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ARTICLE

Collective Refugee Agency and the Negotiation of Migration Laws in Wartime Australia, 1939–1943

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Abstract

In historical global refugee studies, the voices of migrants and their agency have become of growing interest. As recent research shows, migration is a complex process that is not simply obstructed by states but rather negotiated between different actors. Within these processes, migrants play a vital and active role as so-called 'agents of experience'. This article analyses how specific migration processes have been negotiated by exploring the agency of German-speaking refugees from the Holocaust in wartime Australia with a particular focus on the negotiation of citizenship legislation. Relying on social cognitive theory, it focuses on actions taken at an institutional level of refugee agency. This allows for the understanding of how refugees have organized themselves and reveals what they did at an institutional level to become a point of reference for the Australian government and to influence its decision to introduce the new legal term of 'refugee alien'.

I

Australia has a conflicted history in dealing with refugees. During large parts of the twentieth century, refugees were treated as regular migrants, with no acknowledgement of their vulnerable position. This started to change with the arrival of around 10,000 German-speaking Jewish refugees, who turned out to be a very distinct group that had a particular impact on the Australian migration regime. During the early 1940s, they, as well as refugees more generally on a global scale, managed to become recognized within and beyond the realm of law.[1] Some involved themselves in negotiations, demonstrating the capacity to effect progressive change, which resulted in a historical policy shift towards a first appreciation of a refugee status in Australia. By doing so they, as a subaltern group, showed that they were not passive recipients

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[1] Peter Gatrell, *The making of the modern refugee* (Oxford, 2013), p. 13.

of the opportunity structures presented to them by their receiving country;[2] they were 'agents of experience' rather than simply 'undergoers of experiences'.[3]

This article comprehends migration as a process that is not simply obstructed by states or nations[4] but rather negotiated between different actors.[5] Combining recent trends in global legal history[6] and actor-centred approaches of global refugee history,[7] the article highlights the role of subaltern refugee agency in transforming migration regimes. Like all of the articles in this special issue, particularly the texts by Milinda Banerjee, Shuvatri Dasgupta, Dominic Meng-Hsuan Yang, Sebastian Musch, and Dina Gusejnova, it stresses collective refugee agency by showing how refugees triggered changes in their host societies. With the persecution of millions during the 1930s and 1940s, refugeedom, loss of citizenship, and statelessness, people from different parts of the world experienced crucial biographical breaks and displacements and, as Sebastian Musch points out in this special issue, had to reclaim agency over their private and public lives. As Dominic Meng-Hsuan Yang has put it, refugees were not 'just pitiable victims or mindless pawns of nation-states', they were 'active agents in their own story'. This is not only true for the Chinese Dachen refugees during the 1940s and 1950s but also for refugees in Taiwan, Malaya, Singapore, India, and of course also Jewish refugees in Australia.

This article contributes to this special issue's primary endeavour of rethinking the history of the crucial period around the Second World War from a refugee perspective. Paying attention to what has been described in the introduction of this special issue as the 'third step in the formation of the refugee political', it analyses how German-speaking, mostly Jewish, refugees collectively organized themselves to

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[2] Ewa Moravska, 'Studying international migration in the long(er) and short(er) durée: contesting some and reconciling other disagreements between the structuration and morphogenesis approaches', IMI Working Papers (International Migration Institute, 2011), accessed online https://ora.ox.ac.uk/objects/uuid:a0593df2-cb5d-461f-ac88-3223a3516d38. On opportunity structures, see Philipp Strobl, 'Social networks of Austrian refugee-migrants from the Anschluss in Australia: an analysis of meaning structures', *Journal of Migration History*, 5 (2019), pp. 53–79, at p. 58.

[3] Albert Bandura, 'Social cognitive theory: an agentic perspective', *Annual Review of Psychology*, 52 (2001), pp. 1–26, at p. 4.

[4] Modern migration history is particularly critical of the state-centred approaches of earlier works. See, for example, Jan Lucassen and Leo Lucassen, 'Measuring and quantifying cross-cultural migration: an introduction', in Jan Lucassen and Leo Lucassen, eds., *Globalising migration history: the Eurasian experience (16th–21st centuries)* (Leiden, 2014), pp. 17–31.

[5] Christoph Rass and Frank Wolff, 'What is a migration regime? Genealogical approach and methodological proposal', in Andreas Pott, Christoph Rass, and Frank Wolff, eds., *Was ist ein Migrationsregime? What is a migration regime?* (Wiesbaden, 2018), pp. 19–64, at p. 21.

[6] See, for example, Arnulf Becker Lorca, *Mestizio international law: a global intellectual history (1842–1933)* (Cambridge, 2014); Milinda Banerjee and Kerstin von Lingen, 'Law, empire, and global intellectual history: an introduction', *Modern Intellectual History*, 17 (2020), pp. 467–70; Anthony Anghie, *Imperialism, sovereignty and the making of international law* (Cambridge, 2005); Gloria Anzaldua, *Borderlands/La Frontera: the new mestiza* (San Francisco, CA, 1987).

[7] See, for example, Gatrell, *Modern refugee*; Philipp Ther, *The outsiders: refugees in Europe since 1492* (Princeton, NJ, 2019); Matthew Frank, *Making minorities history: population transfer in twentieth-century Europe* (Oxford, 2017); Milinda Banerjee and Kerstin von Lingen, 'Forced migration and refugee resettlement in the long 1940s: an introduction to its connected and global history', *Itinerario*, 46 (2022), pp. 185–92.

'structurally transform the politics…of host societies' and thus created new identities.[8] It offers an actor-centred history, focusing on the work of two important representative bodies of refugees in wartime Australia, the Association of Refugees (AoR) in Sydney and the Association of Jewish Refugees (AoJR) in Melbourne. Despite the fact that much research has been conducted on Jewish organizations such as the Australian Jewish Welfare Society (AJWS), neither of the aforementioned refugee organizations have attracted much attention so far, although they were the only self-organized refugee organizations at that time in Australia. Thus, the article analyses refugee efforts to partake in the negotiations of the Australian wartime migration regime through their own collectively organized associations, with a particular focus on the negotiation of citizenship legislation. It focuses on collective actions taken at an institutional level of refugee agency to show what refugees did to influence the government's decision to introduce the new status of 'refugee alien'.

By doing so, the article contributes to a recent agency-centred research stream in global migration/refugee scholarship that moves away from the centring of state structures and institutions and regards forced migrants as subjects able to navigate their lives.[9] Like other articles in this special issue, it also shows that the refugees, from their vantage point of subalternity, evolved new modes of political thought and practice. Not unlike the Chinese Dachen people described in Dominic Meng-Hsuan Yang's article, Jewish refugees in Australia were active agents in their own story, trying to make the best of difficult circumstances. Emphasizing their subaltern agency in contrast to the more traditional perspective on high-level politics, diplomacy, and international organizations, as Dominic Meng-Hsuang Yang further says, may broaden our understanding of the role refugees played in the negotiations of migration regimes.

There was a broad range of actions that refugees undertook to make themselves heard. In academic research, these actions are usually described by the concept of 'agency'. The core features of agency enable people to play a part in their self-development, adaption, and self-renewal in accordance with changing times.[10] It is 'implied in those actions that are intentional, in the sense that [it] leads to actions that are intentionally pursued to exert influence on one's life'.[11] In this context, the platitudinous sentiment that in acting, agents exercise power should be taken more seriously.[12]

Methodologically, this article is concerned with core questions of a global refugee history of the mid-twentieth century, as it exemplifies, analyses, and clarifies how marginalized people on the move contributed to the development of migration

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[8] See Introduction to this special issue.

[9] Christoph Rass and Ismee Tames, 'Negotiating the aftermath of forced migration: a view from the intersection of war and migration studies in the digital age', *Historical Social Research*, 45 (2020), pp. 7–44.

[10] Bandura, 'Social cognitive theory', p. 2.

[11] Marcus H. Kristiansen, 'Agency as an empirical concept: an assessment of theory and operationalization', Netherlands Interdisciplinary Demographic Institute Working Paper, 9 (2014), p. 3; see also Albert Bandura, 'Toward a psychology of human agency', *Perspectives on Psychological Science*, 1 (2006), pp. 164–80; Steven Hitlin and Glen Elder, 'Time, self, and the curiously abstract concept of agency', *Sociological Theory*, 25 (2007), pp. 137–60; Mustafa Emirbayer and Ann Mische, 'What is agency?', *American Journal of Sociology*, 103 (1998), pp. 962–1023.

[12] Alex Callincos, *Making history: agency, structure, and change in social theory* (Leiden, 2004), p. xx.

regimes and citizenship law, and questions 'how they interacted with and conduced to implicit or explicit power formations'.[13] Furthermore, it adds to the academic discussion around the question of how forced migrants reacted to the changing political and social frameworks that confronted all parties involved in the negotiations of the migration regime in the mid-twentieth century.[14] This aids the analysis of these negotiations as processual spaces where agency and structure influenced each other.[15]

This article agrees with Milinda Banerjee's point of view in this special issue that an intellectual history interested in the agency of refugees has to go beyond 'great men and canonical texts'. It thus pursues an actor-centred approach, using archival sources, legal documents, and newspaper articles to explore refugee agency and contextualize biographical information about the refugees against the background of the relevant literature. This allows the ways in which migrants and their representatives have acted as players in the negotiation of migration and citizenship to be highlighted and analysed. Within these processes, refugees played a vital role in promoting and advancing their positions, as Abe Landa, a former Irish migrant and member of the parliament for the Australian Labor party stated in 1943.[16] Their efforts, however, have so far been little considered in the historiographic research. Analyses of legal measures towards refugees in Australia usually start with the introduction of Australian citizenship in 1948, or with the establishment of the Ministry of Immigration in 1958.[17] This article extends that view by looking at what happened earlier. Measures towards refugees did not simply come into being in 1958 with the introduction of an official legislation that recognized refugees as a distinct and vulnerable group of migrants. Already twenty years earlier, the Australian government had introduced some legal terms that helped differentiate between migrants and refugees. And this is only the 'state-centred' side of the story. By starting from the transnational level and looking at the agency of refugee actors, this article seeks to provide a more complex narrative that is not focused on state actors and thus is not embedded in methodological statism.

The refugees acted increasingly independently and self-confidently in the negotiations of the migration regime in wartime Australia. Their actions, as we will see, were constitutive of an emerging 'refugee polis' in Australia.

Research on refugees in Australia during the Second World War is well suited for comprehending and analysing agency as, during the early 1940s, intense negotiations took place in Australia, resulting in a policy shift towards an appreciation of a refugee status.[18] Before that time, refugees were treated as regular migrants.

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[13]Rass and Wolff, 'What is a migration regime?', p. 20.

[14]David Bartam, 'Forced migration and "rejected alternatives": a conceptual refinement', *Journal of Immigrant and Refugee Studies*, 13 (2015), pp. 439–56.

[15]Peter Gatrell, 'Refugees – what's wrong with history?', *Journal of Refugee Studies*, 30 (2017), p. 170.

[16]*Sydney Jewish News*, 9 July 1943, p. 7; see also Rass and Wolff, 'What is a migration regime?', p. 21.

[17]See Mary Crock, 'Refugee protection in Australia: policies and practice', *Revue Européenne des migrations internationales*, 35 (2019), pp. 239–50; Rayner Thwaites, 'Report on citizenship law Australia', country report, 11 May 2017. For an exception, see Klaus Neumann, *Across the seas: Australia's response to refugees: a history* (Collingwood, 2015).

[18]See John Vrachnas, Kim Boyd, Mirko Bagaric, and Penny Dimopoulos, *Migration and refugee law: principles and practice in Australia* (Cambridge, 2012).

This reflected the international situation: beyond some ad hoc actions organized by the League of Nations, there was neither a general definition of refugee status, nor any standardized measures of international protection for refugees.[19] Australia, like most other members of the international community, retained a negative stance on the liberalization of its immigration policy and potential asylum seekers faced strict requirements influenced by anti-Semitic and racist criteria that sought to exclude non-British people.[20] Australia's immigration policies usually followed quite closely the changes in the 'legislative public opinion'.[21] In this context, a crucial change took place in 1943, when the government introduced the status of 'refugee alien'. Prior to that, refugees were regarded as regular migrants, or after the outbreak of the war even as 'enemy aliens'.

The article's goals are pursued in three stages. It starts by outlining the legal position of refugees during the late 1930s and after the outbreak of the war. Next, it highlights the changes in their legal status triggered by the Amendment of the National Security Act in 1943. Finally, the article emphasizes crucial actions and strategies of German-speaking refugees to exercise collective agency, exploring the work of the major self-representative refugee associations in Australia.

II

When the National Socialists took power in Germany in 1933, they began a radical and ultimately deadly policy of expelling those whom they regarded as not conforming to their perceptions of the 'German race'.[22] A brutal trajectory of dispossession, displacement, and later murder followed the Nazi expansion from 1933 onwards. Among the first to flee were opponents of the regime, as well as those marked as 'racially inferior'. German citizens such as Jews, Romani, and Slavs became increasingly isolated and were soon also deprived of their civil and political rights. Consequently, they were expropriated and forced to emigrate. At least 500,000 people from Germany, most of them Jews, were driven into exile. A further 130,000 followed after the Nazi annexation of Austria and another 80,000 fled after the German invasion and later occupation of Czechoslovakia.[23] Especially from the time of the 1938 occupation of Austria, with its considerable Jewish community, refugees began to spread throughout the world. The League of Nations tried to formulate agreements to provide protection for refugees; however, its activities never exceeded the scope of ad hoc measures implemented without substantial impact.

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[19] Ibid., p. 173; Greg Burgess, *The League of Nations and the refugees from Nazi Germany: James G. McDonald and Hitler's victims* (London, 2016).

[20] Suzanne D. Rutland, *The Jews in Australia* (Cambridge, 2005), p. 57; Birgit Lang, *Eine Fahrt ins Blaue: Deutschsprachiges Theater und Kabarett im australischen Exil und Nach-Exil (1933–1988)* (Berlin, 2006), p. 41.

[21] Seweryn Ozdowski, 'The law, immigration and human rights: changing the Australian immigration control system', *Multicultural Australian Papers*, 44 (1985), pp. 1–24, at p. 11.

[22] For a more precise depiction, see Christopher Browning, *The origins of the final solution: the evolution of Nazi Jewish policy, September 1939–March 1942* (Lincoln, NB, 2004); Hannelore Burger, *Heimatrecht und Staatsbürgerschaft österreichischer Juden: Vom Ende des 18. Jahrhunderts bis in die Gegenwart* (Vienna, 2013).

[23] Philipp Strobl and Susanne Korbel, 'Mediations through migrations: an introduction on cultural translation and knowledge transfers', in Susanne Korbel and Philipp Strobl, eds., *Cultural translation and knowledge transfer on alternative routes of escape from Nazi terror: mediations through migrations* (London, 2021), pp. 1–26, at p. 1.

Moreover, the international community was not even capable of agreeing upon a term that would recognize the vulnerable situation of refugees. Therefore, during the 1930s, no general definition of refugee status, nor any standardized measure of international protection, existed.[24] Only two decades later, in July 1951, when the Convention Relating to the Status of Refugees took place, did the United Nations (UN) principally govern international refugee law and clarify the term 'refugee'.[25]

In Australia, German Jewish and political refugees had become a growing issue for the country's migration policy-makers during the second half of the 1930s, despite their comparatively small numbers.[26] For the first time, the Australian public was involved in a vigorous debate about the merits of resettling refugees, as historian Klaus Neumann has stated.[27] At that time, most Australians favoured immigration from Britain and opposed the admission of large numbers of aliens for fear that they would undermine Australian living standards. Proposals to admit Jewish refugees frequently met with a hostile reception. This later became known in the Australian parlance as 'anti-refo' feeling. It manifested itself in the late 1930s in general news-paper coverage, statements by some parliamentarians, and resolutions passed by different pressure groups. In late 1937, a report of the Ministry of the Interior outlined the Australian government's stance on dealing with refugees. The report stated that the government did not distinguish between ordinary migrants and refugees. There were no humanitarian provisions for forced migrants, who instead often relied on the assistance of family, friends, and volunteer organizations.[28] Consequently, all refugees were regarded as regular migrants able and willing to pro-duce enough financial capital to cater for their own needs.[29] As shown by Dominic Meng-Hsuan Yang, Sebastian Musch, and Shuvatri Dasgupta in this special issue, not only Australia but many more states were reluctant at that time to provide financial support for refugees. In Australia, refugees, however, found themselves in a particularly disadvantaged position: they were required to provide a certain amount of capital, in contemporary terms called landing money. Until 1936, this sum was as high as 500 pounds. Afterwards it was reduced to 200 pounds as a first small concession towards refugees.[30] By early 1939, however, when refugee migra-tion increased significantly, the Australian government increased the landing money again to 500 pounds to 'obtain only the most suitable migrants', as the secretary of the department of the interior mentioned in February 1939.[31]

Up until 1948, nationals of the United Kingdom, the Dominions, and the vari-ous British colonies had shared a common legal status as 'British subjects' and as

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[24]Vrachnas, Boyd, Bagaric, and Dimopoulos, *Migration and refugee law*, p. 173.

[25]See Andreas Zimmermann, *The 1951 convention relating to the status of refugees and its 1967 protocol: a commentary*, Oxford Commentaries on International Law (Oxford, 2011).

[26]See Paul Bartrop, *Australia and the Holocaust, 1933–45* (Kew, 1994), pp. 115ff.

[27]Klaus Neumann, *Refuge Australia: Australia's humanitarian record* (Sydney, 2004), p. 23.

[28]Katrina Stats, 'Characteristically generous? Australian responses to refugees prior to 1951', *Australian Journal of Politics and History*, 60 (2014), pp. 177–93, at p. 179.

[29]Philipp Strobl, 'Austrian-Jewish refugees in pre- and wartime Australia: ambivalent experiences of encounter', *Zeitgeschichte*, 2 (2021), pp. 25–71, at p. 260.

[30]Suzanne Rutland, 'Australia and refugee migration, 1933–1945: consensus or conflict', *Journal of Modern Jewish Studies*, 2 (1988), pp. 77–91, at pp. 79–80.

[31]*Advocate*, 8 Feb. 1939, p. 7.

such were able to move within the territory of the British empire. However, who was a 'British subject' was not clear and 'much was left to a tacit understanding'.[32] In Australia, the Naturalization Act of 1903 and the Nationality Act of 1920 did not specify how a 'natural-born British subject' was defined.[33] As Rachel Bright has shown in a recent article, 'whiteness was a matter of negotiation': the Australian government generally used the term to describe people from the British Islands. Sometimes, we even find the term 'English' to differentiate between 'desired' British and 'nondesired' British subjects, who were technically British subjects but who it was felt should not be allowed to migrate into the country. Like in other settler communities of the British empire, the bureaucratic executive was given many privileges to 'grant or withhold naturalization'.[34] This vague legislation meant that the British empire could simultaneously be selectively restrictive and promote its unity on migration matters, a practice Rieko Karatani has called the 'common code'.[35] For Australia and in our refugee context of the 1930s this meant that the restrictive immigration policy could be expanded on an individual basis according to whoever was needed at a certain time, which frequently privileged wealthy refugees or people with certain skills.

As 'non-British' aliens, German and Austrian Jewish refugees did not have the status of 'British subject'. They were required to be in possession of a so-called landing permit when entering Australia. The issuance of these permits was an official instrument to regulate migration and obtaining one of the rare permits was very difficult, particularly for Jewish refugees: on the one hand, the government made constantly clear that 'none of the refugees shall become a charge on the community, or…displace Australians from employments'.[36] However, anti-Semitism also played a role. The government was 'wary of the inherent difficulty of complete assimilation of people of Jewish race, who always retain their identity as Jews'.[37] Additionally, the authorities strongly opposed the 'establishment of communities of Jewish refugees', as the secretary of the department of the interior publicly claimed.[38]

In March 1938, the refugee situation grew more acute when Germany annexed Austria, where the Nazis encountered a large Jewish population. As a result, larger numbers of people intended to flee to Australia, which, until then, many had regarded as too remote.[39] By May 1938, Australia House in London was receiving 300 applications each week from Germans and Austrians who wanted to escape.[40] Despite the fact that the German emigration laws, as well as the costly escape to Australia, had depleted the refugees' financial resources, many still managed to meet the Australian criteria for regular migrants. The influx of refugees fuelled the

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[32]Rachel Bright, 'Migration, naturalization, and the British world, c.1900–1920', *History of Global Arms Transfer*, 10 (2020), pp. 27–44, at p. 28.

[33]Ibid., p. 29.

[34]Ibid., p. 32.

[35]Rieko Karatani, *Defining British citizenship: empire, commonwealth and modern Britain* (London, 2003), p. 70.

[36]Neumann, *Across the seas*, p. 32.

[37]Ibid.

[38]Ibid.

[39]Ibid., p. 5.

[40]Ibid.

'electorate's latent xenophobia…as much as the government's own anti-alienism' vis-à-vis people from outside of the British empire, as Neumann wrote.[41]

In November 1938, when a concerted series of violent attacks was launched against the Jewish population in the whole of the Nazi Reich, it became clear to observers inside and outside the German Reich that Jews had to leave the country. The events slightly strengthened the so far weak position of those who had been arguing in favour of a liberalization of Australia's immigration policy. The minister of the interior, John McEwen, who was responsible for immigration issues, subsequently announced in December 1938 that Australia would accept 15,000 refugees over a period of three years as 'part of its humanitarian and sympathetic response'.[42] The figure, however, was announced for a period of three years only to make it appear more substantial, as historian Andrew Markus noted.[43] Furthermore, the expanded programme retained all the earlier migration requirements (e.g. sponsorship, landing money),[44] which allowed the government to focus on the admission of those 'suitable' migrants from outside of the empire, who had 'capital' or were 'skilled in the industry'.[45] Not unlike in the situation in the United States ten years later, as described by Sarah Knoll in this special issue, the process of integration was guided by the idea of assimilating the refugees into a British society. Since it was not the case that more migrants were allowed to enter the country, and none of the strict restrictions for prospective migrants were lifted, the announcement, according to Markus, should rather be seen as a public relations measure taken against the backdrop of increased Nazi violence towards Jews in Europe. Moreover, in the months after the scheme was introduced, the cabinet imposed further restrictions as the number of applications for migration to Australia increased.[46]

During the late 1930s, refugees exercised a certain degree of agency, mainly on a personal level. Some of them published their opinions in newspapers, others gave public speeches in community houses or with local organizations. Some (mostly) denominational organizations also exercised proxy agency, whereby a few lobbyists spoke for the refugees and their causes. Their attempts, however, were far from being unified, and did not wield much influence. By and large, the general public mood was not in favour of the admission of large numbers of refugees, particularly if they were Jewish.[47] Some key Australian professional organizations and labour groups even openly opposed immigration to protect their own members.[48] Nevertheless, the strict Australian immigration criteria, which required migrants to provide an Australian sponsor and clearly identified employment in Australia increased the

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[41]Neumann, *Refuge Australia*, p. 25.

[42]Michael Blakeney, *Australia and the Jewish refugees, 1933–1948* (Sydney, 1985).

[43]Andrew Markus, *Australian race relations, 1788–1993* (St Leonards, 1994), p. 21.

[44]Catherine Driscoll, 'Drawing race and refugees: making sense of political cartoons of Australian refugee policy' (Ph.D. thesis, Melbourne, 2015), p. 82.

[45]Neumann, *Across the seas*, p. 32.

[46]Kim Richard Nossal, 'No repercussions Down Under? Australian responses to Kristallnacht', in Collin McCullough and Nathan Wilson, eds., *Violence, memory, and history: Western perceptions of Kristallnacht* (New York, NY, 2015), pp. 130–50.

[47]Neumann, *Across the seas*, p. 57.

[48]Ilma Martinuzzi O'Brien, 'Citizenship, rights and emergency powers in Second World War Australia', *Australian Journal of Politics and History*, 53 (2007), pp. 207–22.

refugees' need to organize themselves.[49] This led to the formation of organizations that represented the refugees, such as the Australian Jewish Welfare Agency, one of the most important organizations in that regard. It was established in 1937 to manage 'applications for admission…reception and integration of refugees'.[50]

III

When the war broke out in September 1939, the Australian government introduced the National Security Act, which passed absolute power to the executive.[51] There was no negotiating process involving the refugees or their proxies, or even much of a public debate, when the act was introduced. It was an acute security measure, taken after the outbreak of the war. The government simply applied norms and rules from the First World War, regulating many aspects of community life. In terms of the control of aliens, additional plans had been made for their possible internment, as well as other measures to control their movements and activities.[52] Migrants from Germany were labelled 'enemy aliens', regardless of their background. The same fate befell aliens from Austria, since the country was legally a part of the German Reich at that time, as well as people from other countries at war with Australia. Under the National Security Act, not only aliens but all Australians lost many of the civil rights they had been accustomed to exercising. The act gave the government emergency powers that enabled it to govern without recourse to parliament and the legislative process.[53] It affected people in many different ways: enemy aliens, for example, had to report regularly to the police. They were also forced to endure restrictions placed on their travel, movement, and the possession of personal items such as cameras, cars, and maps. Some who were believed to pose a security risk to Australia were even interned. Most importantly, however, enemy aliens were banned from naturalization. An offence against the National Security Act was punished with either imprisonment or 'a fine of any amount'.[54]

Officials, in general, had plenty of scope in enforcing the act, which stated that 'any person who is found committing an offence against this Act, or who is suspected of having committed, or being about to commit, such an offence, may be arrested without any warrant'.[55] The Australian government did not differentiate between regular migrants and refugees who fled from Nazi oppression in Germany. For them, they were all non-British aliens who had to meet regular immigration restrictions.

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[49] Suzanne Rutland, 'Australian responses to Jewish refugee migration before and after World War II', *Australian Journal of Politics and History*, 31 (1985), pp. 29–48, at p. 31.

[50] Ibid., p. 31.

[51] Maria Glaros, '"Sometimes a little injustice must be suffered for the public good": how the National Security (Aliens Control) Regulations 1939 (Cth) affected the lives of German, Italian, Japanese, and Australian born women living in Australia during the Second World War' (Ph.D. thesis, Western Sydney University, 2012), p. 38.

[52] Martinuzzi O'Brien, 'Citizenship', p. 207.

[53] Ibid.

[54] Commonwealth of Australia Numbered Acts, National Security Act 1939 (No. 15 of 1939), http://classic.austlii.edu.au/au/legis/cth/num_act/nsa193915o1939257/ (accessed 23 Feb. 2023).

[55] See National Security Act 1939 (No. 15 of 1939), in Commonwealth of Australia Numbered Acts, http://classic.austlii.edu.au/au/legis/cth/num_act/nsa193915o1939257/ (accessed 31 Jan. 2023).

As soon as war was declared, German and Austrian nationals officially became enemy aliens. This created a critical situation for refugees, who had lost their civil rights twice at that moment: first, under Nazi oppression in their old homelands and, second, in their new homeland of Australia. Furthermore, social inclusion and exclusion became arbitrary and were rather focused on perceptions of loyalty and disloyalty. Anyone who spoke a foreign language could be regarded as potentially disloyal. Authorities frequently argued that 'homeland allegiances continued to define the loyalty of the immigrant'.[56]

In this early phase, after the outbreak of the war, there was only limited opportunity for refugees to exercise agency. Most had just arrived and their most important aims were to secure their living and to learn the English language. In general, the Australian public was not receptive to the refugees' difficult situation. Since the country was heavily affected by the economic crisis of the interwar years and had suffered from high unemployment rates, there was a widespread concern about the threat that refugees might pose in this regard. Resistance to immigration came from various quarters. Some parliamentarians, especially those associated with labour politics, resisted mass immigration from Europe because they feared increased competition in the labour market. The country's labour unions were fiercely protectionist and among the main agents to oppose immigration. Also, the powerful representation of veterans traditionally opposed immigration. They were joined by nationalist movements, seeking to keep British, white Australia free of alien influences, including 'non-white' British subjects. There were orchestrated campaigns against refugees by some branches of the Returned Sailors and Soldiers Imperial League of Australia, which was a veteran association that opposed non-British and 'non-white' emigration. Various municipal and shire councils and government ministers received numerous letters and petitions demanding mass internment of enemy aliens.[57] Letters from the general public indicate attitudes towards people of non-British origin. During 1940, community organizations urged the Australian prime minister to 'give harsher treatment to those of alien origin'.[58] A representative of the North Victorian Korong Vale Soldiers Welfare Committee even demanded that the prime minister 'immediately intern all aliens of enemy origin in Australia, who have become naturalised during the last ten years, as well as those not yet naturalised'. The conservative and nationalist Constitutional Association of New South Wales urged the government to 'intern forthright all persons of enemy origin – whether naturalised or not – who have entered Australia since 1st January 1920'.[59] Also, the Security Service in Sydney was convinced that 'a person born and bred in Germany, of German parents, will never be anything but a German at heart…in the event of an invasion, such a person would unhesitatingly resume his German obedience'.[60] Even the Labor politician Arthur Calwell, who became

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[56] Martinuzzi O'Brien, 'Citizenship', p. 210.

[57] Ibid., p. 212.

[58] Ibid., p. 211.

[59] Ibid.

[60] Quoted in Neumann, *Across the seas*, p. 58.

Australia's first immigration minister in 1945, justified the strict regulations as follows: 'for the war as the democracies wage it is largely an affair of improvisation, and in urgent situations which demand prompt and effective action, there is little time to weigh the niceties of human rights'.[61]

IV

During the early stage of the war, Australians seemed 'unable to understand the difference between refugees from enemy states and supporters of them'.[62] According to historian Kay Saunders, 'Australian society became obsessively intent upon identifying and punishing those perceived to be potentially undermining national security, the war effort, or morale.'[63] When evidence of the Nazi genocide of Europe's Jewry mounted during the years 1941 and 1942, the realization that mass murder was happening in Europe increasingly affected the picture many Australians had of Jewish refugees and their situation within Australian society. This also increased the pressure on the government to consider acknowledging the vulnerable position of refugees.

Various other factors additionally affected the perception of refugees in Australia. By 1942, refugees had been able to establish themselves as a part of Australian society. Many of them had managed to settle into their new homeland: they found jobs, acquired English language skills, and became accepted as a part of their new society.[64] Consequently, some of them ventured the step of becoming engaged in some forms of public life and discussions to raise awareness about their situation. As a general trend, voices that publicly advocated the positive cultural and professional achievements of the refugees became louder.[65] The renowned journal of the Australian Institute of Policy and Science even published a series of articles in 1941 and 1942 for an academic audience that discussed the impact of refugees on Australian society. One of them summarized the effects of the influx of German and Austrian refugees as follows:

> Despite all the said difficulties, the refugees could make some contributions towards Australia's progress. They have established, or helped to establish, several new industries, such as the manufacture of optical and chemical products, leather bags, accessories, hand woven cloth, model frocks, chocolates, etc., and influenced slightly the general taste towards European styles and taste.[66]

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[61]Noel Lamidey, *Aliens control in Australia, 1939–1946* (Sydney, 1974), p. 1.

[62]Glaros, 'Public good', p. 48.

[63]Kay Saunders, *War on the homefront: state intervention in Queensland, 1938–1948* (St Lucia, 1993), p. 19.

[64]Konrad Kwiet, 'The second time around: re-acculturation of German-Jewish refugees in Australia', *Journal of Holocaust Education*, 10 (2001), pp. 34–49; for a comprehensive study of identification of refugees in wartime Australia, see Philipp Strobl, 'The "undesirables": Austrian refugees from National Socialism in Australia – a history of displaced knowledge' (Habilitation thesis, University of Hildesheim, 2022).

[65]Strobl, 'Undesirables', p. 181.

[66]George M. Berger, 'Australia and the refugees', *Australian Quarterly*, 2 (1942), pp. 65–76, at p. 66.

The outbreak of the Pacific War and the military expansion of the Japanese army also affected the status of many European refugees, as the reconsideration of migration as a strategic factor furthered the acceptance of aliens in Australia.[67]

Since refugee questions had become more publicly discussed, the attorney general (first law officer of the British crown in Australia) set up the Aliens Classification Committee in early 1943 to deal with refugee questions in greater detail.[68] The committee, led by its chairman Arthur Calwell, very soon concluded that 'it was both absurd and unjust to treat refugees from Nazi Germany as enemy aliens'.[69] Accordingly, in its first interim report, the committee recommended distinguishing between 'refugee' and 'enemy' aliens. The recommendations were accepted and, in October 1943, the National Security Act was amended to include the term 'refugee alien' in the sense that it described

> an alien who has no nationality, or whose nationality is uncertain, or who is an alien enemy in respect of whom the Minister of State for the Army, or a person authorised by that Minister to act on his behalf, is satisfied (a) that the alien was forced to emigrate from enemy territory on account of actual or threatened religious, racial or political persecution, and (b) that he is opposed to the regime which forced him to emigrate.[70]

Four years after the first refugees from Nazism had become 'enemy aliens', they were able to apply for reclassification.[71] Changing one's status from 'enemy alien' to 'refugee alien' was the most important step towards naturalization. It went hand in hand with a lifting of legal restrictions and the improvement of the refugees' position in society. Most of the refugees applied for the new status. By law, 'refugee aliens' were allowed to apply for naturalization after having spent five years in the country. Since most of them came in 1938/1939, they were able to apply for naturalization by 1943/1944.

V

The preceding section explored how laws and immigration regulations changed during the 1930s and 1940s. What has not been addressed so far, however, is the question of what refugees themselves did to oppose established structures and influence the government's agenda. How did they partake in the negotiations of a migration regime by influencing the government's decision to recognize them? What happened in the years and months before October 1943, when the government amended the National Security Act? Little research has been done to uncover and depict the negotiation process for migration/citizenship in Australia. Therefore, we know about the changing laws and the effects of this on the refugees' lives, but their own role within the process of amending the National Security Act requires examination.

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[67]Blakeney, *Australia and the Jewish refugees*, p. 47.

[68]Neumann, *Across the seas*, p. 73.

[69]Ibid.

[70]Paul Hasluck, *The government and the people, 1939–1941* (Sydney, 1965), p. 595.

[71]Neumann, *Across the seas*, p. 73.

Thus, this article adds to recent research on refugees and displaced persons, showing that they exerted influence on decision-making, even if they seemed to be at the short end of stark power asymmetries.[72]

During the war, there were around seven million people in Australia,[73] an estimated 10,000 of whom were refugees from Germany or Austria. Most of them had a Jewish and middle- or upper-middle-class background. Even though they were twice disadvantaged by German emigration and Australian immigration laws, and although most of them had to start anew in low professional positions at the bottom of the social ladder, some of them continued to exercise agency to explain their situation. Their actions increased in 1941 and 1942, after some of them had settled in and managed to build an economic basis for their future lives in the new country.

By and large, refugee agency in wartime Australia was exercised in three different modes. There was what social cognitive theory calls direct personal agency.[74] This describes all measures individuals took by themselves to influence their environment. Alternatively, Australian organizations representing refugees exercised so-called proxy agency. Last but not least, refugees themselves also collectively exercised agency at an organizational level.

Personal individual agency commonly refers to an individual's ability and initiative to control their destiny and to make choices to fulfil goals set autonomously by performing a certain action.[75] Every day in wartime Australia, thousands of migrants explained their situation to their Australian compatriots.[76] Another form of individual agency was for refugees to reach out publicly to a broader audience. Some of the refugees gave public speeches, conveying various aspects of their expulsion as well as the situation of Jews in Nazi-occupied Europe. Like Shuvatri Dasgupta has shown in her article in this special issue about Indian humanitarian activism, women's organizations, not only in Australia but also in different parts of the British empire, created solidarities with refugees, either supporting them personally or financially, or offering them a mouthpiece to exercise agency. On 2 December 1938, for example, the Women's Service Guild in Perth had invited several Austrian refugees to speak about 'the tragic sufferings of the victims of anti-Jewish violence'.[77] Such informational meetings happened everywhere in the country and were not limited to the larger cities. In rural Dubbo (New South Wales) two months later, a local newspaper reported, 'Dr. Wolfe, a refugee from Germany of partly Jewish descent…, will speak briefly on conditions in Germany.'[78] Others expressed their opinion in the media, publishing newspaper articles or letters to the editor. The latter provide a useful window on public opinion.[79] Common themes included the status and treatment of

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[72]Bartam, 'Forced migration'.

[73]*Australian Jewish News*, 22 Jan. 1943, p. 7.

[74]Bandura, 'Social cognitive theory', p. 1.

[75]Vylius Leonavicius and Apolonijus Zilys, 'The effect of the concept of individual agency on the estimation of health among different age cohorts', *SHS Web of Conferences*, 131 (2022), pp. 1–10, at p. 2.

[76]For more information about the everyday interactions between refugees and Australians in wartime Australia, see Strobl, 'Experiences of encounter'.

[77]*The Dawn*, 21 Dec. 1938, p. 8.

[78]*The Dubbo Liberal and Macquarie Advocate*, 18 Feb. 1939, p. 1.

[79]Nossal, 'Australian responses', p. 138.

'enemy aliens', and the fact that they were not allowed to join the Australian army.[80] For example, the insurance broker Karl Anton Schwarz, who fled Vienna in 1938, wrote in 1942 that 'refugees escaping from Hitler's oppression' viewed the discourse around the question of whether foreigners should be allowed to serve in the army 'with sorrow and consternation'.[81]

Numerous letters to the editor in newspapers all over the country offer insights into this form of personal refugee agency. In their articles, refugees repeatedly told a very similar story: they were victims of Nazi oppression and they wanted to join the Allied fight against Hitler. Sometimes the authors even got angry or tired of repeating themselves, like the German refugee who complained in an April 1942 newspaper article, 'It is hardly possible to tell anything new in this matter that was not told before. Jewish refugees and those of Jewish descent ought to be treated as friendly aliens.'[82]

A more co-ordinated and measurable response on the part of refugees took place at the level of collective agency. From 1939 onwards, collective refugee agency increased, driven not least by strict Australian immigration criteria and the grave situation of European refugees. A few organizations emerged that lobbied for a 'joint communal cooperation' to support the refugees' cause[83] and to facilitate their 'arrival and assimilation'.[84] At first, organizations were not run by the refugees themselves and thus only exercised proxy agency for the refugees. The most influential of them were denominational and, most importantly, Jewish organizations, in particular the AJWS.[85] Jewish refugee aid was very well developed and had a long-standing tradition dating back to the pogroms of the 1880s in Russia, when Jewish aid organizations started international fundraisers to care for and feed more than 25,000 refugees.[86] In addition to Christian organizations, such as the Christian Committee, the Interchurch Committee, or the Anglican, Presbyterian, and Methodist Churches, Jewish organizations were mainly involved in lobbying work to represent the refugee cause. Until 1942, there were only a couple of rather exclusive organizations that followed particular interests, which exercised agency mainly at a local level and had limited funding and outreach.

When forced migration increased in 1938, the AJWS became involved in the process of supporting the emigration and integration of Jewish refugees from National Socialism in Australia. By late 1938, as historian Suzanne Rutland writes, the organization was 'revolutionized from a small office in Bond Street [Sydney], run largely by volunteer staff, to a large-scale association with…fourteen full-time employees who had to work nights and weekends to cope with the work load'.[87] In October

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[80] See Neumann, *Across the seas*, p. 74; Philipp Strobl, 'Migration, knowledge transfer, and the emergence of Australian post-war skiing: the story of Charles William Anton', *International Journal of the History of Sport*, 33 (2016), pp. 2006–25.

[81] *Sydney Morning Herald*, 1 Sept. 1942, p. 3.

[82] *Australian Jewish News*, 17 Apr. 1942, p. 2.

[83] Rutland, 'Australian responses', p. 31.

[84] Nossal, 'Australian responses', p. 141.

[85] Ibid., p. 137.

[86] Philipp Ther, *Die Außenseiter: Flucht, Flüchtlinge und Integration im modernen Europa* (Bonn, 2018), p. 60.

[87] Suzanne Rutland, 'A changing community: the impact of the refugees on Australian Jewry New South Wales – a case study', *Australian Journal of Politics and History*, 31 (1985), pp. 90–108, at p. 96.

1938, the organization formed Migrants' Consultative Councils in Victoria and New South Wales, the states with the largest share of refugees, as bodies to represent them.[88] The councils, however, had no legal basis and were subordinate to the AJWS. They were not led by refugees and exercised only proxy agency by representing the refugees. Their actions were mainly restricted to formal acts such as the issuing of general statements and notes to the public and the government, such as in November 1940 when the council wrote to the minister of the interior to assure him that 'every Jew, whatever country he may come from, and wherever in the world he may live, will do everything in his power to help the British Empire in its heroic fight to save civilization and freedom by defeating Nazi Germany'.[89]

By 1942, more co-ordinated steps needed to be taken at the institutional level and by the refugees themselves. Even members of parliament spoke out on the necessity of refugees exercising collective rather than proxy agency:

> There appears to be a determined effort by the existing body, the Jewish Welfare Society, to retain under its control the large body of Refugees in this state. Again, I ask Why? Among the refugees here, we have many capable men and women. People with culture and ability. People who are not children or backwards. They know what they want. They would prefer to ask for it themselves and not through or with the approval of another society.[90]

The 'long-standing demand in refugee circles for self-representation'[91] finally resulted in the establishment of larger, independent, and refugee-led associations to replace the Migrants' Consultative Councils. In late 1942, the AoJR was founded in Victoria as an organization separate and independent from the AJWS.[92] The organization was led by refugees and consisted only of refugees. It was furthermore funded by membership fees and had greater room for manoeuvre since it did not depend on other organizations. This step increased the refugees' own abilities to exert influence on the government and to appear as one collective actor. The organization's establishment followed 'negotiations with the authorities'[93] and 'approval by the Deputy Director of Security'[94] and was itself the product of a negotiating process collectively initiated by the refugees themselves. Many refugees, who had not had proper representation and were dependent on personal or proxy agency, joined the new body, as a newspaper article indicated:

> Refugees have warmly welcomed the formation of the Association of refugees. Numerous applications for membership have already been received…A number of matters in connection with the Aliens' Control Regulations have already

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[88]Ibid.

[89]National Archives of Australia (NAA), A1608, N19/1/1 Part 2, Migrants' Consultative Council to H.S. Foll, 13 Nov. 1940.

[90]*Sydney Jewish News*, 9 July 1943, p. 7.

[91]*Australian Jewish Herald*, 3 Sept. 1942, p. 3.

[92]Rutland, 'Changing community', p. 97.

[93]*Australian Jewish Herald*, 3 Sept. 1942, p. 3.

[94]*Sydney Jewish News*, 9 July 1943, p. 7.

been taken up and assurances of sympathetic review of these have been given. The attention of the authorities has been drawn to certain anomalies and whilst it is not desired unduly to raise the hopes of refugees it is likely that not unfavourable results will follow from these representations.[95]

At that time, the AoJR was the only organization for refugees consisting solely of refugees and 'where the spokesmen themselves were refugees'. A member of parliament described the association as a 'vital force', whose 'submissions have been treated seriously by the authorities'.[96]

While in 1942 the AoJR in Victoria had begun to successfully influence authorities and to lobby politicians and members of parliament, refugee agency in New South Wales, the other major Australian refugee destination, was still in the hands of the AJWS and its Migrants' Consultative Council. Developments in Victoria, however, triggered a change in New South Wales as well and, in 1943, public demands for an independent organization that allowed refugees to exercise collective agency themselves grew steadily. 'The necessity for a united and independent organization of all refugees has become obvious during the last few months', the *Sydney Jewish News* claimed in September 1943.[97] In August 1943, refugees who were members of the Migrant Consultive Counsil resigned their position with the argument that 'the gap between those who have set themselves the task of politically representing refugees from Central Europe and those claimed to be represented is widening daily'.[98] Some of them, such as the German lawyer H. G. Levi, founded the AoR in Sydney, the capital city of New South Wales, roughly a month later. Here, again, an important reason for the establishment of the organization was the refugees' need for self-representation. Its secretary, Max Joseph, for example, a pre-war refugee from Berlin, had his 'own bitter experiences of concentration camps in Germany and arrest and detention here [in Australia]'. Accordingly, he had 'found no organised group to espouse [his] cause' during his detention, which was 'the motive-power that drove and sustained [him] in [his] labours'.[99]

In contrast to the AoJR in Victoria, the New South Wales organization regarded itself as more inclusive, aiming 'to represent all European refugees from Nazi oppression as a united independent body…irrespective of creed and denomination', as the association assured the prime minister in a letter.[100] Another goal of the organization was 'to foster the absorption of its members into the Australian community'.[101] Although this inclusive policy was heavily criticized by some of its members, who feared it would soon be exclusively focused on internal issues, instead of on the support of Jews in Europe, the organization kept its inclusive course until the end of the war.[102] 'The necessity for a strong Association is obvious. Every genuine

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[95]*Australian Jewish Herald*, 3 Sept. 1942, p. 3.

[96]*Sydney Jewish News*, 9 July 1943, p. 7.

[97]*Sydney Jewish News*, 3 Sept. 1943, p. 2.

[98]*Sydney Jewish News*, 28 Aug. 1942, p. 8.

[99]*Hebrew Standard of Australasia*, 2 Dec. 1943, p. 6.

[100]NAA, M1415, 268, personal papers of Prime Minister Curtin.

[101]Ibid.

[102]For more information about the resistance vis-à-vis the inclusive direction of the association, see the following contemporary article: *Australian Jewish News*, 10 Dec. 1943, p. 5.

refugee must enrol immediately', proclaimed an organization leaflet.[103] This strategy was obviously successful. When the first election of the council of the AoR took place in November 1943 by postal vote, already 780 members voted for about 159 candadates.[104] One month later, memberships had increased to 850 members.[105]

Both organizations, the AoJR and the AoR, had managed to make refugee issues publicly visible by promoting themselves at different political levels. In its inaugural meeting in February 1943, the chairman of the Victoria organization, Rabbi Hermann Max Saenger, outlined the most important activities and aims of the organization, which were centred around the lifting of the ban on naturalization for 'enemy aliens', as well as on the work lobbying towards a 'refugee alien' status.[106] One year later, its newly founded New South Wales counterpart set itself the same goals. According to a leaflet, the association aimed to 'obtain re-classification of European Refugees from Nazi oppression so as to procure for them the same rights and duties as to exist for all other citizens'. Furthermore, it demanded the 'lifting of the ban on naturalization of these refugees irrespective of former nationality'.[107] In an annual meeting in January 1945 the organization's president, H. G. Levi, a lawyer who had fled from Berlin, mentioned retrospectively the great achievements of the organization in pushing 'for a sympathetic immigration policy of the Government' during the past two years.[108] Despite criticism from some of its members, who wanted to keep the association's work on an exclusively Jewish basis, from an agency-centred point of view, incorporating the whole spectrum of refugees under the umbrella of a self-representative organization turned out to be a powerful decision, which improved the association's financial position and outreach. 'Unity is a necessity. This does not mean domination of any kind, but a submergence of personalities for the sake of the good of the whole', as the chairman of the association categorically stressed.[109] Most of the refugees were classified as Jewish; however, many did not identify themselves as such. The majority of them were even baptized Catholic or Protestant. There was also a group of politically motivated refugees who did not flee because of racial/religious persecution. All of these people were now able to identify with the association and support it. The inclusive policy also made sense since the refugees mostly saw themselves as a community of fate with a joint heritage grounded in their past in interwar Vienna, or pre-1933 Germany. Among the most active members of the association of refugees was the Viennese Catholic accountant Gerry Felser, who, by 1943, had managed to build up an accountancy firm focused on the needs of refugees.[110]

From the very beginning, the AoJR and the AoR saw their main goal as negotiation with the authorities. Both organizations identified the most important issues, which were pressing for the refugees, and addressed them with the respective authorities. They had developed the expertise and the infrastructure to lobby for their cause,

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[103] NAA, M1415, 268, personal papers of Prime Minister Curtin.

[104] *Hebrew Standard of Australasia*, 4 Nov. 1943, p. 6.

[105] Ibid., 2 Dec. 1943, p. 6.

[106] *Australian Jewish Herald*, 18 Feb. 1943, p. 2.

[107] NAA, M1415, 268, personal papers of Prime Minister Curtin.

[108] *Hebrew Standard of Australasia*, 1 Feb. 1945, p. 5.

[109] *Australian Jewish News*, 18 Sept. 1942, p. 2.

[110] NAA, A1209, Professor Gerhard Felser – Honour; NAA, A6119, Felser Gerhard Richard.

which included contact with members of parliament, who supported them, and with solicitors, who provided legal advice.[111]

From late 1942 onwards, representatives of the organizations were engaged in negotiations with government officials. One of their first acts of collective agency was to lobby against the restrictions on the movement of 'enemy aliens'. As a newspaper article from September 1942 shows, the newly founded AoJR established 'direct contact with the Government…and as an instance, the recent alleviation of the restrictions of movement of refugees…was largely the work of the refugee Committee here'.[112] The association had also managed, after successful negotiations with the military authorities in 1942, to exempt street directories from prohibition.[113] This seemingly minor issue was of great importance for them as during the war Australia had prohibited enemy aliens from possessing maps. In many cases, refugees, who depended on them to get around in their new and unknown territory, had been criminalized and fined. Members of the AoR were also engaged in negotiations with the Allied Works Council, the minister for the army, and the attorney general to prevent refugees working in war industries from being drafted into special paramilitary groups especially designed for aliens, so-called labour companies, something that would have created a difficult situation for many refugees, including loss of income and separation from their families.[114] As a member of parliament who attended the negotiations wrote,

> one of the strongest arguments was placed before the ministers by Rabbi Dr. Saenger [chairman of the Association of Jewish Refugees, Victoria]. He spoke as a refugee and for the refugees. This was the first time…that the head of a refugee organization, himself a refugee, spoke for the refugees. Both ministers were much impressed.[115]

Moreover, as the president of the New South Wales association complained to the Allied Works Council, refugees who were called up were sometimes 'compelled to live together with Nazis and Fascists',[116] since Australian authorities randomly put together aliens in these paramilitary working units regardless of their background. Collective refugee agency by both associations furthermore included legal support. Solicitors hired by them supported refugees with legal advice, and at the same time, the associations' own lawyers exercised agency themselves: they wrote and submitted 'a number of memoranda to government authorities, which are presently under consideration', as the chairman of the AoJR stated in 1943.[117] In early 1943, the AoJR explained that, on behalf of the association, several renowned lawyers with

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[111] As mentioned in the first report of the activities of the Association of Refugees, see *Australian Jewish Herald*, 18 Feb. 1943, p. 2.

[112] *Australian Jewish News*, 18 Sept. 1942, p. 2.

[113] *Australian Jewish Herald*, 15 Oct. 1942, p. 3.

[114] *Australian Jewish News*, 11 June 1943, p. 8.

[115] *Sydney Jewish News*, 9 July 1943, p. 7.

[116] *Sydney Morning Herald*, 19 May 1944, p. 4.

[117] *Australian Jewish Herald*, 18 Feb. 1943, p. 2.

the rank of King's Counsel had 'submitted memoranda to the government' explaining the legally difficult situation whereby 'all refugees – despite the fact that they have officially lost every vestige of their former nationality – are considered enemy aliens'.[118]

The AoJR and the AoR (as well as their predecessor organization, the Migrants' Consultative Council) increased their activities during the year 1943; they were even in regular contact with the prime minister, John Curtin, as various letters from his estate show.[119] To offer an example, in July, representatives of the associations met with Curtin, the minister for the army, and the acting attorney general to discuss the most pressing points with respect to the refugees' legal position. As a media article shows, their actions were successful: 'Both ministers received the deputation sympathetically and promised to give consideration to all points raised.'[120]

The institutionalization of self-representative refugee agency was an important step, not least because the independent and self-funded organizations served as contact and reference points for the authorities. This can be seen by the fact that the Aliens Classification and Advisory Committee (in charge of advising the minister of the interior on all refugee-related issues) had consulted the organization for its initial report on the classification of refugees and the presidents of both associations were involved and their standpoints and opinions included in the committee's considerations.[121] This was a crucial step, since the committee's report was a key document for the government with respect to the adjustment of their treatment of enemy aliens. The report recommended differentiating between 'enemy' and 'refugee' aliens and ultimately led to the amendment of the National Security Act in late 1943 and the official recognition of a refugee status. Shortly after the amendment, executives of the AoR wrote a letter to the prime minister and thanked him for this move:

> We take the opportunity of thanking your Government for the promulgation of Statutory Rule No. 263, which removes the stigma of 'enemy alien' from the refugees. We trust that our aim, to foster the absorption of refugees into the Australian community, corresponds to the intention of the Government.[122]

VI

Understanding refugees' responses and their role as actors in the negotiation of migration is an important task for global refugee history. Agency enables people to transcend the dictates of their immediate environment and to shape and regulate the present to fit a desired future.[123] This can be clearly seen in wartime Australia: refugees from Europe displayed the capacity to effect progressive change in the migration system. As non-British and particularly at first 'enemy' aliens, they were excluded from most of the benefits related to the citizenship. They took

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[118] Ibid.
[119] NAA, M1415, 268, personal papers of Prime Minister Curtin.
[120] *Sydney Jewish News*, 9 July 1943, p. 7.
[121] Ibid.
[122] NAA, M1415, 268, personal papers of Prime Minister Curtin.
[123] Bandura, 'Social cognitive theory', p. 7.

an active role as agents in the process of negotiating migration and citizenship and self-representation. From 1942, an important step in increasing the outreach of refugee agency was taken when refugees formed their own self-representative institutions, which enabled them to exercise collective agency independently from proxies. Their increasingly self-confident demeanour thus bears witness to the creation of a refugee political community, or what at least in this special issue has been characterized as a *refugee polis*. Their collective form of agency was of particular interest for this article. It became increasingly important when refugees became more settled in Australia and began to speak up and form their own representations, creating a refugee polis that became a serious partner and point of reference for the Australian government when planning migration legislation. As actor-centred research on refugees in other parts of the world who had managed to negotiate biographies and identities with bureaucracies in response to restrictive migration regimes shows, refugees in Australia were not an isolated case.

A crucial step to amplify the outreach of refugee institutions was to include as many refugee groups as possible and to improve their financial room for manoeuvre by introducing membership fees. Since most of the refugees had a Jewish background, Jewish organizations played an essential role within that process: the formation of the AoJR in Victoria in 1942 emancipated refugee agency from the AJWS. One year later, the Sydney-based AoR went even further and opened itself to all refugees, despite the criticism of members who wanted to focus exclusively on Jewish support in general. The inclusive direction of both institutions allowed them to grow and to build up the infrastructure (political and press contacts, lobbyists, lawyers) to exercise collective agency on a broad, efficient, and far more co-ordinated basis. The government welcomed that step and accepted the organizations as partners, and by 1943 at the latest the AoR and the AoJR were involved in most major governmental decisions concerning the treatment of refugees.

This article has demonstrated how a range of refugee-led organizations during the early 1940s triggered and supported the first progressive legal alterations that helped Australia's migration regime to differentiate between migrants and refugees. These changes were possibly facilitated by the fact that the preceding reciprocal negotiation processes were based on a strong and quickly formed infrastructure to exercise agency collectively, as well as on the government's ultimate acceptance of 'refugee aliens' as negotiation partners due to their unified presence.