

1-2011

# Refugee Law and Policy: A Comparative and International Approach

Jennifer Moore

*University of New Mexico - School of Law, moore@law.unm.edu*

Karen Musalo

Richard A. Boswell

Follow this and additional works at: [https://digitalrepository.unm.edu/law\\_facbookdisplay](https://digitalrepository.unm.edu/law_facbookdisplay)

 Part of the [Comparative and Foreign Law Commons](#), [Human Rights Law Commons](#), [Immigration Law Commons](#), and the [International Humanitarian Law Commons](#)

## Recommended Citation

Moore, Jennifer; Karen Musalo; and Richard A. Boswell. "Refugee Law and Policy: A Comparative and International Approach." (2011): 1180 pages. [https://digitalrepository.unm.edu/law\\_facbookdisplay/36](https://digitalrepository.unm.edu/law_facbookdisplay/36)

This Book is brought to you for free and open access by the School of Law at UNM Digital Repository. It has been accepted for inclusion in Faculty Book Display Case by an authorized administrator of UNM Digital Repository. For more information, please contact [amywinter@unm.edu](mailto:amywinter@unm.edu).

# **Refugee Law and Policy**

---

## **Selected Statutes, Regulations, and International Materials**

Karen Musalo  
Santa Clara University,  
Markkula Center for Applied Ethics

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 © 1998  
Karen Musalo, Jennifer Moore, and Richard A. Boswell  
All Rights Reserved

ISBN 0-89089-871-5  
LCCN 97-077765

This is the companion volume for  
K. Musalo, J. Moore, and R.A. Boswell,  
*Refugee Law and Policy: Cases and Materials*.  
Durham, NC: Carolina Academic Press, 1997.

CAROLINA ACADEMIC PRESS  
700 Kent Street  
Durham, North Carolina 27701  
Telephone (919) 489-7486  
Fax (919) 493-5668  
[www.cap-press.com](http://www.cap-press.com)

Printed in the United States of America

# Contents

---

## I. Domestic Materials

A. Immigration and Nationality Act, as amended	3
Sec. 101(a) [8 U.S.C. § 1101(a)] Definitions	3
Sec. 207 [8 U.S.C. 1157] Annual Admission of Refugees and Admission of Emergency Situation Refugees	6
Sec. 208 [8 U.S.C. 1158] Asylum	9
Sec. 209 [8 U.S.C. 1159] Adjustment of Status of Refugees	13
Sec. 212 [8 U.S.C. 1182] General Classes of Aliens Ineligible to Receive Visas and Ineligible for Admission; Waivers of Inadmissibility	14
Sec. 235 [8 U.S.C. § 1225] Inspection by Immigration Officers; Expedited Removal of Inadmissible Arriving Aliens; Referral for Hearing	43
Sec. 236 [8 U.S.C. § 1226] Apprehension and Detention of Aliens	49
Sec. 237 [8 U.S.C. 1227 1251] General Classes of Deportable Aliens	51
Sec. 239 [8 U.S.C. § 1229] Initiation of Removal Proceedings	58
Sec. 240 [8 U.S.C. § 1230] Removal Proceedings	59
Sec. 241 [8 U.S.C. § 1251] Detention and Removal of Aliens Ordered Removed	64
Sec. 242 [8 U.S.C. § 1252] Judicial Review of Orders of Removal	74
Sec. 244 [8 U.S.C. 1254a] Temporary Protected Status	79
B. Regulations (Title 8 of the Code of Federal Regulations)	86
8 C.F.R. Part 3 — Executive Office for Immigration Review (Administrative Appeals)	86
8 C.F.R. Part 208 — Procedures for Asylum and Withholding of Removal	98
8 C.F.R. Part 209 — Adjustment of Status of Refugees and Aliens Granted Asylum	120
8 C.F.R. Part 235 — Inspection of Persons Applying for Admission	123

8 C.F.R. Part 236 — Apprehension and Detention of Inadmissible and Deportable Aliens; Removal of Aliens Ordered Removed	142
8 C.F.R. Part 240 — Proceedings to Determine Removability of Aliens in the United States	150
8 C.F.R. Part 241 — Apprehension and Detention of Aliens Ordered Removed	176
C. INS Gender Considerations	187
<b>II. International Materials</b>	
A. Refugee Materials	205
1. UNHCR Materials	205
a. United Nations High Commissioner for Refugees, Handbook on Procedures and Criteria for Determining Refugee Status (1979)	205
(i) Excerpt from the Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons	246
(ii) 1951 Convention Relating to the Status of Refugees	248
(iii) Specimen Travel Document	266
(iv) 1967 Protocol Relating to the Status of Refugees	269
(v) Excerpt from the Charter of the International Military Tribunal	274
(vi) International Instruments Relating to Article 1 F(a) of the 1951 Convention	274
b. Executive Committee Conclusions	275
No. 1 (1975) Establishment of the Sub-Committee and General	275
No. 2 (1976) Functioning of the Sub-Committee and General	276
No. 3 (1977) General	277
No. 4 (1977) International Instruments	278
No. 5 (1977) Asylum	278
No. 6 (1977) Non-Refoulement	279
No. 7 (1977) Expulsion	279
No. 8 (1977) Determination of Refugee Status	280
No. 9 (1977) Family Reunion	281
No. 10 (1977) Protection Staff	281
No. 11 (1978) General	282
No. 12 (1978) Extraterritorial Effect on the Determination of Refugee Status	283
No. 13 (1978) Travel Documents for Refugees	284
No. 14 (1979) General	285
No. 15 (1979) Refugees without an Asylum Country	286
No. 16 (1980) General	288
No. 17 (1980) Problems of Extradition Affecting Refugees	289

No. 18 (1980) Voluntary Repatriation	290
No. 19 (1980) Temporary Refuge	291
No. 20 (1980) Protection of Asylum-Seekers at Sea	292
No. 21 (1981) General	293
No. 22 (1981) Protection of Asylum-Seekers in Situations of Large-Scale Influx	294
No. 23 (1981) Problems Related to the Rescue of Asylum-Seekers in Distress at Sea	297
No. 24 (1981) Family Reunification	298
No. 25 (1982) General	299
No. 26 (1982) Report of the Working Group on Problems Related to the Rescue of Asylum-Seekers in Distress at Sea	300
No. 27 (1982) Military Attacks on Refugee Camps and Settlements in Southern Africa and Elsewhere	301
No. 28 (1982) Follow-Up on Earlier Conclusions of the Subcommittee of the Whole on International Protection on the Determination of Refugee Status, Inter Alia, with Reference to the Role of UNHCR in National Refugee Status Determination Procedures	302
No. 29 (1983) General	303
No. 30 (1983) The Problem of Manifestly Unfounded or Abusive Applications for Refugee Status or Asylum	304
No. 31 (1983) Rescue of Asylum-Seekers in Distress at Sea	305
No. 32 (1983) Military Attacks on Refugee Camps and Settlements in Southern Africa and Elsewhere	306
No. 33 (1984) General	306
No. 34 (1984) Problems Related to the Rescue of Asylum-Seekers in Distress at Sea	308
No. 35 (1984) Identity Documents for Refugees	308
No. 36 (1985) General	309
No. 37 (1985) Central American Refugees and the Cartagena Declaration	310
No. 38 (1985) Rescue of Asylum-Seekers in Distress at Sea	310
No. 39 (1985) Refugee Women and International Protection	311
No. 40 (1985) Voluntary Repatriation	312
No. 41 (1986) General	314
No. 42 (1986) Accession to International Instruments and Their Implementation	316
No. 43 (1986) Geneva Declaration on the 1951 United Nations Convention and the 1967 Protocol Relating to the Status of Refugees	317
No. 44 (1986) Detention of Refugees and Asylum-Seekers	318
No. 45 (1986) Military and Armed Attacks on Refugee Camps and Settlements	319

No. 46 (1987) General	320
No. 47 (1987) Refugee Children	322
No. 48 (1987) Military or Armed Attacks on Refugee Camps and Settlements	324
No. 49 (1987) Travel Documents for Refugees	325
No. 50 (1988) General	326
No. 51 (1988) Promotion and Dissemination of Refugee Law	327
No. 52 (1988) International Solidarity and Refugee Protection	328
No. 53 (1988) Stowaway Asylum-Seekers	329
No. 54 (1988) Refugee Women	330
No. 55 (1989) General	331
No. 56 (1989) Durable Solutions and Refugee Protection	333
No. 57 (1989) Implementing of the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees	334
No. 58 (1989) Problem of Refugees and Asylum-Seekers Who Move in an Irregular Manner from a Country in Which They Had Already Found Protection	335
No. 59 (1989) Refugee Children	336
No. 60 (1989) Refugee Women	338
No. 61 (1990) General	339
No. 62 (1990) Note on International Protection	340
No. 63 (1990) Solutions and Protection	342
No. 64 (1990) Refugee Women and International Protection	342
No. 65 (1991) General Conclusions on International Protection	344
No. 66 (1991) Report of the Working Group on Solutions and Protection	347
No. 67 (1991) Resettlement as an Instrument of Protection	347
No. 68 (1992) General	348
No. 69 (1992) Cessation of Status	351
No. 70 (1992) Decision on Inter-Sessional Meetings	352
No. 71 (1993) General Conclusion on International Protection	352
No. 72 (1993) Personal Security of Refugees	357
No. 73 (1993) Refugee Protection and Sexual Violence	358
No. 74 (1994) General	360
No. 75 (1994) Internally Displaced Persons	365
No. 76 (1994) Recommendations of the OAU/UNHCR Commemorative Symposium on Refugees and Forced Population Displacements in Africa	367
No. 77 General	367
No. 78 Prevention and Reduction of Statelessness and Protection of Stateless Persons	370
Report of the Forty-Seventh Session of the Executive Committee of the High Commissioner's Programmes (1996)	371

General Conclusions on International Protection	371
Comprehensive and Regional Approaches within a Protection Framework	374
Conclusion on the CIS Conference	376
c. United Nations High Commissioner for Refugees, Guidelines on the Protection of Refugee Women (1991)	377
2. Other Refugee Instruments and Guidelines	412
a. OAU Convention Governing the Specific Aspects of Refugee Problems in Africa	412
b. Cartagena Declaration on Refugees	419
c. Guideline 4 — Women Refugee Claimants Fearing Gender-Related Persecution, Immigration and Refugee Board, Canada (1996)	424
d. Canadian Guidelines on Civilian Non- Combatants Fearing Persecution in Civil War Situations (1996)	443
e. Canadian Guidelines on Child Refugee Claimants (1996)	467
B. Human Rights and Humanitarian Law Materials	479
1. Universal Declaration of Human Rights	479
2. International Covenant on Civil and Political Rights	485
3. Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief	502
4. Convention on the Elimination of All Forms of Discrimination Against Women	505
5. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	516
6. Convention on the Prevention and Punishment of the Crime of Genocide	528
7. Geneva Convention Relative to the Protection of Civilian Persons in Time of War	532