

The Law Of Refugee Status By James C Hathaway

Focusing on the 1951 UN Convention on the Status of Refugees, this book is intended as an introduction to international refugee law. After a comprehensive introduction, the reader is divided into eight chapters. Each chapter begins with a short introduction which identifies the key issues and themes it deals with and the particular readings which address them, as also draws attention to the on-going debates in a bid to encourage critical thinking.

The Oxford Handbook of International Refugee Law is a comprehensive, critical work, which analyses the state of research across the refugee law regime as a whole. Drawing together leading and emerging scholars, the Handbook provides both doctrinal and theoretical analyses of international refugee law and practice. It critiques existing law from a variety of normative positions, with several chapters identifying foundational flaws that open up space for radical rethinking. Many authors work directly in the field, and their contributions demonstrate how scholarship and practice can mutually inform each other. Contributions assess a wide range of international legal instruments relevant to refugee protection, including from international human rights law, international humanitarian law, international migration law, the law of the sea, and international and transnational criminal law. Geographically, contributors examine regional and domestic laws and practices from around the world, with 10 chapters focused on specific regions. This Handbook provides an account, as well as a critique, of the status quo, and in so doing it sets the agenda for future academic research in international refugee law.

Do states have a duty to assimilate refugees to their own citizens? Are refugees entitled to freedom of movement, to be allowed to work, to have access to public welfare programs, or to be reunited with family members? Indeed, is there even a duty to admit refugees at all? This fundamentally rewritten second edition of the award-winning treatise presents the only comprehensive analysis of the human rights of refugees set by the UN Refugee Convention and international human rights law. It follows the refugee's journey from flight to solution, examining every rights issue both historically and by reference to the decisions of senior courts from around the world. Nor is this a purely doctrinal book: Hathaway's incisive legal analysis is tested against and applied to hundreds of protection challenges around the world, ensuring the relevance of this book's analysis to responding to the hard facts of refugee life on the ground.

International law provides states with a common definition of a "refugee" as well as guidelines outlining how asylum claims should be decided. Yet even across nations with many commonalities, the processes of determining refugee status look strikingly different. This book compares the refugee status determination (RSD) regimes of three popular asylum seeker destinations: the United States, Canada, and Australia. Though they exhibit similarly high levels of political resistance to accepting asylum seekers, refugees access three very different systems—none of which are totally restrictive or expansive—once across their borders. These differences are significant both in terms of asylum seekers' experience of the process and in terms of their likelihood of being designated as refugees. Based on a multi-method analysis of all three countries, including a year of fieldwork with in-depth interviews of policy-makers and asylum-seeker advocates, observations of refugee status determination hearings, and a large-scale case analysis, Rebecca Hamlin finds that cross-national differences have less to do with political debates over admission and border control policy than with how insulated administrative decision-making is from either political interference or judicial review. Administrative justice is conceptualized and organized differently in every state, and so states vary in how they draw the line between refugee and non-refugee.

Gender and Refugee Status

The International Protection Alternative in Refugee Law

The Refugee Status of Persons with Disabilities

Conflicting Identities

Understanding Asylum, Human Rights and Refugee Law

Refugees, Democracy and the Law

"A must-read" – Maya Goodfellow "Highly readable" – Joshua Rozenberg QC "Brilliant and urgently necessary" – Amelia Gentleman "Incisive and compelling" – The Secret Barrister *** How would

we treat Paddington Bear if he came to the UK today? Perhaps he would be a casualty of extortionate visa application fees; perhaps he would experience a cruel term of imprisonment in a

detention centre; or perhaps his entire identity would be torn apart at the hands of a hostile environment that delights in the humiliation of its victims. Britain thinks of itself as a

welcoming country, but the reality is very different. This is a system in which people born in Britain are told in uncompromising terms that they are not British, in which those who have lived their entire lives on these shores are threatened with deportation, and in which falling in love with anyone other than a British national can result in families being ripped apart.

Now fully updated to include the Nationality and Borders Bill, in this vital and alarming book, campaigner and immigration barrister Colin Yeo tackles the subject with dexterity and rigour,

offering a roadmap of where we should go from here as he exposes the injustice of an immigration system that is unforgiving, unfeeling and, ultimately, failing.

Is there still a right to seek asylum in a globalised world? Migration control has increasingly moved to the high seas or the territory of transit and origin countries, and is now commonly outsourced to private actors. Under threat of financial penalties airlines today reject any passenger not in possession of a valid visa, and private contractors are used to run detention centres and man border crossings. In this volume Thomas Gammeltoft-Hansen examines the impact of these new practices for refugees' access to asylum. A systematic analysis is provided of the reach and limits of international refugee law when migration control is carried out extraterritorially or by non-state actors. State practice from around the globe and case law from all the major human rights institutions is discussed. The arguments are further linked to wider debates in human rights, general international law and political science.

This book examines the link between refugee protection, duration of risk and residency rights. It focuses on two main issues of importance to current state practice: the use of temporary forms of refugee status and residency and the legal criteria for cessation of refugee status under Article 1C(5) of the 1951 Refugee Convention. In analysing this issue, this book canvasses debates which are pertinent to many other contentious areas of refugee law, including the relationship between the refugee definition and complementary protection, application of the Refugee Convention in situations of armed conflict, and the role of non-state bodies as actors of protection. It also illustrates some of the central problems with the way in which the 1951 Refugee Convention is implemented domestically in key asylum host states. The arguments put forward in this book have particular significance for the return of asylum seekers and refugees to situations of ongoing conflict and post-conflict situations and is therefore highly pertinent to the future development of international refugee law.

The first edition of The Law of Refugee Status (published in 1991) is generally regarded as the seminal text on interpreting the refugee definition set by the UN's 1951 Refugee Convention.

Its groundbreaking analysis served as the bedrock for not only much judicial reasoning, but also for a burgeoning academic literature in law and related fields. This second edition builds

on the strong critical focus and human rights orientation of the first edition, but undertakes an entirely original analysis of the jurisprudence of leading common law and select civil law

states. The authors provide robust responses to the most difficult questions of refugee status in a clear and direct way. The result is a comprehensive and truly global analysis of the

central question in asylum law: who is a refugee?

Human Rights and the Refugee Definition

Legitimising Rejection

Strategies toward Interpretative Harmony

Administrative Justice and the Politics of Asylum in the United States, Canada, and Australia

The Law of Refugee Status

The Child in International Refugee Law

This book presents the first comprehensive analysis of the human rights of refugees as set by the UN Refugee Convention. In an era where States are increasingly challenging the logic of simply assimilating refugees to their own citizens, questions are now being raised about whether refugees should be allowed to enjoy freedom of movement, to work, to access public welfare programs, or to be reunited with family members. Doubts have been expressed about the propriety of exempting refugees from visa and other immigration rules, and whether there is a duty to admit refugees at all. Hathaway links the standards of the UN Refugee Convention to key norms of international human rights law, and applies his analysis to the world's most difficult protection challenges. This is a critical resource for advocates, judges, and policymakers. It will also be a pioneering scholarly work for graduate students of international and human rights law.

African Asylum at a Crossroads: Activism, Expert Testimony, and Refugee Rights examines the emerging trend of requests for expert opinions in asylum hearings or refugee status determinations. This is the first book to explore the role of court-based expertise in relation to African asylum cases and the first to establish a rigorous analytical framework for interpreting the effects of this new reliance on expert testimony. Over the past two decades, courts in Western countries and beyond have begun demanding expert reports tailored to the experience of the individual claimant. As courts increasingly draw upon such testimony in their deliberations, expertise in matters of asylum and refugee status is emerging as an academic area with its own standards, protocols, and guidelines. This deeply thoughtful book explores these developments and their effects on both asylum seekers and the experts whose influence may determine their fate. Contributors: Iris Berger, Carol Bohmer, John Campbell, Katherine Luongo, E. Ann McDougall, Karen Musalo, Tricia Redeker Hepner, Amy Shuman, Joanna T. Tague, Meredith Terretta, and Charlotte Walker-Said.

While the 21st century bears witness to several conflicts leading to mass displacement, the conflict in Syria has crystallised the need for a solid legal framework and legal certainty. This book analyses the relevant legal instruments for the provision of a protection status for persons fleeing to Europe from conflict and violence. It focuses on the conceptualisation of conflict and violence in the countries of origin and the different approaches taken in the interpretation of them in the 1951 Refugee Convention, the Recast Qualification Directive of the European Union and the European Convention on Human Rights. It traces the hierarchical order of protection granted, starting with refugee protection status, to subsidiary protection status and finally with the negative protection from non-refoulement. Recent case law and asylum status determination practices of European countries illustrate the obstacles in the interpretation as well as the divergence in the application of the legal instruments. The book fills an important gap in examining the current practices of key actors, including the United Nations High Commissioner for Refugees and European states, tracing changes in national and international policies and revealing discrepancies towards contemporary approaches to conflicts. It refines the interaction and cross-fertilisation of the different relevant fields of European asylum law, human rights law and the laws of armed conflict in order to further the development of a harmonised protection regime for conflict-induced displacement.

The impact of violence and conflict on refugee status determination and international protection is a key developing field. Given the contemporary dynamics of armed conflict, how to interpret and apply the refugee definitions at global and regional levels is increasingly relevant to governmental policy-makers, decision-makers, legal practitioners, academics and students. This book will provide a comprehensive analysis of the global and regional refugee instruments as they apply to claimants in flight from situations of armed violence and conflict, exploring their interrelationship and how they are interpreted and applied (or should be applied). As part of a broader United Nations High Commissioner for Refugees project to develop guidelines on the interpretation and application of international refugee law instruments to claimants fleeing armed conflict and other situations of violence, it includes contributions from leading scholars and practitioners in this field as well as emerging authors with specific expertise.

Critical Issues in International Refugee Law

Activism, Expert Testimony, and Refugee Rights

UNHCR's Global Consultations on International Protection

International Refugee Law in Southeast Asia

Exclusion from Protection as a Refugee

Access to Asylum

Sixty years on from the signing of the Refugee Convention, forced migration and refugee movements continue to raise global concerns for hosting states and regions, for countries of origin, for humanitarian organisations on the ground, and, of course, for the refugee.

This edited volume is framed around two themes which go to the core of contemporary 'refugeehood': protection and identity. It analyses how the issue of refugee identity is shaped by and responds to the legal regime of refugee protection in contemporary times. The book investigates the premise that there is a narrowing of protection space in many countries and many highly visible incidents of refoulement. It argues that 'Protection', which is a core focus of the Refugee Convention, appears to be under threat, as there are many gaps and inconsistencies in practice. Contributors to the volume, who include Erika Feller, Elspeth Guild, Hélène Lambert and Roger Zetter, look at the relevant issues from the perspective of a number of different disciplines including law, politics, sociology, and anthropology. The chapters examine the link between identity and protection as a basis for understanding how the Refugee Convention has been and is being applied in policy and practice. The situation in a number of jurisdictions and regions in Europe, North America, South East Asia, Africa and the Middle East is explored in order to ask the question does jurisprudence under the Refugee Convention need better coordination and how successful is oversight of the Convention?

International Refugee Law and the Protection of Stateless Persons examines the extent to which the 1951 Convention relating to the Status of Refugees protects de jure stateless persons. While de jure stateless persons are clearly protected by the 1954 Convention

relating to the Status of Stateless Persons, this book seeks to explore the extent to which such persons are also entitled to refugee status. The questions addressed include the following: When is a person 'without a nationality' for the purpose of the 1951 Refugee

Convention? What constitutes one's country of former habitual residence as a proxy to one's country of nationality? When does being stateless give rise to a well-founded fear of persecution for reasons specified in the 1951 Refugee Convention and/or UNHCR mandate?

What are the circumstances under which statelessness constitutes persecution or inhuman or degrading treatment? How are courts assessing individual risk or threat to stateless persons? The book draws on historical and contemporary interpretation of international law based on the travaux préparatoires to the 1951 Refugee Convention and its antecedents, academic writing, UNHCR policy and legal documents, UN Human Rights Council resolutions, UN Human Rights Committee general comments, UN Secretary General reports, and UN General Assembly resolutions. It is also based on original comparative analysis of existing jurisprudence worldwide relating to claims to refugee status based on or around statelessness. By examining statelessness through the prism of international refugee law, this book fills a critical gap in existing scholarship.

A disability-sensitive interpretation of the refugee definition -- 'Being persecuted' -- Failure of state protection -- Causal nexus : 'for Reasons of' -- Convention ground.

This book provides an overview of the development and substance of existing international refugee law with a view to reveal its gaps, caveats, and inadequacies that militate against the establishment of an effective legal regime to address mounting global refugee crises.

The book pursues a reformist agenda towards affording legal coverage to all refugees generated by any genuinely involuntary grounds.

James C. Hathaway

From the Margins to the Centre

Refugee Law and Durability of Protection

The Refugee in International Law

The Regional Law of Refugee Protection in Africa

A Reader

The long-awaited second edition of this seminal text, reconceived as a critical analysis of the world's leading comparative asylum jurisprudence.

Questions of gender have strongly influenced the development of international refugee law over the last few decades. This volume assesses the progress toward appropriate recognition of gender-related persecution in refugee law. It documents intense advocacy around the world in the 1990s, and evaluates the extent to which gender has been successfully integrated into refugee law. Evaluating the research and advocacy agendas for gender in refugee law ten years beyond the book investigates the current status of gender in refugee law. It examines gender-related persecution claims of both women and men, including those based on sexual orientation and gender identity, and explores how the development of a

Western states exponentially increases vulnerability for refugees making gendered claims. The volume includes contributions from scholars and members of the advocacy community that allow the book to examine conceptual and doctrinal gender and refugee law, and specific case studies across major Western refugee-receiving nations. The book will be of great interest and value to researchers and students of asylum and immigration law, international politics, and gender studies. International refugee law anticipates state conduct in relation to nationality, statelessness, and protection. Refugee status under the Convention relating to the Status of Refugees 1951 and regional and domestic instruments referring to the background of international laws regarding nationality, statelessness, and the consequences of national status or the lack of it. In this significant addition to the literature a leading practitioner in these fields examines, in the light of international refugee status including identification of 'the country of his nationality', concepts of 'effective nationality', and the inclusion within 'persecution' of a range of acts or omissions focused on nationality.

In an age of ethnic nationalism and anti-immigrant rhetoric, the study of refugees can help develop a new outlook on social justice, just as the post-war international order ends. The global financial crisis, the rise of populist leaders like Trump, and the mention the arrival of anti-EU parties, raises the need to interrogate the refugee, migrant, citizen, stateless, legal, and illegal as concepts. This insightful Research Handbook is a timely contribution to that debate.

Concepts of Protection in Islamic Tradition and International Law

Treaty Basis and Scope of Application under the 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol

International Refugee Law and the Globalisation of Migration Control

Nationality and Statelessness in the International Law of Refugee Status

Conflict Displacement and Legal Protection

UNHCR's Consultations on Refugee Status and Other Forms of International Protection

This book examines Southeast Asia's rejection of international refugee law through extensive archival analysis and argues that this rejection was shaped by the region's response to its largest refugee crisis in the post-1945 era: the Indochinese refugee crisis from 1975-1996.

What are the views, principles and regulations of the Islamic tradition concerning refugee status? Are there any similarities between the Islamic tradition relating to the laws of aman (safe conduct) and the 1951 Geneva Convention relating to the status of refugees? In this book, Arafat Shoukri delves into fifteen centuries of Arab and Islamic history examining hundreds of ancient sources to establish Islam's position on refugees. This is the first examination of the 1951 Geneva Convention on refugees from an Islamic perspective. In adopting this approach, Shoukri is able to compare and contrast the principles of international law with those of the Islamic tradition.

The Internal Protection Alternative in Refugee Law addresses the legal conditions under which a refugee claimant may be returned to a safe area within her country of origin.

The situation of refugees is one of the most pressing and urgent problems facing the international community and refugee law has grown in recent years to a subject of global importance. In this long-awaited third edition each chapter has been thoroughly revised and updated and every issue, old and new, has received fresh analysis.

Political Rights at the Margins of the State

International Refugee Law

The Rights of Refugees under International Law

An Approach to a Harmonizing Interpretation in International Law

The Oxford Handbook of International Refugee Law

Refugee Protection and the Role of Law

The book provides an in-depth discussion of democratic theory questions in relation to refugee law. The work introduces readers to the evolution of refugee law and its core issues today, as well as central lines in the debate about democracy and migration. Bringing together these fields, the book links theoretical considerations and legal analysis. Based on its specific understanding of the refugee concept, it offers a reconstruction of refugee law as constantly confronted with the question of how to secure rights to those who have no voice in the democratic process. In this reconstruction, the book highlights, on the one hand, the need to look beyond the legal regulations for understanding the challenges and gaps in refugee protection. It is also the structural lack of political voice, the book argues, which shapes the refugee's situation. On the other hand, the book opposes a view

of law as mere expression of power and points out the dynamics within the law which reflect endeavors towards mitigating exclusion. The book will be essential reading for academics and researchers working in the areas of migration and refugee law, legal theory and political theory.

In Human Rights and the Refugee Definition, Burson and Cantor bring together over a dozen contributions that add a fine-grained comparative perspective to the debate on whether, or how, interpretation of the refugee definition should take account of human rights law.

This book analyses the legal framework for refugee protection in Africa, including both refugee and human rights law as well as treaty and institutional elements. The regime is addressed in two parts. Part One analyses the relevant treaties: the 1951 Convention relating to the Status of Refugees, the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa and the 1981 African Charter on Human and Peoples Rights. The latter two regional instruments are examined in depth. This includes the first fulsome account of the African Refugee Conventions drafting, an interpretation of its unique refugee definition and original analysis of the relationships between the three treaties. Significant attention is devoted to the systemic relationship between the international and the regional refugee treaties and to the discrete relationships of conflict and complementary relationships between the two refugee instruments, as well as to the relationships between the African Refugee Convention and African Charter. Part Two focuses on the institutional architecture supporting the treaty framework. The Organization of African Unity is addressed in a historical sense, and the contemporary roles of the African Union, the African Commission on Human and Peoples Rights and the current and contemplated African human rights courts are examined. This book is the first devoted to the legal framework for refugee protection in Africa.

5.5.4 Class or caste

An Introduction to International Refugee Law

Comparative Legal Practice and Theory

Climate Change, Disasters and the Refugee Convention

Complementary Protection in International Refugee Law

Let Me Be a Refugee

Gender in Refugee Law

Revealing the role of discrimination in disasters challenges received wisdom about who is a refugee.

This book addresses the relationship between International Refugee Law and International Human Rights Law. Using international refugee law's analytical turn to human rights as its object of inquiry, it represents a critical intervention into the revisionism that has led to conceptual fragmentation and restrictive practices. Mainstream literature in refugee law reflects a mood of celebration, a narrative of progress which praises the discipline's rescue from obsolescence. This is commonly ascribed to its repositioning alongside human rights law, its veritable rediscovery as an arm of this far greater edifice. By using human rights logic to construct the current legal paradigm and inform us of who qualifies as a refugee, this purportedly lent areas of conceptual uncertainty a set of objective, modern criteria and increased enfranchisement to new, non-traditional claimants. The present work challenges this dominant position by finding the untold limits of its current paradigm. It stands alone in this orientation and hereby represents one of the most comprehensive, heterodox and structurally detailed reviews of this connection. The exploration of the gap between modern approaches and the unsatisfactory realities of seeking asylum forms the substance of this book. It asserts, by contrast, the existence of revolution rather than evolution. Human rights law has erased the founding tenets of the Refugee Convention, enabling powerful states to contain refugees in their region of origin. The book will be essential reading for those interested in Refugee Law, Refugee Studies, Postcolonial Legal Studies, Postmodern Critiques and Critical Legal Theory. Additionally, given its relevance for the adjudication of refugee claims, it will be an important resource for solicitors, barristers and judges.

This volume of essays examines key cutting-edge areas of international refugee law, including strategies for interpretative harmony, the rights of refugees and the standard of proof in complementary protection. Each topic is examined from a theoretical and a practical perspective in order to find solutions to the many legal issues and concerns which currently confront this area of law, and to seek ways to advance the field as a whole.

This is the first comprehensive socio-legal study of the interrelation between gender and the law of refugee status. In the past decade, the issue has received increasing attention in academic writing, the media and the courtroom. This book contains an interdisciplinary analysis. The empirical data, collected for this study and not published previously, concerns Dutch asylum practice. The Netherlands is a prominent refugee-receiving country in Europe, yet hardly any English texts address Dutch refugee law. The book also covers foreign case law and academic writing. Therefore, the analysis is relevant for all refugee-receiving countries in the Western world; the empirical data on The Netherlands functions as a case study. The book combines perspectives of post-structuralist feminism and post-colonial studies. Refugee women are constructed as a double other. This intersectionality is related to the construction of the Third World as feminine (passive, in need of active outside intervention etc., etc.). The book provides a comprehensive overview of academic writing and of case law on the subject. On this basis of theoretical perspectives that were almost ignored until now, it develops an innovative critique of refugee law discourse and outlines its possible consequences for legal doctrine.

In Flight from Conflict and Violence

African Asylum at a Crossroads

Refugee Protection in International Law

International Refugee Law and the Protection of Stateless Persons

Human Rights and The Revision of Refugee Law

Welcome to Britain: Fixing Our Broken Immigration System

Alongside a panel of experts, the UNHCR examines the interpretation of the 1951 Refugee Convention.

Publisher Description

Children are the victims of some of the most devastating examples of state-sanctioned and private human rights abuse. In increasing numbers, they are attempting to find international protection, and are forced to navigate complex administrative and legal processes that fail to take into account their distinct needs and vulnerabilities. The key challenges they face in establishing entitlement to refugee protection are their invisibility and the risk of incorrect assessment. Drawing on an extensive and original analysis of jurisprudence of leading common law jurisdictions, this book undertakes an assessment of the extent to which these challenges may be overcome by greater engagement between international refugee law and international law on the rights of the child. The result is the first comprehensive study on the manner in which these two mutually reinforcing legal regimes can interact to strengthen the protection of refugee children.

Temporary Residence and Cessation of Status

Refugee Status in Islam

Research Handbook on International Refugee Law