Hagi-Salad v. Ashcroft, 218
Haile v. Gonzales, 274
Haitian Centers Council, Inc. v. McNary, 106
Haitian Refugee Center v. Civiletti, 93
Haitian Refugee Center v. Smith, 941–942, 1012
Haitian Refugee Center, Inc. v. Baker, 104, 106
Haitian Refugee Center, Inc. v. Gracey, 106, 111, 114–115
Hasan v. Ashcroft, 401
He v. Ashcroft, 458–459, 642, 670, 783
Henry v. INS, 164
Hernandez v. Reno, 864
Hernandez-Garza v. INS, 1085
Hernandez-Luis v. INS, 1012
Hernandez-Montiel v. INS, 634–637, 641, 657, 661–662, 666, 670–671, 679, 696, 703, 725, 767, 781, 814, 1082, 1088
Hernandez-Ortiz v. INS, 225, 302, 306–308, 310, 335, 419, 509, 568
Hong Ying Gao v. Gonzales, 620, 657, 665–666, 725, 788
Hor v. Gonzales, 1091
Horvath v. Home Sect’y. [U.K.], 445, 545, 547–548, 709–713, 720
Hotel & Restaurant Employees Union, Local, 25 v. Smith, 91
Huaman-Cornelio v. Bd. of Immigration Appeals, 451
Ilchuk v. Atty. Gen of the U.S., 434
INS v. Abudu, 872
INS v. Aguirre-Aguirre, 356, 865, 870, 875
INS v. Cardoza-Fonseca, 171, 321

- INS v. Doherty, 100, 355, 872, 874
 INS v. Errico, 183, 320
 INS v. Lopez-Mendoza, 1086
 INS v. Phinpathya, 175, 318
 INS v. Stevic, 100, 109, 114, 157, 159, 170,
 172, 187, 190, 194–195, 296, 311, 572
 INS v. Zacarias, 246, 292, 312, 324, 393,
 1106
 Iraheta, In re, 1028
 Irvine v. California, 183
 Islam v. Home Department [U.K.], 746, 815
 Islami v. Gonzales, 439
 Izatula, Matter of, 428
 J—E—, Matter of, 352–353
 Janus and Janek, Matter of, 236
 Janusiak v. INS, 562
 Jean v. INS, 755, 942
 Jean v. Nelson, 942–944
 Jin Chen v. United States DOJ, 1023
 Jorge-Tzoc v. Gonzales, 543
 Juan, Matter of, 637
 K—S—, Matter of, 766
 Kadic v. Karadzic, 757
 Kai Fung Chan v. Kiley, 908
 Kalatjis v. Rosenberg, 469
 Kale, Matter of, 469
 Kalubi v. Ashcroft, 675, 1096
 Kamalthas v. INS, 354–355
 Kamara v. AG of the United States, 351
 Kapcia v. INS, 382
 Karouni v. Gonzales, 620, 637, 671, 767,
 1090
 Kashani v. INS, 164
 Kasinga, In re, 243, 246, 620, 647, 660, 662,
 675, 725, 774, 777–778, 789, 973
 Kasinga, Matter of, 506, 647, 801, 804–805,
 807–808, 811–812
 Kaur v. Ashcroft, 643, 1090
 Kaveh-Haghig v. INS, 439, 862
 Kimumwe v. Gonzales, 637, 646
 Kin v. [Australian] Minister for Immigration
 and Ethnic Affairs, 1076
 Kisoki v. Sweden [U.N. Comm. Against Tor-
 ture], 359
 Kleindienst v. Mandel, 120
 Klinko v. Canada, 395
 Knauff v. Shaughnessy, 944
 Korablina v. INS, 265, 269, 812
 Korytnyuk v. Ashcroft, 995
 Kotas v. INS, 540, 542
 Kouzam v. Ashcroft, 351
 Kovac v. INS, 164, 234, 270, 301, 310, 468,
 568–569, 812
 Krotov v. Secretary of State for the Home
 Department, 69, 444
 Kulle, Matter of, 652, 1031
 Kumar v. Gonzales, 351
 Kumar v. INS, 559
 Kunarac, Kovac and Vokovic Case, 757
 Ladha v. INS, 556, 594, 596, 1090
 Laipenieks v. INS, 855862, 1032
 Lam, Matter of, 174, 907
 Landon v. Plasencia, 1010
 Lavdas v. Holland, 161
 Lawrence v. Texas, 642, 645
 Lazo-Majano v. INS, 298, 307, 556,
 812–813
 Lena v. INS, 164
 Leng May Ma v. Barber, 111, 121, 162
 Li v. Ashcroft, 460, 780
 Li Wu Lin v. INS, 403
 Liadakis, Matter of, 468
 Lie v. Ashcroft, 583
 Lim v. INS, 205
 Liti v. Gonzales, 1096
 Lok, Matter of, 1031
 Lolong v. Gonzales, 526, 588, 595—596,
 1088
 Lopez v. INS, 388
 Lopez-Zeron v. INS, 382
 Lozada, Matter of, 958
 Louis v. Nelson, 93, 806
 Lovell v. Griffin, 463
 Lukwago v. Ashcroft, 334, 586, 1088
 M.A. I, 281, 392, 436, 452, 493, 495,
 555–556, 585, 977, 988, 990–991, 997,
 1006, 1037–1038, 1048
 M.A. II, 436, 444, 1006, 1017
 M—D—, Matter of, 508
 Ma v. Ashcroft, 458
 Maccaud, In re, 164
 Madjakpor v. Gonzales, 1096
 Magaña, Matter of, 1031
 Makonnen, In re, 538–541
 Makonnen v. INS, 537, 542
 Maldonado-Cruz, Matter of, 811
 Maldonado-Cruz v. INS, 314, 811
 Mamouzian v. Ashcroft, 401, 782
 Maroufi v. INS, 308
 Martin v. Struthers, 469
 Martineau v. INS, 164
 Martinez-Romero, v. INS, 863, 1033

TABLE OF CASES

xxxii

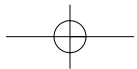
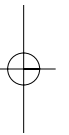
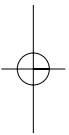
- Mathews v. Eldridge, 934, 938
 Mazar, Matter of, 1031–1032
 McMullen, Matter of, 160, 178, 860, 862,
 869–873
 Moy, Matter of, 908
 McMullen I, 860, 869–871
 McMullen v. INS, 178, 203, 283, 310, 314,
 860, 862, 866, 868, 872–874, 1004,
 1073
 Medsker v. Bonebrake, 1033
 Mendis v. Immigration Appeal Tribunal and
 The Secretary of State for the Home
 Department, 474
 Mendoza-Perez v. INS, 762
 Menghessa v. Gonzales, 334
 Mester Mfg. Co. v. INS, 1005
 Mgoian v. INS, 564, 675
 Michel v. Milhollan, 94
 Minister for Immigration and Multicultural
 Affairs v. Khawar [Australian], 667,
 710, 828
 Mogharrabi, Matter of, 194, 221, 224, 244,
 507, 539, 652–653, 655, 660, 755, 775,
 801, 862, 1031, 1090
 Mohamed v. Gonzales, 461, 725, 777
 Mohibi, Matter of, [Australian] Minister for
 Immigration and In
 Multicultural Affairs v. Eshetu, 583
 Mohideen v. Gonzales, 334
 Mohsseini-Behbehani v. INS, 1012
 Momen, In re, 432
 Moore v. City of East Cleveland, 672, 678,
 679, 796
 Moreno v. Canada (Minister of Employ-
 ment & Immigration), 852
 Morton v. Ruiz, 181–182
 Murdock v. Commonwealth of Pennsylva-
 nia, 469
 Murray v. Schooner Charming Betsy, 102,
 124
 Mutombo v. Switzerland, 362
 Mwembie v. Gonzales, 351, 417
 Nachman Corp. v. Pension Benefit Guaranty
 Corporation, 180
 Naen v. Minister for [Australian] Immigra-
 tion & Multicultural & Indigenous Af-
 fairs, 564
 Naredo v. Canada (Minister of Citizenship
 and Immigration), 855
 Nasser v. Moschorak, 244, 811
 Navas v. INS, 571, 589, 779, 1096
 Negron v. State of New York, 1010
 Nguyen v. INS, 281
 Niam v. Ashcroft, 981, 1083–1084
 Niang v. Gonzales, 661–662, 787
 Nicholas v. INS, 1009
 Nietmotko v. Maryland, 469
 NLRB v. Bell Aerospace Co., 776
 NLRB v. Columbian Enameling & Stamping
 Co., 317
 NLRB v. Walton Manufacturing Co., 1023
 Noory, In re, 432
 Nuru v. Gonzales, 353
 O—D—, Matter of, 507
 O—Z— & I—Z—, In re, 560
 Oceanic Navigation Co. v. Stranahan, 122
 Oforji. Ashcroft, 782, 793, 795
 Olowo v. Ashcroft, 796
 Oluloro, In re, 791, 793
 Oluloro, Matter of, 791, 793
 Orantes-Hernandez v. Meese, 91
 Orantes-Hernandez v. Thornburgh, 90
 Osaghae v. INS, 371, 948
 Osorio v. INS, 333, 373, 415, 876
 Osuch v. INS, 382
 Pacheco-Motta v. District Director, 1012
 Padash v. INS, 431
 The Paquete Habana, 67, 125
 Paul v. INS, 164
 Pavlova v. INS, 283
 Pedro-Mateo, 816
 Pennsylvania v. U.S., 469
 Pensaquitos Village, Inc., v. NLRB, 1023,
 1026, 1054
 People v. Bohnke, 469
 Pepperling v. Crist, 1005
 Pereira-Diaz v. INS, 164
 Perez-Alvarez v. INS, 1060
 Perlera-Escobar v. EOIR, 388, 452
 Pierre, Matter of, 299
 Pitcherskaia v. INS, 240, 346, 675, 780
 Poradisova v. Gonzales, 659, 1096
 Portales, Matter of, 907
 Poschl v. U.S., 424
 Prasad v. INS, 270, 274, 556, 568, 674
 Pruneyard Shopping Center v. Robins, 386
 Pula, Matter of, 219, 225, 248, 1031
 Puna-Villaneuvam v. Ashcroft, 411
 Queen v. Sect’y of State for the Home De-
 partment [U.K.], 288
 Qui v. Ashcroft, 458
 R—, Matter of, 250, 333, 396, 509,

- 562–563, 662, 755, 829, 887, 891, 907, 1086
- R—A—, Matter of, 509, 662, 797, 829
- R—R—, Matter of, 562
- R. v. Immigration Appeal Tribunal, 342, 344–345, 347, 383, 706, 710, 719, 815, 818, 825, 828
- R. v. The Home Secretary, 473, 880
- Radio Officers' Union v. NLRB, 1056
- Ramirez v. MEI [Canada, Minister of Employment and Immigration], 850, 854, 859
- Ramirez-Rivas v. INS, 1087
- Ramirez-Santos, 61
- Ramos v. Thornburgh, 1013
- Rashiah v. Ashcroft, 352
- Refugee Appeal No. 71238/99 [New Zealand domestic violence case], 818, 828
- Refugee Appeal No. 71427/99 [New Zealand domestic violence case], 230, 348, 477, 710–712, 773, 718, 824–828
- Refugee Appeal No. 73822/02 [New Zealand feminist case], 767
- Refugee Appeal No. 74665/03 [New Zealand sexual orientation case], 130, 347, 477, 479, 703, 1164
- Regina v. Secretary of State for the Home Department, 338, 418
- Rejaie v. INS, 161, 187
- Reno v. Flores, 968, 971
- Reyes v. INS, 161, 308
- Richards v. U.S., 175, 318
- Rife v. Ashcroft, 908, 1091
- Rivas v. INS, 314
- Rizal v. Gonzales, 394
- Robert v. Ashcroft, 351
- Rodriguez v. INS, 568, 1005
- Rodriguez-Coto, Matter of, 873, 885
- Rodriguez-Majano, Matter of, 860
- Rodriguez-Fernandez, 1140–1141
- Rodriguez-Majano v. INS, 860
- Rodriguez-Matamoros v. INS, 869
- Rodriguez-Rivera v. INS, 314, 439, 862
- Rodriguez-Palma, Matter of, 178, 885
- Roe v. Wade, 452
- Romero v. INS, 243
- Rosenberg v. Yee Chien Woo, 162
- Ruffington v. Cangemi, 352
- Russello v. U.S., 180
- Rust v. Sullivan, 776
- Rusu v. INS, 1024
- Rybachek v. U.S. Environmental Protection Agency, 761
- S—A—, In re, 503, 509
- S—A—, Matter of, 503, 509
- S—M—J—, Matter of, 562, 1090
- S—P—, In re, 329
- S—P—, Matter of, 329, 508, 810
- S—V—, Matter of, 353
- Saballo-Cortez v. INS, 203, 204
- Saban, Matter of, 755
- Sadeghi v. INS, 276, 280
- Safaie v. INS, 759, 765
- Sagaydak v. Gonzales, 401
- Sagermark v. INS, 243, 310
- Salazar v. Ashcroft, 908
- Sale v. Haitian Centers Council, 97, 102, 123, 125, 1120
- Saleh v. U.S. Dept of Justice, 662
- Salim, Matter of, 174, 180, 221–225, 321
- Santos, Matter of, 1012
- Samimi v. INS, 309
- Sanchez and Escobar, In re, 775, 863
- Sanchez and Escobar, Matter of, 775, 863
- Sanchez-Trujillo v. INS, 655, 662, 672, 696, 744, 801, 803, 805–806, 814, 1033
- Sanon v. INS, 369
- Sarkis v. Sava, 862
- Sarvia-Quintanilla v. INS, 269, 567, 1032
- SEC v. Chenery Corp., 235
- Senathirajah v. INS, 404, 406, 416, 979
- Sept v. Sect'y of State, Home Dept. [U.K.], 336, 720
- Settenda v. Ashcroft, 351
- Shahandeh-Pey v. INS, 372
- Shariff, Matter of, 420–421, 424
- Soleimani, Matter of, 905, 908
- Shaughnessy v. Mezei, 111
- Sheerer v. U.S., 408
- Sherbert v. Verner, 322, 486
- Shirazi-Parsa, v. INS, 269, 499, 569
- Shoae v. INS, 197
- Shoafra v. INS, 554, 558, 570, 757
- Shuttlesworth v. City of Birmingham, 387
- Singh v. Ilchert, 415, 762, 810–812, 1106
- Singh v. INS, 269, 562, 567–568, 674, 762, 779, 810–812
- Singh v. Moschorak, 244, 811
- Sivvaikaran v. INS, 272–273
- Skinner v. Oklahoma, 452
- Smolniakova v. Gonzales, 1033
- Soering v. United Kingdom, 1141–1143
- Sotelo-Aquije v. Slattery, 383, 1094
- Sovich v. Esperdy, 235, 406

TABLE OF CASES

xxxiii

- Spence v. Washington, 387
 Stevic v. Sava, 161, 187
 Suyono v. Ashcroft, 583
 T—, Matter of, 766, 801, 811, 864, 1032,
 1045
 T—M—B—, Matter of, 801
 T v. Secretary of State for the Home Depart-
 ment, 337, 880
 Tan, In re, 1094
 Tapiero v. Gonzales, 635
 Tchoukhrova v. Gonzales, 620, 635, 666,
 677, 679, 725, 796
 Tejada-Mata v. INS, 761, 1009–1010
 Tenorio, Matter of, 543, 636–637, 767
 Thomas v. Gonzales, 635, 680
 Thornhill v. Alabama, 387
 Tinker v. Des Moines School District, 387
 Toboso-Alfonso, Matter of, 636, 641, 660,
 767
 Tomas, Matter of, 1008
 Tsun, Matter of, 450
 Turcios v. INS, 313, 568, 1032, 1059, 1073
 U.S. v. Alvarez-Machain, 123
 U.S. v. Cerda-Pena, 770
 U.S. v. Curtiss-Wright Export Corp., 114,
 122
 U.S. v. Dotterweich, 326
 U.S. v. Klimavicius, 280
 U.S. v. Palestine Liberation Organization,
 102
 U.S. v. Salerno, 1010
 U.S. v. Shimer, 181
 U.S. v. Smith, 486, 491, 982
 U.S. v. Winters, 300
 U.S. v. Wong Kim Bo, 175
 Udall v. Tallman, 452
 United Parcel Service, Inc. v. Mitchell, 183
 United Transp. Union v. Dole, 450
 Universal Camera Corp. v. NLRB, 1004,
 1054
 V—T—S—, Matter of, 811
 Velarde, 556, 558
 Velasquez-Rodriguez, 1141–1142
 Ventura, 677, 679–681
 Vergara-Molina v. INS, 371
 Vigil, Matter of, 862
 Villalta, Matter of, 562
 Vilorio-Lopez v. INS, 1032
 Vukmirovik v. Ashcroft, 864
 Wahk v. Minister for Imm. & Multicult. &
 Indig. Aff. [Australian], 574
 Wang v. Gonzales, 458
 Wang v. USCIS, 458
 Washington v. David, 328
 Watt v. Alaska, 181
 Weinberger v. Rossi, 110
 West v. Bowen, 452
 Whitney v. Robertson, 125
 Wong, Matter of, 1031
 Wong Wing v. U.S., 940
 Woodby v. INS, 860
 Wooley v. Maynard, 386
 Y—B—, Matter of, 508, 1071, 1090
 Y—C—, Matter of, 912
 Y—T—L—, In re, 783
 Yan Lan Wu v. Ashcroft, 587, 1095
 Yick Wo v. Hopkins, 939
 Yong Ting Yan v. Gonzales, 492
 Young v. U.S. Dept. of Justice, INS, 295
 Yusuf v. Canada, 193
 Zacarias v. INS, 246, 292, 312, 324, 393,
 1106
 Zadvydus v. Davis, 944
 Zalega v. INS, 239
 Zamora v. INS, 164
 Zamora v. Local, 11 Hotel and Restaurant
 Union, 1011
 Zavala-Bonilla v. INS, 203, 310, 1069
 Zayas-Marini v. INS, 301–302
 Zepeda-Melendez v. INS, 392
 Zhang v. Ashcroft, 458
 Zhang v. Gonzales, 458
 Zheng v. Ashcroft, 353, 1093
 Z—L— and V—L— v. Sect’y of State Home
 Dept. [U.K.], 543–544, 553
 Zubeda v. Ashcroft, 352
 Zulfeari v. INS, 372



Acknowledgments (K. Musalo)

This book would not have been possible were it not for the countless individuals whose friendship, support and vision of justice has sustained me throughout the years. Among them are my co-authors, Richard A. Boswell and Jennifer Moore, who have accompanied me on so many journeys, including the writing of this book.

I would also like to thank Hastings students, Meghann Boyle, Neela Chakravartula, Eugene Chechenin and Marcelle Rice for their excellent research assistance. A special note of gratitude goes to Meghann Boyle—who not only assisted with the research—but who spent countless hours helping me with whatever was required—whether it was running down copyright information, proof-reading text, or helping with overall coordination on book production. My thanks also goes to Julie Horst, at Hastings law library, who was always responsive to my many requests, and to Divina Morgan, at Hastings faculty support, who provided much-needed assistance in producing the manuscript. I also extend appreciation to my colleagues at the Center for Gender & Refugee Studies, who assisted in myriad ways—Stephen Knight, Leena Khandwala, Diana Rodriguez-Wong, Felecia Bartow and Ana Martinez.

And finally, I express my gratitude to the many refugees whose lives have touched mine in profound ways, and who—through the examples of their lives and dreams—have taught me deeper lessons about the meaning of faith and hope, and have served as the inspiration for so much of my work.

Acknowledgments (J. Moore)

My contributions to this Third Edition reflect in turn those of my colleagues and students, as well as friends who have experienced life as refugees. My deepest appreciation goes to my co-authors, Karen Musalo and Richard Boswell. This book reflects our diverse yet compatible perspectives – Karen’s experience litigating asylum cases and her passion for the protection of refugee women; Richard’s expertise in U.S. immigration and administrative law and his deep commitment to clinical education and law reform; and my explorations of the common ground between refugee law, international human rights law and the laws of war and peace. It is a privilege and a pleasure for us to work together.

I am thankful for the research assistance of Lisa Collins, UNM Law School, Class of 2006, and Renee Ruybal, Class of 2007. Lisa’s handiwork is reflected throughout Chapters 8, 9 and 10. Renee copyedited and cite-checked 400 pages of text with grace and rigor. I am indebted to them both.

In addition to the judges, academics and journalists whose writings are gratefully excerpted in these pages, special thanks go to Jeff Handmaker, founder of the Rea Hamba social development organization of the Netherlands, for his recommendation of additional treatment of the plight of Palestinian refugees. Chapter 1 now includes some of his work. Chapter 10 on gender-related asylum claims bears the footprints of the students in my 2006 Refugee Law seminar, particularly Rebecca Shreve, whose work with battered immigrant women in Albuquerque deepened her classmates’ understanding of violence against women as persecution, and Lisa Collins, who with Rebecca contributed to the book’s treatment of recent amendments and regulations relating to the U.S. Violence Against Women Act. Chapter 14 contains new treatment of the U.S.-led war on terror and its impact on refugees, thanks to Professor Marisa Cianciarulo of Chapman University School of Law and her excellent article on this subject.

Finally, I thank my colleagues at the University of Dar es Salaam Centre for the Study of Forced Migration for welcoming me to Tanzania as a Fulbright in 2002. With their support, particularly Dr. Khoti Kamanga of the UDSM Faculty of Law, I was able to facilitate human rights workshops in the Burundian refugee camps in Western Tanzania in 2003. My refugee participants engaged in an apt analysis of the 1951 Refugee Convention, but finally concluded that refugee law and refugee protection will be realized only as we struggle to alleviate poverty, share resources and resolve armed conflicts.

Acknowledgments (R. Boswell)

This third edition could not have been completed without the unflagging perseverance and dedication of Karen Musalo. She provided not only the genesis for this book but the overall editing to assure that it maintained the quality of which we could all be proud. Special thanks also go to Jennifer Moore who, as long as I have known her, has always shown a unique dedication to the plight of refugees.

Finally, in these troubling times, when so much of this country's policies are focused on military action and border security, we are rapidly losing sight of the humanitarian ideals that the world community committed to after the tragedies of World War II. I fear that as we move away from these humanitarian ideals and towards greater conflict that we risk falling into a period of much instability which will only create more refugee crises. The refugee victims of these crises and the manner in which we provide them with succor and support will be the true measure of our worth as a society. It is for this reason that I give special acknowledgement in this book to the millions of displaced persons and refugees seeking shelter.

