

THE LAW OF REFUGEE STATUS

SECOND EDITION

JAMES C. HATHAWAY
AND
MICHELLE FOSTER

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Our ability to engage the transnational refugee law jurisprudence has been immeasurably aided by the strong support provided by the University of Michigan Law School. Under the leadership of Deans Jeffrey Lehman, Evan Caminker, and Mark West – and with the generous support of donors Jane and Ron Olson – Michigan funded the establishment and operation of the Refugee Caselaw Site (<http://www.refugeecaselaw.org>), which provided the core of the research collection upon which we have drawn in writing this book. Equally important, we have benefited from the extraordinary commitment of teams of judges, scholars, and advocates from more than thirty countries who, as National Coordinators of the Refugee Caselaw Site, have selected and indexed many of the decisions referenced here. Without this resource, the writing of this book would have been impossible.

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This project was an extremely ambitious one in research terms. The sheer volume of case law to be researched, identified, summarized, and organized into a workable form

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Perhaps the most novel aspect of our research strategy was to bring together a group of respected experts on refugee law to read, critique, and collectively to debate each draft chapter we produced. Words cannot begin to capture the gratitude we have for the contributions made by Professor Catherine Dauvergne of the University of British Columbia; Rodger Haines, Q.C., former Deputy Chair of the New Zealand Refugee Status Appeals Authority and presently Chair of the New Zealand Human Rights Review Tribunal; Constantin Hruschka of the Office of the United Nations High Commissioner for Refugees; Professor Pene Mathew of the Australian National University; Jason Pobjoy, then a Ph.D. candidate at Cambridge; and Professor Marjoleine Zieck of the University of Amsterdam. This extraordinarily thoughtful and knowledgeable group held us to account for every argument we sought to advance, and made innumerable excellent suggestions to improve both our research and the nature of the arguments made. The generosity of spirit and true collegiality shown throughout many long days of complex deliberation were as remarkable as the substance of the debates themselves. There is no greater gift that a scholar can make than to give unstintingly of himself or herself to improve the work of others; each member of this group has made that gift to us.

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M.F.

J.C.H.

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- Alphonsus [1999] FCA 289 (Aus. FC, Mar. 26, 1999) 333n.280, 350n.387
- Amani [1999] FCA 1040 (Aus. FC, Aug. 2, 1999) 58n.240
- Anwari [2002] FCA 217 (Aus. FC, Mar. 15, 2002) 136n.288
- Aras (1998) 50 ALD 797 (Aus. FC, Mar. 20, 1998) 333n.278
- AZAAR [2009] FCA 912 (Aus. FC, Aug. 19, 2009) 312n.141, 316n.160, 316n.165, 324n.210, 328n.248, 329n.250
- Balan (2000) 171 ALR 7 (Aus. FC, Mar. 31, 2000) 240n.367, 242n.377
- Barnes [2000] FCA 563 (Aus. FC, Apr. 19, 2000) 293n.25, 333n.280
- Barzideh (1996) 69 FCR 417 (Aus. FC, Aug. 21, 1996) 51n.197, 500n.243, 505n.275, 505n.277
- Bengescu [1994] AAT 9250 (Aus. AAT, Jan. 17, 1994) 467n.39
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- Chen (1995) 58 FCR 96 (Aus. FC, Jun. 30, 1995) 257n.463
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- Chokov [1999] FCA 823 (Aus. FC, Jun. 25, 1999) 388n.151
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- Drake (No. 2), (1979) 2 ALD 634 (Aus. AAT, Nov. 21, 1979) 4n.18
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- DZACC [2012] FMCA 314 (Aus. FMCA, Apr. 20, 2012) 388n.154
- Dzeliloski [1994] FCA 998 (Aus. FC, Mar. 31, 1994) 293n.25
- El Hejjar [2000] FCA 263 (Aus. FFC, Mar. 13, 2000) 243n.380, 418n.372
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- Epeabaka (1998) 84 FCR 411 (Aus. FFC, Jan. 6, 1999) 114n.149
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- Foroghi [2001] FCA 1875 (Aus. FC, Dec. 21, 2001) 146n.347
- Gersten [2000] FCA 855 (Aus. FFC, Jul. 5, 2000) 190n.48, 382n.113
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- Hagi-Mohamed [2001] FCA 1156 (Aus. FFC, Aug. 23, 2001) 233n.306, 233n.311, 344n.350
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- Hussain [2002] FCA 793 (Aus. FC, Jul. 3, 2002) 147n.352
- Hussaini [2002] FCA 104 (Aus. FFC, Feb. 14, 2002) 54n.218
- Ibrahim [1998] FCA 802 (Aus. FC, Jul. 10, 1998) 333n.278
- Ibrahim (2000) 204 CLR 1 (Aus. HC, Oct. 26, 2000) 186n.20, 186n.21, 187n.29, 195n.79, 209n.147, 381n.105, 381n.111
- Islam (2000) 171 ALR 267 (Aus. FC, Mar. 27, 2000) 185n.18, 199n.94
- Ismail [1999] FCA 1555 (Aus. FC, Nov. 10, 1999) 149n.367
- Iyer [2000] FCA 1788 (Aus. FFC, Dec. 15, 2000) 94n.18
- Jaber (2001) 114 FCR 506 (Aus. FC, Dec. 20, 2001) 500n.241
- Jahazi (1995) 61 FCR 293 (Aus. FC, Nov. 14, 1995) 384n.121, 457n.652
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- Kahloo [1997] FCA 1430 (Aus. FC, Dec. 1, 1997) 292n.24
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- Kalala (2001) 114 FCR 212 (Aus. FFC, Nov. 12, 2001) 93n.16, 102n.64, 160n.441, 165n.475
- Kanagasabai [1999] FCA 205 (Aus. FC, Mar. 10, 1999) 190n.48, 206n.131
- Kandasamy [2000] FCA 67 (Aus. FFC, Feb. 10, 2000) 316n.160, 324n.211
- Khan [2000] FCA 1478 (Aus. FC, Oct. 18, 2000) 228n.277
- Khawar (2002) 210 CLR 1 (Aus. HC, Apr. 11, 2002) 8n.45, 19n.22, 42n.143, 185n.18, 185n.19, 191n.54, 191n.55, 227n.270, 293n.28, 294n.32, 299n.59, 340n.323, 367.8–367.13, 376n.81, 425n.412, 425n.415, 426n.417, 437n.497, 440n.519
- Kopalapillai [1997] FCA 1510 (Aus. FC, Dec. 24, 1997) 96n.32, 149n.367
- Kopalapillai (1998) 86 FCR 547 (Aus. FFC, Sept. 8, 1998) 149n.367
- Kord [2001] FCA 1163 (Aus. FC, Aug. 24, 2001) 189n.39, 253n.439
- Kord (2002) 125 FCR 68 (Aus. FFC, Mar. 28, 2002) 164n.469, 169n.501, 186n.20, 186n.21, 197n.87, 293n.28, 378n.90, 378n.91

- Kuthyar [2000] FCA 110 (Aus. FC, Feb. 11, 2000) 236n.335, 452n.610
- Labara [2002] FCAFC 145 (Aus. FFC, May 23, 2002) 317n.167
- Lama [1999] FCA 1620 (Aus. FC, Nov. 19, 1999) 243n.380
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- Logenthiran (1998) 56 ALD 639 (Aus. FFC, Dec. 21, 1998) 134n.278
- LSLS [2000] FCA 211 (Aus. FC, Mar. 6, 2000) 260n.479
- M [2001] FCA 1412 (Aus. FC, Oct. 5, 2001) 377n.87
- M13/2011 (2011) 277 ALR 667 (Aus. HC, Jun. 23, 2011) 341n.330
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- Mijoljevic [1999] FCA 834 (Aus. FC, Jun. 25, 1999) 270n.536
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- Muniswamappa [1998] FCA 906 (Aus. FC, Jul. 29, 1998) 333n.280, 350n.387
- MZKAO [2003] FCA 1484 (Aus. FC, Dec. 12, 2003) 257n.463
- MZKAO [2003] FMCA 284 (Aus. FMC, Jun. 23, 2003) 257n.463
- MZQAP (2005) 85 ALD 41 (Aus. FFC, Mar. 15, 2005) 280n.605
- MZWPD [2006] FCA 1095 (Aus. FC, Aug. 18, 2006) 231n.293, 257n.463
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- MZXRI [2008] FCA 1613 (Aus. FC, Aug. 27, 2008) 188n.37
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- MZYLL [2012] FCAFC 147 (Aus. FFC, Oct. 24, 2012) 330n.263
- N01/38085 (Aus. RRT, Feb. 18, 2002) 278n.585
- N02/43487 [2003] RRTA 911 (Aus. RRT, Sept. 29, 2003) 236n.329
- N03/45504 [2003] RRTA 627 (Aus. RRT, Jul. 1, 2003) 236n.332
- N03/45573 [2003] RRTA 160 (Aus. RRT, Feb. 24, 2003) 221n.223
- N03/47757 [2004] RRTA 355 (Aus. RRT, May 11, 2004) 221n.223, 221n.224
- N94/04178 [1994] RRTA 1149 (Aus. RRT, Jun. 10, 1994) 238n.345
- N98/22948 [2000] RRTA 1055 (Aus. RRT, Nov. 20, 2000) 454n.634, 454n.635
- N403 [2000] FCA 1088 (Aus. FC, Aug. 23, 2000) 270n.539, 377n.87, 380n.104
- NAAV of 2002 [2002] FCAFC 391 (Aus. FFC, Nov. 29, 2002) 99n.52
- NABD of 2001 [2002] FCAFC 326 (Aus. FFC, Oct. 31, 2002) 544n.124
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- NAFP [2003] FCA 241 (Aus. FC, Mar. 13, 2003) 294n.31
- Nagalingam (1992) 38 FCR 191 (Aus. FC, Sept. 22, 1992) 504n.265
- Nagaratnam (1999) 84 FCR 569 (Aus. FC, Mar. 5, 1999) 225n.259
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- NAVZ [2005] FCA 13 (Aus. FC, Jan. 21, 2005) 243n.379, 245n.391
- NAZO [2004] FCA 1173 (Aus. FC, Sept. 8, 2004) 146n.347
- NBFP [2005] FCAFC 95 (Aus. FFC, May 31, 2005) 197n.87, 228n.277, 231n.293, 257n.463
- NBGM (2006) 150 FCR 522 (Aus. FFC, May 12, 2006) 4n.20, 483n.133, 485n.142, 490n.172
- NBKE [2007] FCA 126 (Aus. FC, Feb. 15, 2007) 55n.221
- Nezhadian [2001] FCA 1415 (Aus. FC, Oct. 18, 2001) 260n.479
- NG 1352 [1999] FCA 495 (Aus. FC, May 7, 1999) 270n.536 *
- Nouredine (1999) 91 FCR 138 (Aus. FC, Aug. 18, 1999) 456n.641, 456n.642, 457n.654
- O [2000] FCA 265 (Aus. FFC, Mar. 13, 2000) 81n.387
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- Pei Lan He [2001] FCA 446 (Aus. FC, Apr. 23, 2001) 401n.239
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- Quiader [2001] FCA 1458 (Aus. FC, Oct. 16, 2001) 517n.352

- R [2001] FCA 943 (Aus. FC, Aug. 3, 2001) 185n.18
- Rajalingam (1999) 93 FCR 220 (Aus. FFC, Jun. 3, 1999) 102n.64, 149n.369, 157n.421
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- Randhawa (1994) 52 FCR 437 (Aus. FFC, Aug. 11, 1994) 333n.278, 333n.279, 333n.280, 343n.334, 350n.387
- Raza [2002] FCA 350 (Aus. FFC, Mar. 28, 2002) 54n.218, 94n.19, 102n.69, 103n.75
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- S2012 of 2003 [2008] FMCA 954 (Aus. FMC, Jul. 31, 2008) 255n.452
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- SBAB [2002] FCAFC 161 (Aus. FFC, May 31, 2002) 78n.370
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