

Course Outline

COURSE: LAWS 5903F – Special Topics in Legal Studies

TERM: FALL 2019

CLASS: **Day & Time:** Tuesdays, 2:35pm – 5:25pm
 Room: Please check with Carleton Central for current room location

INSTRUCTOR: **Professor Robert Barsky**

CONTACT: **Office:** Room D589 Loeb Building
 Office Hrs: Tuesdays 2:30pm – 5:30pm
 Telephone: 613-520-2600 x. 3684
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COURSE DESCRIPTION

This course reviews the Great Tradition of Western literature imagining that central characters faced challenges that are similar to those confronted by refugees in the contemporary world. I will discuss everything from the Bible to *Alice in Wonderland*, from Greek tragedies to Los Vegas representations of them, from Dickens' *Christmas Carol* to Aeschylus *Suppliant Maidens*. Did Scrooge suffer similar anxieties to those experienced by Latin American migrants who trust their fate to coyotes? Do those who try to help people escape war-torn countries face challenges that resemble those facing Moses as he tries to imagine convincing the people of Israel to flee Egypt? The answers and concordances are surprising!

The broad objective of this course is to provide a general overview of the complex dynamics of border crossing, writ large, from a humanistic perspective, and to integrate works from the Great Tradition to help illuminate underlying issues. We will examine admission, adjudication and integration of migrants, as well as the arrest, incarceration and deportation of vulnerable migrant populations, particularly refugees and undocumented people in the United States.

The legal work will be complemented by constant assessment of the narrative and literary issues that emerge as migrants encounter officials from the host country, with examples from the contemporary era, storytelling, and from canonical fictional works. The student will thus acquire a strong understanding of border crossing in regards to such issues as self-representation, narrative, intercultural communication, translation, narrative analysis, and the challenges of representing ourselves in language, with reference to both legal and literary examples. Students will be given the opportunity to write works (book reviews, commentary pieces, articles) that we'll try to place in an international journal of border-crossing, to assist them with their careers, and to provide experience in writing, editing, and diffusing their ideas.

REQUIRED TEXTS

Law of Refugee Status / Edition 2nd 14
Available in the book store or online.

SUPPLEMENTARY TEXTS

Supplementary texts are all available online (see entries for each day)

EVALUATION

(All components must be completed in order to get a passing grade)

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.

Assignments: Class presentations (2), during the course of the semester (2-3 per week).

- 1 presentation of your book review (10 minutes) 10%
- 1 presentation of your final paper (10 minutes) 10%
- October 15th: First draft of your book review, which I will revise with you. 20%
- November 5th: Outline and introduction to your final paper, connecting a work from the Great Tradition to a current issue relating to refugees or vulnerable migrants. 20%
- December 10th: Final Draft of your paper and final draft of your book review. For those deemed publishable, I will work with you on revising the final draft. 30%
- Participation in class. 10%

SCHEDULE

*****Thursday, September 5th (replaces Tuesday September 10th**

Introduction and overview of the class

September 17th, Foundations of Refugee Law: Ariel Dorfman

An overview of foundational international migration documents, and the practical tools needed to identify and interpret state obligations related to forced migration. We will also consider the bases for this kind of law with reference to various definitions of the limits of state action. The literary text this week is “Death and the Maiden”, an excellent text/play/film that can help us to consider what an artistic rendering of this realm can accomplish. During the semester, we’ll come back to it as a touchstone for our work. We will also introduce our first example, being the flight of peoples from Eritrea, and the excellent documentary of the week will put many of the major questions to the forefront.

Readings

Geneva Convention (1951), Handbook, and Protocol (1967). It’s very useful to examine the history of how these documents came into being, a history that is available at <http://www.unhcr.org/en-us/1951-refugee-convention.html>.

Polanski’s film (and/or Dorfman’s play): “Death and the Maiden”, available at http://vanderbilt.edu/olli/class-materials/Death_and_the_Maiden_script.pdf.

September 24th**Basic Concepts of Forced Migration: Lewis Carroll and Exodus**

We will overview basic concepts of regular and forced migration, including the causes of flight. This will be comprised of the notional and historic framework of migration, forced migration, leading up to efforts post-WWII to address massive flows of displaced, stateless, and undocumented peoples. We’ll also discuss *Death and the*

Maiden in more depth, focusing upon the scars that are left by persecution, and thereby delve into the psychological aspects of being a forced migrant.

Reading

Lewis Carroll, *Alice in Wonderland*. <http://www.gutenberg.org/files/11/11-h/11-h.htm>

Bible, *Exodus*: <http://www.mechon-mamre.org/p/pt/pt0203.htm>

October 1st

Theories of Migration; *Literature and law: John Milton*

Theories of migration: moving beyond the pull and push factors. International relations and migration, the movement of labor forces, cultural encounters, and the multicultural, melting pot and communities of migrants that are the inevitable result.

Readings

John Milton, *Paradise Lost*: <https://www.poetryfoundation.org/poems/45738/paradise-lost-book-2-1674-version>

October 8th

The UNHCR & the OIM: H. G. Wells

The rise of the UNHCR and the OIM: Who is a refugee? Who isn't? On what grounds? Refugee definitions, different standards of recognition, International and national forms of protection. Possible arguments derived from ethics and philosophy in favour of protecting refugees.

Readings

H.G. Wells, *The Island of Doctor Moreau*. <http://www.gutenberg.org/files/159/159-h/159-h.htm>

October 15th

Self-Representation; *Mikhail Bakhtin: Franz Kafka*

The challenges of representing ourselves in language, with regards to such notions as dialogism, answerability, situatedness, chronotope, speech genres, heteroglossia, polyglossia and the social discourse within which they are created. Translation versus interpretation.

Readings:

<http://hrlibrary.umn.edu/instreet/refugeehandbook.pdf>

Mikhail Bakhtin, "Author and Hero in Aesthetic Activity" pages 4-114, in *Art and Answerability*. U of Texas P, 1990. Available on-line to read or download via the library. Go to the Acorn catalogue, and click on online resource, which will bring you here: <http://site.ebrary.com/lib/vanderbilt/detail.action?docID=10439448>

Franz Kafka, *The Trial*, translated by David Wyllie. <http://www.gutenberg.org/cache/epub/7849/pg7849-images.html>;

"The Great Wall of China. <http://johnstoniatexts.x10host.com/kafka/greatwallofchinahtml.html>

October 22nd NO CLASS (Fall break)

October 29th

Feminism and Law: *Émile Zola and Henry Vizetelly*

Feminist analysis of the 1951 Convention, especially in regards to the refugee definition (well-founded fear). Is fear an objective standard expressing the likelihood of present or future persecution? How to prove the well-founded character of the fear? What is the role of "credibility" in refugee determination? What are the implicit

biases of proving credibility, particularly in cases involving gender persecution? Are women escaping domestic violence protected? And finally, what can we learn about a society by examining its laws regarding censorship, that is, controlling behaviors, texts and other artifacts deemed dangerous, polluting or 'filthy'?

Readings

“Convergences” and “Economic Man, Literary Woman”

<https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1644&context=facpub>; National Vigilance Association's *Pernicious Literature*

[http://onlinebooks.library.upenn.edu/webbin/book/lookupname?key=National%20Vigilance%20Association%20\(Great%20Britain\)](http://onlinebooks.library.upenn.edu/webbin/book/lookupname?key=National%20Vigilance%20Association%20(Great%20Britain)).

November 5th

Outsiderness in Law and Literature, Anne Coughlin: Mary Shelley

Analysis of the 1951 Convention especially the refugee definition regarding persecution: acts, actors. Persecution: universal or culturally bound? Intercultural communication.

Readings

Mary Shelley, *Frankenstein*. <https://ebooks.adelaide.edu.au/s/shelley/mary/s53f/>

November 12th

Confessions; Fyodor Dostoevsky

Confessions in law and in literature. Analysis of the 1951 Convention especially the refugee definition. Grounds for claims of persecution). Race, religion, nationality, political opinion, belonging to a particular social group – can the meaning of these expressions be pinned down? When does a ‘hearing’ become a confession? What can literature tell us about the vicissitudes of any kind of hearing, and in particular one involving Convention refugees or undocumented people? How can confessions help us better understand the plight of people forced to cross borders? The example will be Syrian refugee deaths on Europe’s borders, and the reporting thereof.

Readings

Scenes from Dostoevsky's *The Idiot* (<https://projectdblog.wordpress.com/2011/03/27/isnt-it-possible-to-eat-me-without-demanding-that-i-praise-that-which-has-eaten-me/>) and *Crime and Punishment* (William Burnham, "The legal context and contributions of Dostoevsky's Crime and Punishment," *Michigan Law Review*, Vol.100(6), pp.1227-1248.

November 19th, Undocumented, Sans-Papiers, “Illegal”: Aeschylus

From fight to flight and from the brutality of home to the intermediaries at the border: The Plight of the Undocumented Person. Contrasts between current technologies aimed at detecting “illegal” migration and those aimed to facilitate migration for the privileged classes. Credibility, gender differences in determining claims, torture, posttraumatic stress disorder (PTSD) and evidence.

Reading

Aeschylus, *The Suppliants*, Translated by E. D. A. Morshead. <http://classics.mit.edu/Aeschylus/suppliant.html>

November 26th, Integration, US/Canada: Charles Dickens

From “Illegals” to Citizens

What are some of the possible remedies for all of the injustices that have been described in this course? Where can we look, in terms of law but also discretion or arbitrary actions to resist injustices? Who can vulnerable migrants trust as they seek due process under the Convention and the Protocol?

*Reading*Charles Dickens, *A Christmas Carol*: <https://etc.usf.edu/lit2go/pdf/passage/2824/a-christmas-carol-002-stave-i.pdf>**December 3rd**

Conclusions

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: Please contact 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: <https://carleton.ca/equity/accommodation/academic/students/>

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: <https://carleton.ca/equity/accommodation/academic/students/>

Academic Accommodations for Students with Disabilities: If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (PMC) at 613-520-6608 or 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). After requesting accommodation from PMC, meet with me as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable). <https://carleton.ca/pmc/students/accommodations/>

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:

<https://carleton.ca/registrar/academic-integrity/>

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/sexual-violence-support/>

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor 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. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

For more information on academic accommodation, please contact the departmental administrator or visit: <https://carleton.ca/equity/accommodation/academic/>

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/>