

INTL 190: International Refugee Law and Policy

Spring 2020

Wednesdays 10 AM – 12:50 PM

Remote via Canvas Zoom

Instructor: Krista Kshatriya

Email: kkshatriya@ucsd.edu

Office Hours: Wednesdays, 1 – 2 PM or by appointment

Phone: 510-387-1331

Overview

The current coronavirus pandemic is changing our lives in ways we never imagined. Still, people around the world continue to flee their homes because of fear of persecution and in search of safety.

International refugee policy determines the fate of nearly 30 million displaced people and how the global community treats some of our most vulnerable members. In this course, we research the historical context, legal issues, and current policies impacting refugees around the world. In so doing, students will gain in-depth and interdisciplinary knowledge of: (1) refugee and asylum law, (2) the interaction of domestic and international institutions, and (3) the interplay between federal law, policy, and administration. This course also provides a foundation of legal studies through court case analysis and argument.

This course highlights a significant global topic at the intersection of political and historical issues, armed conflict, immigration policy, human rights law, state sovereignty, and national security. Students will explore current international refugee situations and analyze policy questions in the context of binding international obligations regarding protection and national political concerns. To understand the legal framework that has developed in response to forced migration, students will examine legal terms derived from international agreements, statutes, administrative decisions, and interpretations by federal courts.

The course will lay out the international origins of refugee law, including the history and development of the United Nations 1951 Refugee Convention, the 1967 Protocol, and the U.S. Refugee Act of 1980. Students will become familiar with key actors, including the UN High Commissioner for Refugees (UNHCR), the U.S. Congress, the Department of Homeland Security (DHS) and Department of Justice (DOJ), and the U.S. federal courts, and will examine the refugee definition as interpreted by the United States. Students will also explore the complexities of U.S. asylum law and procedure in relation to the practical realities of people fleeing persecution across borders, and policymakers' needs to meet obligations under international conventions, while maintaining national security and addressing the challenges of fraud, terrorism, and transnational crime. We will be grappling with morally and politically complicated issues to which the world has yet to find perfect solutions.

Requirements and Evaluation

As a capstone research seminar, this course is designed to support you in producing a high-quality analytical paper. My objectives are for you to (1) explore a topic that deeply interests you, and (2) develop practical skills that will help you succeed in your post-graduate endeavors. Research paper assignments therefore are scaffolded throughout the quarter to give you time and support to dig deep into your sources, formulate an original and manageable thesis, get meaningful feedback and assistance from me and your peers, and rewrite multiple drafts into a professional final report.

While your final paper is a substantial learning component, this seminar is designed to give you interdisciplinary background knowledge of refugee issues and analytical tools for engaging in significant legal and policy analysis. It is critical that you engage in each class having done all the reading, thought about the issues, and are prepared to participate with questions and comments.

The grading breakdown is as follows:

Class participation/ demonstration of mastery of course content: 20%
Paper topic & outline: 10%
Paper draft and peer feedback: 10%
Research presentation: 15%
Final research paper: 45%

For the Spring 2020 quarter only, the International Studies Program is allowing students to opt for a Pass/No Pass (P/NP) grading option, if you so choose. If you are considering this option, I encourage you to meet with the INTL advisers to determine if this is a good option given your future plans. To pass this course, you must complete all assignments and the bottom of passing is a C-.

Important Due Dates

1-page description of research topic: April 14th
Paper outline: April 28th
Draft paper for peer review: May 12th
Submit review of your peer's draft: May 17th
Research presentation: May 27th, June 3rd
Final paper: June 8th by NOON

Class Attendance and Participation / Demonstration of Mastery of Course Content

Normally, prompt attendance to each class session is mandatory. Given the uniqueness of our online learning platform in the midst of this coronavirus pandemic, I will be more flexible with attendance and participation points and have provided multiple ways for you to demonstrate that you have mastered course material.

Every class will be conducted through Zoom and students are encouraged to ask and answer questions and engage in class discussion. Participation will be graded according to the degree

you contribute regularly to class discussions in a way that demonstrates you have read the material and have thoughtfully considered the issues presented. You have the option of participating in class with or without your video display (i.e., audio only) or through the online chat box.

In addition, every class will be recorded. If you are unable to attend class via Zoom at the regularly scheduled time, you should watch the recorded version. To earn your participation points, you have one week after the regularly scheduled class time to submit a 2-4 double-spaced page reflection on that week's topic to me via email. Questions posed in class and in the syllabus can be a guide for key points to include in your reflection.

Research Paper Requirements

My goal is for you to research a specific topic in detail and compose a comprehensive paper. In the process, you will polish your writing skills by organizing a vast amount of information into a clear and concise thesis supported by a thorough and logical analysis of credible sources. The paper should not be a recitation of facts, nor a sermon of your opinion. Rather, you are expected to produce an argument that is both empirical and analytical.

The final product for this class is a research paper of approximately 20-25 double-spaced pages in length, with Times New Roman, 12 pt font and standard 1" margins, with a cover page, introduction, conclusion, complete citations, and a bibliography. You may use any academically recognized bibliographic style (Chicago, MLA, APA, Bluebook, etc.), as long as you consistently use the same style throughout your research paper.

The due date for the final paper is **Monday, June 8th**. You are required to turn in a Word (DOC or DOCX) or Adobe Portable Document (PDF) document to Canvas by **NOON, 12:00 p.m. PST**.

The topic of your research paper must touch on some aspect of international refugee law and policy. Attached to this syllabus are suggested paper topics. Once you have selected your topic, you will research and analyze the historical context, relevant legal arguments and court cases, policy considerations and implications, and ultimately formulate recommendations.

Scaffolded Research Paper Assignments:

Description of research topic: In a single-spaced page, describe your topic for your final paper and explain why you chose this topic. Submit an electronic copy to Canvas the night before our third class session (Tuesday, April 14th by 11:59 p.m. PST that evening).

Paper outline (including bibliography): You are expected to have an introduction, clear and concise thesis statement, 3 body paragraphs, and a detailed outline (including citations to sources) of your research paper. This assignment is designed to help you organize your research, construct a successful argument, and draw attention to areas where you need to do more research. I am interested in seeing how you are laying out your claim and integrating your source materials. I will review your outline, and provide some comments and suggestions. This assignment is due the fifth week of the course. Submit an electronic copy to Canvas the night before our class session (Tuesday, April 28th by 11:59 p.m. PST that evening).

Draft paper for peer review: Submit an electronic copy of a 10 – 12-page draft of your research paper to Canvas the night before our seventh class session (Tuesday, May 12th by 11:59 p.m. PST that evening).

You will be assigned a peer’s draft to review and edit. In our writing workshop, I will explain a number of writing tips and you should incorporate these into your peer review. This assignment is due by Sunday, May 17th, by 11:59 p.m. PST that evening. I will also give you time at the next class session to meet virtually with your peer to discuss the feedback they provided.

At this point, I will not review the drafts in great detail, but will base this portion of your grade on effort and overall quality of work. If you would like to discuss your progress with me in more detail, I am available during office hours or by appointment.

Research presentation: During our final two class sessions, you will have the opportunity to share your research with your classmates and get any last minute feedback for your paper. Presentations should be about 8 minutes in length. The goals here are to: (1) share and learn about everyone’s research, (2) cultivate oral presentation skills, (3) provide a final opportunity for peer feedback prior to turning in the final paper, and (4) advance our collective understanding about the interplay of various issues in international refugee law and policy. If time permits, students are encouraged to ask questions of the presenter.

Final paper: Due by **NOON** (12:00 p.m. PST) on **Monday, June 10th**. See above for requirements and guidance.

Academic Integrity Policy

From UCSD’s [Policy on Integrity of Scholarship](#): “Integrity of scholarship is essential for an academic community. The University expects that both faculty and students will honor this principle and in so doing protect the validity of University intellectual work. For students, this means that all academic work will be done by the individual to whom it is assigned, without unauthorized aid of any kind.”

If you violate this policy, you will automatically fail the class. Also, I am professionally and ethically obligated to report integrity violations to the Academic Integrity Office. Students found to have violated academic integrity will face administrative sanctions imposed by the University. See the University Sanctioning Guidelines here:

http://academicintegrity.ucsd.edu/_files/Sanctioning-Guidelines.pdf

To avoid any possible integrity violation, remember that your written work must be entirely your own and you must cite all material taken from an outside source, including direct quotations, paraphrased or summarized text, and information that is not common knowledge. The [Policy on Integrity of Scholarship](#) has additional standards by which you are expected to complete your academic work, but I also expect you to use good ethical judgment as these lists do not include everything that could violate the spirit of academic integrity. If you have any questions about specifics, please discuss your concerns with me for clarification.

Intellectual property in remote instruction (drawn from UCSD policy)

Our lectures and course materials (including those of our guest lecturers), including PowerPoint presentations, tests, outlines, and similar materials, are protected by U.S. copyright law and by University policy. We are the exclusive owners of the copyrights of those materials we create. You may take notes and make copies of course materials for your own use. You may also share those materials with another student who is enrolled in or auditing this course.

You may not reproduce, distribute or display (post/upload) lecture notes or recordings or course materials in any other way — whether or not a fee is charged — without the appropriate express prior written consent of Professors Cowhey and Savage. You also may not allow others to do so.

If you do so, you may be subject to student conduct proceedings under the UC San Diego Student Code of Conduct.

Similarly, you own the copyright in your original papers and exam essays. If we are interested in posting your answers or papers on the course web site, we will ask for your written permission.

Course Materials

Textbook purchases can be expensive, so I have made course materials available to you in the most affordable way possible. There is a course reader you are required to purchase from the campus bookstore for \$28.50 plus tax for a total of \$30.71. You can order through the campus bookstore website and they will send you the reader for free shipping:

<https://ucsandiegobookstore.com/p-95845-x-intl-190-international-refugee-law-and-policy-reader-not-returnable.aspx>

Students can access the additional readings on the Internet at no cost. I have explained on the syllabus how to access them. Note that some of the readings can only be accessed when you are logged into the UCSD system, because they are from academic journals that would otherwise require a subscription. In addition to the readings, students are required to view relevant audio-visual materials (documentaries, video clips, news stories).

Structure of Class

This is a 4-unit seminar and we are scheduled to meet for nearly three hours every Wednesday from 10:00 am – 12:50 pm via Zoom. We will take a short break about half way through each class session.

Classes will include brief lectures to introduce key material and concepts, and class discussions based on the assigned readings. Class discussions will comprise questions posed to the class, students asking and answering questions by raising their hands through the Zoom “raise hand” or the online chat feature. This is a new process and we will experiment our way through this as best we can.

When cases have been assigned, we will discuss the facts, procedural posture, holding, analysis, and key take-away points for each case. Students will be assigned specific cases beforehand and may be called upon to provide answers.

Class Sessions by Week (subject to change)

Week 1 (April 1st) Course overview + Introduction to forced migration: concept, history, and international institutions

I will provide an overview of the course that includes going over the syllabus and course requirements. I will also introduce key concepts and themes that we will revisit throughout the quarter. In addition, the lecture will address the following questions: How are refugees different from other types of migrants? What is forced migration? How many forced migrants are there? Who is a refugee? Who is an asylum seeker? Who are internally displaced persons? What are the main source countries of refugees and asylum seekers? Where do forced migrants go after they leave their home? What are possible long-term solutions for forced migrants? What economic considerations come into play when analyzing forced migration?

I will present the historical development of the institutional and legal framework of refugee protection that developed in response to the horrifying experience of World War II and its aftermath. This will include a detailed discussion of the 1951 Refugee Convention and 1967 Protocol Relating to the Status of Refugees.

Assigned readings:

- Syllabus
- Statement by Filippo Grandi, UN High Commissioner for Refugees, on the COVID-19 crisis (March 19, 2020), available at <https://www.unhcr.org/en-us/news/press/2020/3/5e7395f84/statement-filippo-grandi-un-high-commissioner-refugees-covid-19-crisis.html>

Optional media:

- *Human Flow*, Amazon Documentary, directed by Ai WeiWei (2017), available for free with Amazon Prime, https://www.amazon.com/Human-Flow-Amazon-Original-Movie/dp/B075VJNKZC/ref=sr_1_1?ie=UTF8&qid=1522208493&sr=8-1&keywords=human+flow

Week 2 (April 8th) Protection in the US: *non-refoulement*, asylum, and procedures + Law School 101

We will shift from the broad international perspective to focus more on U.S. law and policy. We will examine the substance and scope of the United States' international obligations to provide refugee protection, the passage and implementation of the Refugee Act of 1980, the obligations of *non-refoulement*, and the different procedures for obtaining protection in the U.S. as an asylum seeker or refugee eligible for resettlement. We will explore how refugees are resettled within the global system and specifically how the U.S. Refugee Admissions Program (USRAP) operates.

I will present a mini- Law School 101 that will equip you with the knowledge and basic tools you will need to understand administrative law, as well as how to dissect and brief a case. Specifically, I will explain how acts of Congress are ultimately implemented by the executive agencies, how this plays out in the asylum system, what agencies are involved in asylum adjudications, how the appeals process works, and why we will be looking at administrative and judicial opinions to determine the legal framework for refugee determinations.

Assigned media:

- Melissa Fleming, *A Boat Carrying 500 Refugees Sunk at Sea* (TED 2015), available at https://www.ted.com/talks/melissa_fleming_a_boat_carrying_500_refugees_sunk_at_sea_the_story_of_two_survivors
- Carina Hoang, *Being a Refugee is not a Choice* (TEDx 2014), available at <https://www.tedxperth.org/being-refugee-not-choice>
- Majid Adin, *Help Refugees: The Journey* (Dec. 18, 2017), available at <https://www.youtube.com/watch?v=L2dXLfVtWdw>
- Erika Pinheiro, *What's Really Happening at the US-Mexico Border – And How We Can Do Better* (Sept. 2019), available at https://www.ted.com/talks/erika_pinheiro_what_s_really_happening_at_the_us_mexico_border_and_how_we_can_do_better

Assigned readings:

- Course reader: David A. Martin, et al., *Forced Migration: Law and Policy* (2d ed. 2013) (referred to throughout this syllabus as “FM”), pp. 85-112
- UNHCR, *US Resettlement Facts* (Feb. 2019), available at: <https://www.unhcr.org/us-refugee-resettlement-facts.html>
- Kate Morrissey, *What Happens When Someone Asks for Asylum at the Border*, THE SAN DIEGO UNION-TRIBUNE (April 29, 2018), available at <https://www.sandiegouniontribune.com/news/immigration/sd-me-asylum-process-20180427-story.html>

Optional readings and media:

- Department of Homeland Security, Nadwa Mossaad, *Annual Flow Report: Refugees and Asylees: 2018* (Oct. 2019), available at: https://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2018/refugees_asylees_2018.pdf
- Jeremy Hein and Tarique Niazi, *The Primordial Refugees: Religious Traditions, Global Forced Migration, and State-Society Relations*, 31(6) INTERNATIONAL SOCIOLOGY 726 (2016), available at <http://journals.sagepub.com/doi/abs/10.1177/0268580916662388> (Note: you need to be logged into the UCSD Library VPN to access this source.)
- Declan Butler, *What the Numbers Say about Refugees*, NATURE (March 1, 2017), available at <http://www.nature.com/news/what-the-numbers-say-about-refugees-1.21548>
- Hamutal Bernstein & Nicole DuBois, *Bringing Evidence to the Refugee Integration Debate*, URBAN INSTITUTE (April 2018), available at https://www.urban.org/sites/default/files/publication/97771/2018_05_15_bringing_evidence_to_the_refugee_integration_debate_finalized.pdf
- *South Sudan's Civil War Sparks Africa's Largest Refugee Crisis*, NPR MORNING EDITION (March 3, 2017), available at <http://www.npr.org/2017/03/03/518292106/civilians-fleeing-south-sudan-s-civil-war-sparks-africa-s-largest-refugee-crisis>
- Paul Collier and Alexander Betts, *Why Denying Refugees the Right to Work is a Catastrophic Disaster*, THE GUARDIAN (March 22, 2017), available at <https://www.theguardian.com/world/2017/mar/22/why-denying-refugees-the-right-to-work-is-a-catastrophic-error>

- Alexander Betts, et al., *Refugee Economies: Rethinking Popular Assumptions*, UNIVERSITY OF OXFORD, REFUGEE STUDIES CENTRE (2014), available at <https://www.rsc.ox.ac.uk/files/publications/other/refugee-economies-2014.pdf>
- Alexander Betts, Naohiko Omata, and Olivier Sterck, *Refugee Economies in Kenya*, UNIVERSITY OF OXFORD, REFUGEE STUDIES CENTRE (2018), available at <https://www.refugee-economies.org/assets/downloads/Refugee-Economies-Kenya-Report-web.pdf>
- Lesley Parker and Rachel Zarb, *Refugee Entrepreneurship Generates Significant Economic Benefit: Study*, UNIVERSITY OF TECHNOLOGY SYDNEY BUSINESS SCHOOL (March 23, 2017), available at <http://m.uts.edu.au/about/uts-business-school/management/news/refugee-entrepreneurship-generates-significant-economic>
- Olivier Dagnelie, Anna Maria Mayda, and Jean-François Maystadt, *The Labor Market Integration of Refugees to the United States: Do Entrepreneurs in the Network Help?*, INSTITUTE OF LABOR ECONOMICS DISCUSSION PAPER SERIES (Feb. 2018), available at <http://ftp.iza.org/dp11343.pdf>
- *From Struggle to Resilience: The Economic Impact of Refugees in America*, NEW AMERICAN ECONOMY (June 19, 2017), available at http://www.newamericaneconomy.org/wp-content/uploads/2017/06/NAE_Refugees_V5.pdf (Summary available here: <http://www.newamericaneconomy.org/research/from-struggle-to-resilience-the-economic-impact-of-refugees-in-america/>)
- Silva Mathema, *Refugees Thrive in America*, CENTER FOR AMERICAN PROGRESS (Nov. 19, 2018), available at <https://www.americanprogress.org/issues/immigration/reports/2018/11/19/461147/refugees-thrive-america/>
- Jonathan Blitzer, *How Stephen Miller Single-Handedly Got the US to Accept Fewer Refugees*, THE NEW YORKER (Oct. 13, 2017), available at <https://www.newyorker.com/news/news-desk/how-stephen-miller-single-handedly-got-the-us-to-accept-fewer-refugees>
- Julie Hirschfeld and Somini Sengupta, *Trump Administration Rejects Study Showing Positive Impact of Refugees*, THE NEW YORK TIMES (Sept. 18, 2017), available at <https://www.nytimes.com/2017/09/18/us/politics/refugees-revenue-cost-report-trump.html>

Week 3 (April 15th)

Who is a refugee? Persecution: harm, past persecution, future persecution, degrees of risk

Reminder: 1-page description of research topic is DUE on Canvas by Tuesday, April 14th by 11:59 p.m. PST that evening.

Central to the definition of a refugee is that a person has a well-founded fear of *persecution*. The term persecution, however, is not defined in the 1951 Refugee Convention, nor the U.S. Refugee Act. How have adjudicators developed standards to determine what sorts of harm amount to persecution? What types of economic harm rise to the level of persecution? Must the persecutor have an intent to harm? What about uniform national policies? What about prosecution for acts that violate a country's criminal laws? When should another country make the judgment that another country's criminal laws or application of these laws do not serve a legitimate purpose?

How do foreign policy considerations play into adjudication of individual asylum claims? What if a person fears harm at the hands of nongovernmental actors? How can a person establish that the government is unwilling or unable to protect against specific harm? How does a finding that a person has suffered past persecution guide the analysis of whether there is a well-founded fear of future persecution? What degree of threat of future persecution or level of risk of harm is required to demonstrate an applicant qualifies for protection? What different levels of protection might an asylum seeker be eligible for (asylum v. withholding of removal)? What level of risk of persecution is required for these different levels of protection?

Assigned readings:

- Course reader: FM, pp. 131-156, 161-164, 176-177, 195-200, 216-228, 232-234
- *Bringas-Rodriguez v. Sessions*, 850 F.3d 1051 (9th Cir. 2017), available at: <http://cdn.ca9.uscourts.gov/datastore/opinions/2017/03/08/13-72682.pdf> (Read pp. 6-13, 41-49)

Optional readings (to skim):

- Ninth Circuit Immigration Outline, Relief from Removal, pp. 1-41, available at http://cdn.ca9.uscourts.gov/datastore/uploads/immigration/immig_west/B.pdf
- U.S. Citizenship and Immigr. Servs. (USCIS), *Asylum Officer Basic Training Course: Guidelines for Children's Asylum Claims* (2009), available at https://cliniclegal.org/sites/default/files/AOBTC_Lesson_29_Guidelines_for_Childrens_Asylum_Claims_0.pdf
- *Children's Asylum Claims, CGRS Practice Advisory*, Center for Gender and Refugee Studies at UC Hastings (March 2015), available at https://cgrs.uchastings.edu/sites/default/files/CGRS_Child_Asylum_Advisory_3-31-2015_FINAL.pdf

Week 4 (April 22nd)

Who is a refugee? Nexus and protected grounds

Refugee status is not provided to everyone who can establish a well-founded fear of persecution. Rather, refugee status is reserved for a subset of the persecuted: those who can establish the persecution feared is *on account of* a protected ground. This is known as the “nexus” requirement. The five statutorily protected grounds are race, religion, nationality, membership of a particular social group, or political opinion. What type of connection is necessary between the persecutory acts and the protected ground? What if there appears to be multiple reasons for the persecution? How are applicants expected to demonstrate their persecutor’s motives? What constitutes a political opinion? What if the persecutor believes the asylum seeker has a political opinion he does not actually hold? How did the REAL ID Act of 2005 change an applicant’s burden to prove a persecutor’s motives for causing harm?

Of the five grounds, “membership in a particular social group” is the most difficult to interpret and apply. How has this concept been applied in U.S. asylum law? How has it been used to win protection for persons fearing harm for reasons that were not traditionally covered by the refugee legal framework?

Assigned readings:

- Course reader: FM, pp. 247-256, 267-275, 284-290, 296-298, 319-324

- Dagmar R. Myslinska, *What a “Particular Social Group” Means for Asylum Purposes*, NOLO, available at <https://www.nolo.com/legal-encyclopedia/what-particular-social-group-means-asylum-purposes.html>

Optional readings (to skim):

- Ninth Circuit Immigration Outline, Relief from Removal, pp. 42-82, available at http://cdn.ca9.uscourts.gov/datastore/uploads/immigration/immig_west/B.pdf
- *Pirir-Boc v. Holder*, 750 F.3d 1077 (9th Cir. 2014), available at <http://cdn.ca9.uscourts.gov/datastore/opinions/2014/05/07/09-73671.pdf>

Week 5 (April 29th)

**Issues of special concern in refugee status determinations:
gender-based claims, fact-finding – credibility & corroboration**

Reminder: Paper outline is DUE to Canvas the night before our class session on Tuesday, April 28th by 11:59 p.m. PST that evening.

We will synthesize what we have learned so far by exploring gender-based asylum claims. You will notice that neither sex nor gender are enumerated grounds triggering protection. What particular types of harm against women rise to the level of persecution? What if the persecution comes from private individuals? What is the distinguishing line between an ordinary criminal act and persecution that triggers refugee protection? When should a court deem a cultural practice (for example, female genital cutting or repressive social norms) as amounting to persecution? What challenges arise in framing gender to fit within the protected grounds? What are obstacles in asylum procedures that gender roles can generate?

Ultimately, it is the applicant who must prove eligibility for asylum. What special challenges arise in asylum cases, where events occurred thousands of miles away, repressive governments rarely advertise that they persecute their people, and often times people must quickly flee their homes leaving behind documents that could prove their claims? When is a person’s credible testimony enough to prove a claim? What is reasonable to require of asylum applicants? How do the unique circumstances of an asylum seeker, such as coming from different cultures, often not speaking English, and frequently suffering from psychological trauma related to the persecution they witnessed or suffered, affect issues of credibility? Simultaneously, how does the system protect against fraudulent asylum claims?

Assigned media:

- Marcia Biggs, *Honduran Migrants Deported from the U.S. Often Face a Grim Fate*, PBS NEWS HOUR (April 1, 2019), available at <https://www.pbs.org/newshour/show/honduran-migrants-deported-from-the-u-s-often-face-a-grim-fate>
- *She Escaped Brutal Domestic Violence – Now the US Government Wants to Send Her Back*, Human Rights Watch & The Center for Gender and Refugee Studies (Jan. 23, 2019), available at https://www.youtube.com/watch?v=QRQpXRWIQL0&feature=emb_logo

Assigned readings:

- Karen Musalo, *Personal Violence, Public Matter: Evolving Standards in Gender-Based Asylum Law*, HARVARD INTL REV. (Fall 2014/Winter 2015), available at

https://cgrs.uchastings.edu/sites/default/files/Personal_Violence%2C_Public%20Matter.pdf

- *Backgrounder and Briefing on Matter of A-B-*, CENTER FOR GENDER AND REFUGEE STUDIES AT UC HASTINGS, available at <https://cgrs.uchastings.edu/our-work/matter-b>
- Sarah Stillman, *When Deportation is a Death Sentence*, THE NEW YORKER (Jan. 15, 2018), available at <https://www.newyorker.com/magazine/2018/01/15/when-deportation-is-a-death-sentence>

Optional readings:

- Hana Sahar, *Recognizing Sexual and Gender-Based Violence as Persecution Grounds for Women Seeking Refugee Status and Asylum*, Columbia University Academic Commons (2017), available at <https://academiccommons.columbia.edu/catalog/ac:4qrfj6q57f>
- UNHCR Guidelines and Notes, *Gender-Related Persecution* (May 7, 2002), available at: <http://www.unhcr.org/3d58ddef4.pdf>
- UNHCR, *Guidelines on International Protection No. 9: Claims to Refugee Status Based on Sexual Orientation and/or Gender Identity Within the Context of Article 1A(2) of the 1951 Convention and/or Its 1967 Protocol Relating to the Status of Refugees*, U.N. Doc. HCR/GIP/12/09 (Oct. 23, 2012), available at <http://www.unhcr.org/509136ca9.pdf>
- Kevin Sieff, *When Death Awaits Deported Asylum Seekers*, THE WASHINGTON POST (Dec. 26, 2018), available at https://www.washingtonpost.com/graphics/2018/world/when-death-awaits-deported-asylum-seekers/?noredirect=on&utm_term=.050e7ea2978a

Week 6 (May 6th)

Process for asylum and resettlement

Building on last week's material regarding the challenges of fact-finding, this class session will explore the experience of a refugee seeking protection. To this end, we will participate in an intense simulation of a refugee's experience fleeing persecution and seeking protection from the international community. I have previously done this with in-person classes, but the experience is quite powerful, so I will try to replicate this through the online Zoom environment.

The assigned readings and documentary expose you to the procedural experiences of refugees seeking protection by reviewing old topics and introducing new ones related to detention, deterrence, and restrictions on access to asylum. The goal is to get you thinking about what conditions and procedures ensure a fair refugee determination. What due process rights do asylum seekers have? How does legal representation affect an applicant's chances of being awarded asylum? Does the current system provide for independent and unbiased adjudication?

Assigned media:

- Watch the PBS: Point of View Documentary: *Well-Founded Fear* (2000). Available at the Library (FLDV 4552-1) – Media Desk, Geisel Floor 1 West. In addition, I will provide a link to stream the documentary as we get closer to this date. (This documentary follows several asylum seekers' cases and provides an excellent glimpse behind the scenes at the lives of the asylum applicants, their attorneys, and the USCIS asylum officers.)

Assigned readings:

- Fernanda Echavarri, “A F**king Disaster That is Designed to Fail”: How Trump Wrecked America’s Immigration Courts, MOTHER JONES (Feb. 6, 2020), available at <https://www.motherjones.com/politics/2020/02/trump-immigration-court-backlog-migrant-protection-protocols/>
- John Washington, *These Jurisdictions Have Become Asylum Free Zones: In Some US Jurisdictions, the Denial Rate for Refugees Seeking Asylum is as High as 98%*, THE NATION (Jan. 18, 2017), available at <http://rightsindex.tumblr.com/post/156695063812/these-jurisdictions-have-become-asylum-free>
- Elizabeth Rubin, *Locked Up for Seeking Asylum*, THE NEW YORK TIMES (April 2, 2016), available at: <https://www.nytimes.com/2016/04/03/opinion/sunday/locked-up-for-seeking-asylum.html>
- Aaron Reichlin-Melnick, *Calls to Reform ‘Irredeemably Dysfunctional, Immigration Court System Grow Louder*, AMERICAN IMMIGRATION COUNCIL (March 22, 2019), available at <http://immigrationimpact.com/2019/03/22/reform-dysfunctional-immigration-court-system/>
- John Washington, *This HIV-Positive Gay Asylum Seeker Was Granted a Stay of Deportation. Why Did He End Up Back in Mexico?*, THE NATION (Feb. 13, 2018), available at <https://www.thenation.com/article/this-hiv-positive-gay-asylum-seeker-was-granted-a-stay-of-deportation-why-did-he-end-up-back-in-mexico/>

Optional readings:

- *Asylum Outcome Continues to Depend on the Judge Assigned*, TRAC (Nov. 2017), available at <http://trac.syr.edu/immigration/reports/490/>
- Molly O’Toole, *Trump Plan Fails to Cut Immigration Court Backlog, as Caseload Soars More than 26%*, LOS ANGELES TIMES (Feb. 21, 2019), available at <https://www.latimes.com/politics/la-na-pol-immigration-court-backlog-worsens-20190221-story.html>
- *Lifeline on Lockdown: Increased U.S. Detention of Asylum Seekers*, HUMAN RIGHTS FIRST (July 2016), available at http://www.humanrightsfirst.org/sites/default/files/Lifeline-on-Lockdown_0.pdf
- *Challenging the Arbitrary Detention of Asylum Seekers – Damus v. Nielson*, CENTER FOR GENDER AND REFUGEE STUDIES AT UC HASTINGS (March 15, 2018), available at <https://cgrs.uchastings.edu/our-work/detention>
- Livia Luan, *Profiting from Enforcement: The Role of Private Prisons in U.S. Immigration Detention*, MIGRATION POLICY INSTITUTE (May 2, 2018), available at <https://www.migrationpolicy.org/article/profitting-enforcement-role-private-prisons-us-immigration-detention>
- Lindsay M. Harris, *The One-Year Bar to Asylum in the Age of the Immigration Court Backlog*, 2016 WISCONSIN LAW REV. 1185, (Oct. 4, 2016), available at <http://wisconsinlawreview.org/wp-content/uploads/2017/01/Harris-Final.pdf>
- *Challenging Obstacles to Meeting the One-Year Filing Deadline for Filing an Asylum Application*, AMERICAN IMMIGRATION COUNCIL, available at <https://www.americanimmigrationcouncil.org/litigation/challenging-obstacles-meeting-one-year-filing-deadline-filing-asylum-application>

- Bridget M. Haas, *Citizens-in-Waiting, Deportees-in-Waiting: Power, Temporality, and Suffering in the U.S. Asylum System*, 45 ETHOS: JOURNAL OF THE SOCIETY FOR PSYCHOLOGICAL ANTHROPOLOGY 75 (March 6, 2017), available at <http://onlinelibrary.wiley.com/doi/10.1111/etho.12150/full> (Note: you need to be logged into the UCSD Library VPN to access this source.)
- Jaya Ramji-Nogales, et al., *Refugee Roulette: Disparities in Asylum Adjudication*, 60 STANFORD L. REV. 2 (Nov. 2007) 295. Read Intro 299-305 (in pdf pp. 6-12) and skim VI. Key Findings and VII. Policy Implications 372-389 (in pdf, pp. 79-96), available at <https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=2914&context=facpub>
- Denise Gilman, *The US Deportation System is Verging on Lawlessness*, THE GUARDIAN (Aug. 23, 2017), available at <https://www.theguardian.com/commentisfree/2017/aug/23/immigration-crisis-us-deportation-system-lawlessness-trump-administration>
- Eliot Walker, *Asylees in Wonderland: A New Procedural Perspective on America's Asylum System*, 2 NW. J. L. & SOC. POL'Y. 1 (2007), available at <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1012&context=njlsp>
- Caitlin Dickerson, *Hundreds of Immigrant Children Have Been Taken from Parents at the U.S. Border*, THE NEW YORK TIMES (April 20, 2018), available at: <https://www.nytimes.com/2018/04/20/us/immigrant-children-separation-ice.html>

Week 7 (May 13th)

PART I - Writing workshop: peer review of draft

Reminder: Draft of research paper is DUE to Canvas the night before our class session Tuesday, May 12th by 11:59 p.m. PST that evening.

Spend all of your outside class time prior to this session producing a solid draft of your research paper. As discussed above under course requirements, you are expected to bring a 10 – 12-page draft of your research paper to class. We will discuss the grading rubric in detail, as well as my expectations for the final version. We will do writing exercises to illustrate how to transform your working draft into a high-quality analytical research paper.

You will engage in one-on-one discussion with at least one of your classmates, and you are later expected to provide meaningful feedback to your peers by **Sunday May 17th, 11:59 p.m. PST.**

PART II - Lecture & Discussion on Limitations upon protection: one-year filing deadline, safe-third country and firm resettlement, persecutors, criminals, security + The Convention Against Torture (CAT)

We have examined in great detail the legal framework for considering who meets the refugee eligibility requirements. But even after establishing eligibility, an applicant could be excluded from protection for various reasons. With limited exception, an asylum applicant must file a claim within one year of arrival in the United States. Why does this requirement exist? What challenges does this pose to otherwise meritorious claims? Is there any protection available to a person who faces harm but is otherwise barred from asylum and withholding of removal? What

types of previous bad acts would make an applicant unworthy of asylum or withholding of removal? What if an applicant assisted a terrorist organization under duress? What about applicants who pose a danger to national security? What if an applicant has an opportunity to live in another country where he would not face persecution?

**No assigned reading or media for this week. Please spend all your outside time working on your rough draft.

Week 8 (May 20th) Special topic: Refugee issues under the Trump Administration

This class will be devoted to examining the Trump Administration's various approaches to immigration and their impact on refugees and asylum seekers. The content of this class and assigned readings may change depending on current events.

Assigned media:

- *Let Me Count the Ways*, This American Life (Sept. 14, 2018), available at <https://www.thisamericanlife.org/656/let-me-count-the-ways>

Assigned readings:

- Krista Kshatriya & S. Deborah Kang, *Walls to Protection: The Grim Reality of Trump's "Remain in Mexico" Policy* (Oct. 29, 2019), available at <https://usipc.ucsd.edu/publications/usipc-walls-to-protection-final.pdf>
- Robert Barnes, *Supreme Court says Trump administration may continue 'Remain in Mexico' policy for asylum seekers*, THE WASHINGTON POST (March 11, 2020), available at https://www.washingtonpost.com/politics/courts_law/supreme-court-trump-remain-in-mexico/2020/03/11/7abd4b9c-62d7-11ea-acc8-80c22bbee96f_story.html
- Nicole Narea, *The demise of America's asylum system under Trump, explained*, VOX (Nov. 5, 2019), available at <https://www.vox.com/2019/11/5/20947938/asylum-system-trump-demise-mexico-el-salvador-honduras-guatemala-immigration-court-border-ice-cbp>
- Yael Schacher, *Coronavirus can't be an excuse to continue President Trump's assault on asylum seekers*, THE WASHINGTON POST (March 21, 2020), available at <https://www.washingtonpost.com/outlook/2020/03/21/coronavirus-cant-be-an-excuse-continue-president-trumps-assault-asylum-seekers/>
- Jason Rezaian & Kate Woodsome, *In Love and Tangled Up in Trump's Travel Ban*, THE WASHINGTON POST (Jan. 29, 2019), available at https://www.washingtonpost.com/opinions/2019/01/29/love-tangled-up-trumps-travel-ban/?utm_term=.d5b4e0c19a3a (Also, watch the video.)

Optional readings:

- *The Impact of President Trump's Executive Orders on Asylum Seekers*, HARVARD IMMIGRATION AND REFUGEE CLINICAL PROGRAM (Feb. 8, 2017), available at <https://today.law.harvard.edu/wp-content/uploads/2017/02/Report-Impact-of-Trump-Executive-Orders-on-Asylum-Seekers.pdf>
- *Trump Administration Moves to Reshape Who Qualifies for Asylum*, NPR MORNING EDITION (March 12, 2018), available at <https://www.npr.org/2018/03/12/592823598/attorney-general-jeff-sessions-reshapes-who-qualifies-for-asylum>

- Nicholas Wu, *The Trump Administration is Closing the Door to Migrant Children*, THE ATLANTIC (Dec. 25, 2018), available at <https://www.theatlantic.com/politics/archive/2018/12/asylum-approvals-children-have-plummeted-under-trump/578614/>
- *CBP Practice of Turning Away Asylum Seekers at U.S. Southern Border Is Systematic, Documented in New Legal Filing*, AMERICAN IMMIGRATION COUNCIL PRESS RELEASE (Nov. 14, 2017), available at <https://www.americanimmigrationcouncil.org/news/cbp-practice-turning-away-asylum-seekers-us-southern-border-systematic-documented-new-legal>
- Jason Boyd & Greg Chen, *New Barriers at the Border Impede Due Process and Access to Asylum*, AMERICAN IMMIGRATION LAWYERS ASSOCIATION POLICY BRIEF (June 1, 2018), available at <https://www.aila.org/infonet/policy-brief-new-barriers-at-the-border>
- Dara Lind, *The Migrant Caravan, Explained*, VOX (Oct. 25, 2018), available at <https://www.vox.com/2018/10/24/18010340/caravan-trump-border-honduras-mexico>
- Jonathan T. Hiskey, et al., *Understanding the Central American Refugee Crisis*, AMERICAN IMMIGRATION COUNCIL (Feb. 2016), available at https://www.americanimmigrationcouncil.org/sites/default/files/research/understanding_the_central_american_refugee_crisis.pdf
- Julia Preston, *Migrants in Surge Fare Worse in Immigration Court Than Others*, THE WASHINGTON POST (July 30, 2017), available at https://www.washingtonpost.com/national/migrants-in-surge-fare-worse-in-immigration-court-than-other-groups/2017/07/30/e29eeacc-6e51-11e7-9c15-177740635e83_story.html?utm_term=.5c0d401cea61
- Karen Musalo & Eunice Lee, *Seeking a Rational Approach to a Regional Refugee Crisis: Lessons from the Summer 2014 “Surge” of Central American Women and Children at the US-Mexico Border*, 5(1) JOURNAL ON MIGRATION AND HUMAN SECURITY 137 (2017), available at <https://journals.sagepub.com/doi/abs/10.1177/233150241700500108>
- Matthew Lorenzen, *The Mixed Motives of Unaccompanied Child Migrants from Central America’s Northern Triangle*, 5(4) JOURNAL ON MIGRATION AND HUMAN SECURITY 744 (2017), available at <https://journals.sagepub.com/doi/abs/10.1177/233150241700500402>
- *Temporary Protected Status: An Overview*, AMERICAN IMMIGRATION COUNCIL (Aug. 24, 2017), available at <https://www.americanimmigrationcouncil.org/research/temporary-protected-status-overview>
- D’Vera Cohn, et al., *Many Immigrants with Temporary Protected Status Face Uncertain Future in U.S.*, PEW RESEARCH CENTER (Feb. 21, 2019), available at <http://www.pewresearch.org/fact-tank/2019/02/21/immigrants-temporary-protected-status-in-us/>
- *Donald Trump’s Travel Ban Heads Back to the Supreme Court*, THE ECONOMIST (Jan. 23, 2018), available at <https://www.economist.com/democracy-in-america/2018/01/23/donald-trumps-travel-ban-heads-back-to-the-supreme-court>
- Alex Nowrasteh, *Terrorism and Immigration: A Risk Analysis*, CATO INSTITUTE POLICY ANALYSIS NO. 798 (Sept. 13, 2016), available at <https://www.cato.org/publications/policy-analysis/terrorism-immigration-risk-analysis>
- Hillel R. Smith and Ben Harrington, *Overview of Travel Ban Litigation and Recent Developments*, CONGRESSIONAL RESEARCH SERVICE (Jan. 19, 2018), available at <https://fas.org/sgp/crs/homesecc/LSB10017.pdf>

- Asylum Decisions and Denials Jump in 2018, TRANSACTIONAL RECORDS ACCESS CLEARINGHOUSE AT SYRACUSE UNIVERSITY (Nov. 29, 2018), available at <https://trac.syr.edu/immigration/reports/539/>
- Isaac Bloch & Anne Dutton, *Border Purgatory: Trump Administration's Latest Effort to Deter Refugees*, REFUGEES DEEPLY (Feb. 22, 2019), available at <https://www.newsdeeply.com/refugees/community/2019/02/22/border-purgatory-trump-administrations-latest-effort-to-deter-refugees>
- Hillel R. Smith and Ben Harrington, *Overview of Travel Ban Litigation and Recent Developments*, CONGRESSIONAL RESEARCH SERVICE (Jan. 19, 2018), available at <https://fas.org/sgp/crs/homesecc/LSB10017.pdf>
- *Fear Mongering and Alternative Facts: The Trump Administration's Attacks on Asylum*, HUMAN RIGHTS FIRST (March 29, 2018), available at <https://www.humanrightsfirst.org/resource/fear-mongering-and-alternative-facts-trump-administrations-attacks-asylum>
- Deborah Amos, *The Year the U.S. Refugee Resettlement Program Unraveled*, NPR: ALL THINGS CONSIDERED (Jan. 1, 2018), available at <https://www.npr.org/sections/parallels/2018/01/01/574658008/the-year-the-u-s-refugee-resettlement-program-unraveled>

Week 9 (May 27th) Special topics on current refugee issues: Syrian refugee crisis, Rohingya refugee crisis + Research presentations

In the first part of class, I will do a brief lecture on the Syrian and Rohingya refugee crises. There is one assigned media and all readings for this week are optional. The content of this class may change depending on current events.

We will synthesize many of the course's themes by examining the causes of the current Syrian and Rohingya refugee crises and the international community's response to them. Further, we will discuss shortcomings in the current international refugee system and consider possible solutions for moving forward.

The second part of the class will be the beginning of our research presentations.

Assigned media:

- Alexander Betts, *Our Refugee System is Failing. Here's How We Can Fix It* (TED 2016), available at https://www.ted.com/talks/alexander_betts_our_refugee_system_is_failing_here_s_how_we_can_fix_it

Optional readings and media:

- *After 9 years of tragedy, resilience and solidarity, the world must not forget displaced Syrians*, UNHCR (March 10, 2020), available at <https://www.unhcr.org/en-us/news/press/2020/3/5e67ade92d6/9-years-tragedy-resilience-solidarity-world-must-forget-displaced-syrians.html>
- Frank Mattern, et al., *A Road Map for Integrating Europe's Refugees*, MCKINSEY GLOBAL INSTITUTE (Nov. 2016), available at <http://www.mckinsey.com/global-themes/employment-and-growth/a-road-map-for-integrating-europes-refugees> (Read pp. 8-13 of the pdf full report, skim the rest of the report)

- Alexander Betts, *Refugees Can Be Used as a Political Resource for those Left Behind*, THE GUARDIAN (Jan. 22, 2017), available at <https://www.theguardian.com/commentisfree/2017/jan/22/refugees-political-resource-help-those-left-behind>
- Jie Zong & Jeanne Batalova, *Syrian Refugees in the United States*, MIGRATION POLICY INSTITUTE (Jan. 12, 2017), available at <http://www.migrationpolicy.org/article/syrian-refugees-united-states>
- *100 Days of Horror and Hope: A Timeline of the Rohingya Crisis*, UNHCR, available at <http://www.unhcr.org/news/stories/2017/12/5a1c313a4/100-days-horror-hope-timeline-rohingya-crisis.html>
- Sarah Wildman, *The World's Fastest Growing Refugee Crisis is Taking Place in Myanmar. Here's Why*, VOX (Sept. 18, 2017), available at <https://www.vox.com/world/2017/9/18/16312054/rohingya-muslims-myanmar-refugees-violence>
- Michael W. Doyle & Alex Aleinikoff, *Global Refugee Crisis*, FORCED MIGRATION FORUM (Feb. 13, 2017), available at <https://forcedmigrationforum.com/2017/02/13/global-refugee-crisis/#masthead>
 - James W. Davis, *Rethinking the Role of Human Rights in the International Refugee Regime*, LAWFARE (March 10, 2017), available at <https://www.lawfareblog.com/rethinking-role-human-rights-international-refugee-regime>
 - Suman Momin, *A Human Rights Based Approach to Refugees: A Look at the Syrian Refugee Crisis and the Responses from Germany and the United States*, 9 DUKE FORUM FOR LAW & SOCIAL CHANGE 55-79 (2017), available at Available at: <https://scholarship.law.duke.edu/dflsc/vol9/iss1/3>
 - Aryn Baker, *These Syrian Refugees Made it to Europe. But There Still Isn't an Answer to the Crisis*, TIME (Dev. 18, 2017), available at <http://time.com/5068549/finding-home-crisis/>
 - Phillip Connor, *After Record Migration, 80% of Syrian Asylum Applicants Approved to Stay in Europe*, PEW RESEARCH (Oct. 2, 2017), available at <http://www.pewresearch.org/fact-tank/2017/10/02/after-record-migration-80-of-syrian-asylum-applicants-approved-to-stay-in-europe/>
 - Lauren Collins, *Europe's Child-Refugee Crisis*, THE NEW YORKER (Feb. 27, 2017), available at <http://www.newyorker.com/magazine/2017/02/27/europes-child-refugee-crisis>
 - *Syria: The World's Largest Refugee Crisis*, Great Decisions PBS Series (Jan. 2015), available at <https://www.youtube.com/watch?v=EEQdVSWvWWA>

Week 10 (June 3rd)

Research presentations + concluding remarks

Reminder: Final paper is DUE to Canvas on Monday, June 8th by NOON.

INTL 190: International Refugee Law and Policy
Spring 2020

Suggested Research Paper Topics

The topic of your research paper must touch on some aspect of international refugee law and policy. I want you to pick a topic that deeply interests you. To get your mind brainstorming on a topic, I have listed possible areas of inquiry here. This list is not exhaustive and is intended only to help you think about what issue you are excited to explore.

Refugee populations: You could investigate certain aspects of the history and challenges facing particular refugee populations. Examples include: the Rohingya refugee flow into Bangladesh, the Syrian refugee movement into Europe, the South Sudan refugee crisis, the unique status of Palestinians in the international refugee framework, asylum case law and policy relating to Chinese Christians or Falun Gong, the rise in child asylum seekers entering the U.S. from Central America, refugees fleeing the Democratic Republic of Congo.

Types of asylum claims: You could examine the legal complexities and policy implications of certain types of asylum claims. Examples include: a neutral political opinion, gang retaliation, resistance to coercive population control in China, sexual orientation, HIV/AIDS status, gender-related claims of domestic violence, repressive social norms, female genital cutting.

Procedural issues: You could delve into issues related to the process by which asylum seekers and refugees secure protection. Examples include: bias in the adjudicatory system, cross-cultural misunderstandings in asylum adjudication, expedited removal, legal representation, detention, the one-year bar to applying for asylum, requirements for corroborating evidence, credibility determinations.

Resettlement: You could investigate topics related to the resettlement of refugees. Examples include: the Trump Administration's attempts to suspend refugee resettlement in the U.S., changes in border procedures affecting asylum seekers, international resettlement programs, challenges refugees face once resettled.

International issues: You could research the intersection and interplay of refugee law and international humanitarian law, or the asylum systems and current challenges faced by the European Union, Canada, Australia (and its offshore detention centers), Germany, South Africa, the United Kingdom, or another country of interest.

Economic aspects: You could research the economic impact of forced migration, how refugees are integrated into the labor market in different countries, refugee and asylum seekers' consumption patterns, the economic costs and contributions of refugees in host countries, how the resource allocation systems of refugees and asylum seekers impact their consumption, production, exchange, and finances.

Specific changes to US asylum and refugee law in the Trump Era: You could provide more depth of discussion and analysis to the changes the Trump Administration has made to the refugee resettlement program and the asylum system. Examples include: changes to the refugee definition, reshaping the immigration courts, prolonging detention, family separation, criminal

prosecution of asylum seekers, metering, Remain in Mexico/Migrant Protection Protocol, transit-country asylum ban, prompt asylum case review, asylum cooperation agreements (also referred to as safe third-country agreements).

To start, a basic google search will provide more information about these various topics. For a comprehensive scholarly resource list that will help you dig deep into refugee legal and policy issues, check out the UC Berkeley Law Library's guide here:

<https://www.law.berkeley.edu/library/dynamic/guide.php?id=64>