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## Learning to fight



Megumi Ogawa, a Japanese student facing deportation to Japan for overstaying her bridging visa, in Sydney.

Photo: *Ben Rushton*

Adam Morton  
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WHAT price a PhD? For Megumi Ogawa, three years' study, nearly four more trawling through Australian courts and a stint in immigration detention topping 70 days. On paper, Ogawa is a university's dream: bachelor and masters' degrees in her native Japan, three years in Australia writing a PhD thesis in law and a 200-page manuscript picked up by an international academic publisher.

Her book, *Protection of Broadcasters' Rights*, was printed this year with a foreword by former chief justice Sir Anthony Mason. He described Ogawa as an expert in her field and her research as an "invaluable contribution".

But she can't submit her PhD thesis for assessment at Melbourne University, where she spent her final year of study in 2002 — it won't accept it. Fighting the decision has become Ogawa's obsession.

"All I want is to complete my PhD because I did very well, I did everything I need to do," she said this week from Sydney's Villawood Detention Centre. Ogawa, who is in her late 30s, was until yesterday spending her days trying to stall her deportation so she can challenge the university in court.

Last night her immediate future was unclear. There were conflicting reports that, without notice, she was to be released from detention on a bridging visa, leaving her free in the community for the first time since May 15. The Department of Immigration said she would be freed but she was still at Villawood as *The Age* went to print.

The details of how she came to this point are contentious, though some facts are agreed on. After two years at the University of Queensland she moved to Melbourne in late 2001 to finish her PhD, drawn by the Parkville campus' expertise and a double scholarship offer. Her agreed supervisor left for overseas soon after.

Ogawa says she was not given a new supervisor until she complained, and that two proposed replacements either refused to meet her without a third person in the room or would not read her draft thesis.

According to the university, Ogawa rejected a string of supervision arrangements and her thesis was not finished or examined. Without a supervisor, her application to re-enrol, made three weeks late in December 2002, was refused.

Ogawa says at that point she would have accepted any supervisor, even someone she had never met, if it would allow her to have her work formally assessed.

Spurned, she returned to Brisbane on Christmas Eve to live at a university college and began an exhaustive legal campaign, usually representing herself after failing to find a lawyer to represent her pro bono. She wrote what she describes as a "very amateurish" statement of claim accusing Melbourne of misleading and deceptive conduct and breach of contract. For a long time it didn't get her anywhere. She had false starts and losses in at least four jurisdictions including the High Court, was criticised by a federal justice for making arguments that were a complete waste of time, and threatened with contempt for calling another justice "lazy". But more than three years on, her case against Melbourne University has been listed to be heard in the Federal Court in December.

Earlier this year she exchanged emails with Melbourne University vice-chancellor Glyn Davis in which he acknowledged the publication of her book was "indeed an achievement" and wished her success, but declined to discuss her legal case.

Since early 2003, Ogawa has been mired in a second legal battle with the Immigration Department, one that became murkier last night. Her student visa was first cancelled in early 2003. She appealed to the Migration Review Tribunal, which ruled it should be reinstated. But the tribunal took too long — eight months — by which time her bridging visa had lapsed. A request for Immigration Minister Amanda Vanstone to intervene was incorrectly marked "withdrawn" by a ministerial delegate. Ogawa was eventually picked up at her university college by federal police officers on May 15, and transferred to Sydney.

Last week, federal magistrate Stephen Scarlett ruled the Migration Review Tribunal was "unfortunately correct" not to re-instate her lapsed bridging visa, despite having found she should have a student visa, because it was outside its jurisdiction. But Scarlett damned the tribunal and immigration officials' handling of the case, and described the delegate who cancelled her intervention application to Vanstone as "peremptory and high-handed".

Ogawa was set to be deported last Tuesday but stalled by applying for asylum, even though she concedes she has nothing to fear from the Japanese Government and has no chance of success. An immigration spokesman said the application would be processed promptly but that, in a decision made late yesterday, she would be released until the assessment was complete. Asylum applications can take more than 90 days to process. Supporters and refugee advocates had last night been told she had been

freed but this was contradicted by a Villawood guard and Ogawa herself. She answered her mobile phone and said: "No, that's not right. There are guards all around me." A second, unidentified voice said: "Turn off that phone." The line went dead. Things will become clearer on Monday, if not before, when her appeal against Scarlett's decision to refuse her a bridging visa will be heard in the Federal Court.

National Union of Students welfare officer Veronica Meneses says being in detention has affected Ogawa's health. "I think Megumi has been getting extremely stressed. I've been at the detention centre four or five times and I can see her deteriorating." But Ogawa just says she spent a lot of time "staring at the sky". She says she will gladly return to Japan but wants to return to Brisbane to collect her belongings. Being deported would stop her getting a job in international law or travelling overseas for academic conferences. And she wants someone at Melbourne University to assess her work. "Somebody has to read my thesis, sometime," she says.

### **'EXPERT IN FIELD'**

EXTRACT from Sir Anthony Mason's foreword for Megumi Ogawa's book *Protection of Broadcasters' Rights*:

"This book is an invaluable contribution to our understanding of the issues relating to the protection of broadcasters' rights.

The author is an expert in the field of broadcasting law and has a close knowledge of copyright law as it applies to broadcasters' rights in Australia and Japan."

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