

Course Outline

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<b>COURSE:</b>	<b>LAWS 4607A: Immigration and Refugee Law</b>
<b>TERM:</b>	<b>Fall 2017</b>
<b>PREREQUISITES:</b>	<b>None</b>
<b>CLASS:</b>	<b>Day &amp; Time: Mondays 11:35am – 2:25pm</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR:</b>	<b>Megan Gaucher</b>
<b>CONTACT:</b>	<b>Office: D496 Loeb Building</b> <b>Office Hrs: Mondays 3:00pm-5:00pm OR By Appointment</b> <b>Telephone: 613-520-2600 x. 4207</b> <b>Email: Megan.Gaucher@carleton.ca</b>

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**Academic Accommodations:**

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

**Pregnancy obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://carleton.ca/equity/>

**Religious obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://carleton.ca/equity/>

**Academic Accommodations for Students with Disabilities:** The Paul Menton Centre for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). **Requests made within two weeks will be reviewed on a case-by-case basis.** After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website ([www.carleton.ca/pmc](http://www.carleton.ca/pmc)) for the deadline to request accommodations for the formally-scheduled exam (*if applicable*).

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://carleton.ca/equity/>

**Plagiarism**

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn

from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's **Academic Integrity Policy** can be found at:

<http://carleton.ca/studentaffairs/academic-integrity/>

**Student Services:** The Centre for Student Academic Support (CSAS) is a centralized collection of learning support services designed to help students achieve their goals and improve their learning both inside and outside the classroom. CSAS offers academic assistance with course content, academic writing and skills development. Visit CSAS on the 4<sup>th</sup> floor of MacOdrum Library or online at [carleton.ca/csas](http://carleton.ca/csas)

### **Department Policy**

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://carleton.ca/law/current-students/>

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## **COURSE DESCRIPTION**

Citizenship and immigration continue to be important legal issues, particularly in Canada where the welcoming and subsequent accommodation of immigrants and refugees is a longstanding part of the national imaginary. Debates on admission criteria, migrant rights, and the legal limits of integration/accommodation dominate academic and non-academic circles alike. Moreover, the question of "who belongs," continues to underpin political and popular opinion, drawing attention to the complexity of narratives of membership and belonging. The Canadian story of multiculturalism, while no doubt pleasant, often glosses over the inequalities immigrants and refugees experience both in seeking access to Canadian borders and integrating into Canadian society. This seminar will introduce students to a theoretical and empirical examination of these questions, while taking into account the lived experiences of immigrants and refugees. In our examination of topics ranging from questions of citizenship/non-citizenship, temporary foreign labour, and family reunification, to refugee determination, asylum seeking, and national security, this course will address the gap between immigration and refugee law and the implications of these laws in practice.

## **REQUIRED TEXTS**

The following book is available as an online eBook through the library. If you would like a hard copy, there are a few copies available at Octopus Books:

Fleras, Augie. (2015) *Immigration Canada: Evolving Realities and Emerging Challenges in a Postnational World*. Vancouver: UBC Press. **(Available at Octopus Books, 116 Third Avenue)**

All articles, cases and other materials can be found either on cuLearn, as an eBook at the library or online (see below for details).

## **EVALUATION**

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

<b>Type of Assignment</b>	<b>Weighting</b>	<b>Due Date</b>
<b>Attendance/Participation</b>	25%	N/A
<b>Presentation</b>	10%	<b>Assigned Week</b>
<b>Debate Assignment</b>	20%	<b>October 16<sup>th</sup></b>
<b>Research Paper Proposal</b>	15%	<b>November 6<sup>th</sup></b>
<b>Research Paper</b>	30%	<b>December 8<sup>th</sup></b>

### **Attendance/Participation (25%)**

Since this is a seminar, active participation is a key element. Minimal participation from students will make for a long three-hour seminar; therefore, while you will get marks for attendance, you will not get full participation marks just for showing up. Also, assessment of participation will be based on quality, not quantity. It is important that your comments/questions reflect the course material and/or build on previous discussion. Therefore, by participation, I understand: (1) speaking in an informed way; (2) listening well, even to ideas you may disagree with; (3) respectfully building on others' contributions; and (4) keeping things on topic. I recognize that not everyone feels comfortable participating in a large group, so I will provide you with additional opportunities to participate such as small-group discussions.

Remember, you cannot earn participation marks for missed seminars, so consistent attendance is important. I know that life happens and sometimes things come up that are out of our control – to accommodate this, I am giving each student **ONE** free absence. This means that you can miss a class without explanation and without penalty. If illness or other unavoidable issues cause you to miss multiple classes, you need to keep me advised of the situation and an accommodation plan may be considered.

### **Presentation (10%)**

Each student is required to do a 5-7 minute presentation on an assigned reading. You will have the opportunity to choose your reading on **Week Two**. Your presentation will provide a brief summary of the reading and two questions you will come up with based on the chosen reading. You are expected to state your questions, explain why you chose these questions, and highlight why these questions are important. The class will have done the readings (at least this should be the case) so I want to use these presentations to generate discussion.

### **Debate Assignment (20%)**

For this assignment, you will be assigned a group and a debate position on a particular issue. As a group, you will be responsible for 1) presenting your debate position to the class, and 2) engaging with the group that will be presenting the opposite position. This debate will be of traditional format (opening statement, rebuttal, open discussion). Groups will be provided some time in class to work on this. Further information will be provided in-class on September 25<sup>th</sup>. Debates will take place on **October 16<sup>th</sup>**.

**Research Paper Proposal (15%)**

You are required to submit a paper proposal for your upcoming research paper outlining your research question, thesis statement, and primary arguments. In addition to the proposal, you must also provide an annotated bibliography highlighting ten academic sources with proper reference information as well as a brief summary of how each source relates to your chosen topic. Further information will be posted on cuLearn. This assignment is due in-class on **November 6<sup>th</sup>**.

**Research Paper (30%)**

You are required to submit a 12-15 page paper on a topic of your choosing within the realm of the course. Further information will be posted on cuLearn. This assignment must be emailed to me by **December 8<sup>th</sup>**.

**Late Assignments/Accommodations**

I will be imposing a late penalty of 2% points per day, including weekends, with a maximum penalty of two weeks late (28%) for the research paper proposal outline assignment and the research paper assignment. After two weeks, I will no longer accept these assignments unless we have worked out an extension. Extensions must be arranged with me **before the assignment deadline**. A late assignment may be emailed to me if you cannot get in to the university to hand it in right away. In this case, the late penalty will stop on the date of your electronic submission; however, you must still submit a hard copy to me before your assignment will be marked. The email version will simply confirm the date you completed the assignment. The hard copy that you submit must be the same as the copy you emailed. In other words, you cannot take advantage of this time lag to continue working on the assignment. To do so will be considered academic dishonesty.

**SCHEDULE****Week One (September 11<sup>th</sup>): Introduction**

- Fleras, Augie. (2015) "Twenty-first Century Migration: Canada in the New Global Reality," in *Immigration Canada: Evolving Realities and Emerging Challenges in a Postnational World*. Vancouver: UBC Press, 4-14. **(eBook online)**
- Dauvergne, Catharine. (2009) "On Being Illegal," in *Making People Illegal: What Globalization Means for Migration and Law*. Cambridge: Cambridge University Press, 9-28. **(cuLearn)**

**Week Two (September 18<sup>th</sup>): Who is "In"?**

- Carens, Joseph. (2003) "Who Should Get in? The Ethics of Immigration Admissions." *Ethics & International Affairs* 17(1): 95-110. **(cuLearn)**
- Fleras, Augie. (2015) "Who Got In? Who Gets In? Continuity and Change in Canada's Immigration Program," in *Immigration Canada: Evolving Realities and Emerging Challenges in a Postnational World*. Vancouver: UBC Press, 83-118. **(eBook online)**
- Satzewich, Vic. (2015) "Delegated Discretion," in *Points of Entry: How Canada's Immigration Officers Decide Who Gets In*. Vancouver: UBC Press, 37-58. **(eBook online)**
- Meurrens, Steven. (2017) "Weeding out Crooked Immigration Consultants." *Policy Options* (June 20):  
<http://policyoptions.irpp.org/magazines/june-2017/weeding-out-crooked-immigration-consultants/>

**Week Three (September 25<sup>th</sup>): Who is “Out”?**

- Hari, Amrita. (2014) “Temporariness, Rights, and Citizenship: The Latest Chapter in Canada’s Exclusionary Migration and Refugee History.” *Refuge* 30(2): 35-44. **(cuLearn)**
- Liew, Jamie. (2014) “Taking it Personally: Delimiting Gender-Based Claims using the Contemporary Protection Provision in Canada’s Refugee Definition.” *Canadian Journal of Women and the Law* 26(2): 300-329. **(cuLearn)**
- Thobani, Sunera. (2000) “Closing Ranks: Racism and Sexism in Canada’s Immigration Policy.” *Race & Class* 42(1): 35-55. **(cuLearn)**
- Abu-Laban, Yasmeen and Rita Dhamoon. (2009) “Dangerous (Internal) Foreigners and Nation-Building: The Case of Canada.” *International Political Science Review* 30(2): 163-183. **(cuLearn)**

**Week Four (October 2<sup>nd</sup>): Citizenship, Partial Citizenship, Non-Citizenship**

- Landolt, Patricia and Luin Goldring. (2013) “Precarious Legal Status in Canada: Theorizing Non-Citizenship and Conditionality,” in *Producing and Negotiating Non-Citizenship: Precarious Legal Status in Canada*. Toronto: University of Toronto Press, 3-20. **(eBook online)**
- Shachar, Ayelet. (2007) “The Worth of Citizenship in an Unequal World.” *Theoretical Inquiries in Law* 8(2): 367-388. **(cuLearn)**
- Dauvergne, Catharine. (2013) “How the Charter has Failed Non-Citizens in Canada: Reviewing Thirty Years of Supreme Court of Canada Jurisprudence.” *McGill Law Journal* 58(3): 663-728. **(cuLearn)**
- **Recommended:**
  - Fleras, Augie. (2015) “Customizing Citizenship: Recalibrating Identity and Belonging in a Postnational Canada” in *Immigration Canada: Evolving Realities and Emerging Challenges in a Postnational World*. Vancouver: UBC Press, 385-407. **(eBook online)**

**Thanksgiving Monday (October 9<sup>th</sup>): NO CLASS/OFFICE HOURS****Week Five (October 16<sup>th</sup>): DEBATES****October 23<sup>rd</sup> – 27<sup>th</sup>: READING WEEK****Week Six (October 30<sup>th</sup>): Securitization, “Crimmigration”, and the Construction of Foreignness**

- Macklin, Audrey. (2017) “Ottawa Failed Omar Khadr: That’s why he Deserves Compensation.” *Globe and Mail* (July 5): <https://www.theglobeandmail.com/opinion/ottawa-failed-khadr-thats-why-he-deserves-compensation/article35552410/>
- Cote-Boucher, Karine. (2015) “Bordering Citizenship in ‘an Open and Generous Society’: The criminalization of migration in Canada,” in Sharon Pickering and Julie Harn (eds.) *The Routledge Handbook on Crime and International Migration*. London: Routledge, 75-90. **(eBook online)**
- Silverman, Stephanie. (2014) “In the Wake of Irregular Arrivals: Changes to the Canadian Immigration Detention System.” *Refuge* 30(2): 27-34. **(cuLearn)**
- Patel, Shaista. (2012) “The Anti-terrorism Act and National Security: Safeguarding the Nation against Uncivilized Muslims,” in Jasmin Zine (ed.) *Islam in the Hinterlands: Muslim Cultural Politics in Canada*. Vancouver: UBC Press, 272-298. **(eBook online)**
- Gaucher, Megan. (2016) “Monogamous Canadian Citizenship, Constructing Foreignness, and the Limits of Harm Discourse.” *Canadian Journal of Political Science* 49(3): 519-538. **(cuLearn)**

**Week Seven (November 6<sup>th</sup>): Refugee Determination and Credibility Assessment****Film: 19 Days** (26 Minutes) [https://www.nfb.ca/film/19\\_days/](https://www.nfb.ca/film/19_days/)

- Fleras, Augie. (2015) "Canada's Refugee Status Determination Process: Controversies, Challenges, Changes," in *Immigration Canada: Evolving Realities and Emerging Challenges in a Postnational World*. Vancouver: UBC Press, 157-199. **(eBook online)**
- Rehaag, Sean. (2017) "'I Simply Do Not Believe': A Case Study of Credibility Determinations in Canadian Refugee Adjudication." *Windsor Review of Legal and Social Issues* 38: 38-70. **(cuLearn)**
- Dauvergne, Catherine. (2015) "War Crimes and Asylum in Canada: Reflections on the *Ezokola* Decision and the Barriers Courts Face in Protecting Refugees," in Sharon Pickering and Julie Harn (eds.) *The Routledge Handbook on Crime and International Migration*. London: Routledge: 265-272. **(eBook online)**
- Hall, Chris. (2015) "Will Canadians be as Generous to First Nations as they are to Syrian Refugees?" *CBC News* (December 3): <http://www.cbc.ca/news/politics/first-nations-syrian-refugees-chris-hall-1.3348053>

**Week Eight (November 13<sup>th</sup>): Family, Membership, and Belonging**

- van Walsum, Sarah. (2009) "Transnational Mothering, National Immigration Policy, and European Law: The Experience of the Netherlands," in Seyla Benhabib and Judith Resnick (eds.) *Migrations and Mobilities: Citizenship, Borders and Gender*. New York: New York University Press: 228-254. **(cuLearn)**
- Bragg, Bronwyn and Lloyd Wong. (2015) "Cancelled Dreams: Family Reunification and Shifting Canadian Immigration Policy." *Journal of Immigrant and Refugee Studies* 14(1): 46-65. **(cuLearn)**
- Harder, Lois. (2015) "Does Sperm Have a Flag? On Biological Relationship and National Membership." *Canadian Journal of Law and Society* 30(1): 109-125. **(cuLearn)**

**Week Nine (November 20<sup>th</sup>): Commodification of Migrant Labour****Film: The End of Immigration** (52 minutes)

- Marsden, Sarah. (2012) "The New Precariousness: Temporary Migrants and the Law in Canada." *Canadian Journal of Law and Society* 27(2): 209-229. **(cuLearn)**
- Nakache, Delphine. (2013) "The Canadian Temporary Foreign Worker Program: Regulations, Practices, and Protection Gaps," in Patricia Landolt and Luin Goldring (eds.) *Producing and Negotiating Non-Citizenship: Precarious Legal Status in Canada*. Toronto: University of Toronto Press, 71-98. **(eBook online)**
- Tungohan, Ethel. (2017) "Temporary Foreign Workers in Canada: Reconstructing 'Belonging', Remaking 'Citizenship.'" *Social & Legal Studies* **(Forthcoming)**.

**Week Ten (November 27<sup>th</sup>): Migration and Bodies**

- Roots, Katrin. (2013) "Trafficking or Pimping? An Analysis of Canada's Human Trafficking Legislation and its Implications." *Canadian Journal of Law and Society* 28(1): 21-41. **(cuLearn)**
- Macklin, Audrey. (2003) "Dancing Across Borders: 'Exotic Dancers,' Trafficking, and Canadian Immigration Policy." *International Migration Review* 37(2): 464-500. **(cuLearn)**
- Bourgon, Lyndsie. (2017) "Why Women are Coming to Canada Just to Give Birth." *Maclean's* (August 8): <http://www.macleans.ca/society/health/why-women-are-coming-to-canada-just-to-give-birth/>

**Week Eleven (December 4<sup>th</sup>): Legal and Non-Legal Limits of Integration and Accommodation**

- Liew, Jamie. (2016) "Migrants, Mental Health, and Illness," in Jennifer Chandler and Colleen Flood (eds.) *Law and Mind: Mental Health Law and Policy in Canada*. Toronto: LexisNexis. **(cuLearn)**
- Syed, Irtah. (2012) "The Great Canadian Shar'ia Debate," in Jasmin Zine (ed.) *Islam in the Hinterlands: Muslim Cultural Politics in Canada*. Vancouver: UBC Press, 61-91. **(eBook online)**
- Lenard, Patti Tamara. (2016) "Fragile Trust: Muslim Communities in Canada and the R v. NS Decision." *Law & Ethics of Human Rights* 10(2): 405-424. **(cuLearn)**
- Taub, Amanda. (2017) "Canada's Secret to Resisting the West's Populist Wave." *The New York Times* (June 27): <https://www.nytimes.com/2017/06/27/world/canada/canadas-secret-to-resisting-the-wests-populist-wave.html>
- **Recommended:**
  - Fleras, Augie. (2015) "Rethinking Immigrant Governance: The Challenges of Complex Diversity," in *Immigration Canada: Evolving Realities and Emerging Challenges in a Postnational World*. Vancouver: UBC Press, 363-384. **(eBook online)**