

Course Outline

COURSE: LAWS 4605A Topics in International Law: International Refugee Law

PREREQUISITES: Fourth-year Honours Standing and LAWS 2601.

TERM: Winter 2018

CLASS: **Day & Time:** Thursdays 11:30am - 2:30pm
Room: Please check with Carleton Central for current room location

INSTRUCTOR: Zeina Bou-Zeid, PhD

CONTACT: **Office:** D598 Loeb
Office Hrs: Thursdays 10:30 - 11:30am
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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/>

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 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) 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/>

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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.

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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 4th floor of MacOdrum Library or online at 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/>

COURSE OBJECTIVE AND CONTENT

It has now been 65 years since the creation of the Refugee Convention, however, in 2016 the Office of the United National High Commissioner for Refugees calculated that there are an unprecedented 65.6 million forcibly displaced persons, 22.5 million of which are refugees. The staggering amount of displaced persons has left many wondering if the international law of refugee protection contained in universal and regional treaties, rules of customary international law, national laws, state practices and international organizations (the UNHCR), can address or decrease modern day refugee movements.

The primary purpose of this course is to explore the international law of refugee protection, its failures and challenges. We will examine the causes of forcible displacement, the impact on refugees (displacement, confinement, and exclusion) and the response of the international community and national states.

LEARNING OBJECTIVES

- Explore the definitions of refugees, asylum seekers, forced migrants and non-refoulement.
- Explore the role of the UNHCR in international politics.
- Examine and understand the underlying causes of refugees and forced migration.
- Examine and understand the role of the international community in responding to refugees and forced migrants.
- Explore the various responses to refugees, including detention, resettlement, and the fortification of borders.
- Examine the various responses of refugee-hosting states.

REQUIRED READINGS

Course readings will be placed on RSV in the library and can be accessed through CULearn (View Course in Ares).

COURSE EVALUATION

Assignment	Due Date	Value
Attendance & Participation	ongoing	10%
Class Discussant	Dates TBD (sign up on CULearn)	10%
Critical Commentary 1	February 8 (CULearn 9:00pm)	15%
Critical Commentary 2	March 22 (CULearn 9:00pm)	15%
Essay Proposal and Outline	March 1 (CULearn 9:00pm)	10%
Final Essay	April 11 (CULearn noon)	40%

Class Participation & Attendance: This class is structured around discussions and class participation. The success of this course depends on informed and lively student leadership and participation. Regular attendance in class is necessary, but not sufficient, to constitute class participation. You are absolutely expected to do the readings carefully before class and come prepared to discuss them. You will be expected to bring questions and contributions to each class. Your analysis of the readings should reflect a critical analysis of the materials and address problems you detect in the readings. The professor will be monitoring the level of class participation by each student throughout the course.

Class Discussant: Each week 3-4 students will be required to prepare to lead the class in a discussion of the theme of that day. Being responsible for the discussion involves becoming familiar with the readings in detail and with the current debates surrounding the topic in question. Students should not summarize the readings, but instead provide analysis, context and/or critique and inspire further class discussion. A sign-up sheet will be available on CULearn during the first few classes.

Critical Commentary 1 & 2: Students are being asked to submit 2 Critical Commentary papers based on the readings for a particular class. Your analysis should go beyond mere summaries. Your commentaries should include the key arguments or issues that you have identified in the class readings and your opinion. Each Commentary should be between 4-6 pages (double-spaced).

Critical Commentary #1: Due: February 8 on cuLearn by 9:00pm
 This paper will be based on the readings from one of the following classes: Class 2- 4.

Critical Commentary # 2: Due: March 22 on cuLearn by 9:00pm
 This paper will be based on the readings from one of the following classes: Class 6- 9.

Essay Proposal and Outline: Students are asked to submit a brief paper proposal (approximately 5 pages). The proposal should provide a summary of the topic, your tentative thesis, central arguments and an annotated bibliography.

Final Essay: Students must submit an original term paper of 15-17 pages. You may choose a paper topic from the course readings or make a choice based on an area of your particular interest. Suggested paper topics and additional instructions will be provided in class.

All Assignments must be completed in order to pass the course.

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.

Late Penalties: Late assignments will be penalized by 5% per day (including weekends). If an Assignment is handed in more than seven days late, it will be accepted towards course completion but will receive **zero** marks.

Extensions for Assignments: Students can request an extension on Assignments for serious illness or family and personal emergencies. They will be required to provide official supporting documentation. Students requesting an extension **MUST** contact the Course Instructor prior to the assignment deadline.

Extensions will not be granted for computer problems of any kind. I urge you to back up your work as you go along: email a draft to yourself whenever you finish a segment of work on it or copy it to a USB thumb-drive or an external hard drive. A cold or the flu is not a sufficient reason for an extension. Competing workloads in other courses is not a sufficient reason for an extension. Work schedule or family schedule conflicts are not sufficient reasons for an extension.

Citations & Writing Quality: Students must provide meticulously correct citations compliant with the *Canadian Guide to Uniform Legal Citation*, 8th edition (the McGill Guide) in Assignments. Marks will be deducted in each assignment if citation is not fully correct. Marks will also be allocated for effective writing.

CLASS SCHEDULE & READINGS

Week 1. January 11

Introduction: Defining Refugees and Forced Migration

- Introductions and Syllabus
- What is a Refugee?; What is Forced Migration?
- What is the UN 1951 Convention on the Status of Refugees?

Required Readings

- The 1951 Refugee Convention (online) <http://www.unhcr.org/1951-refugee-convention.html>. [Review the Convention and Protocol and FAQ's]

Video, Watched in Class: UNHCR, Refugee Talks: Arif Virani, Parliamentary Secretary to the Minister of Canadian Heritage & MP (Liberal Party)

Week 2. January 18

History and Evolution of the Global Refugee Rights Regime

- History of Forced Migration
- State Controls and Borders

Required Readings

- Alexander Betts, Gil Loescher & James Milner, "Chapter 1: The origins of international concern for refugees, in "UNHCR: *The Politics and Practice of Refugee Protection*, (New York, Routledge, 2012) 7-17.
- Katy Long, "When Refugees Stopped Being Migrants: Movement, Labour and Humanitarian Protection," (2013) 1:1 *Migration Studies* 4-26.
- Jane McAdam, "The Enduring Relevance of the 1951 Refugee Convention" (2017) 29:1 *International Journal of Refugee Law* 1.
- Didier Fassin, "From Right to Favor: The refugee question as moral crisis." (2016) *The Nation*. Online: <https://www.thenation.com/article/from-right-to-favor/>

Week 3. January 25

International Law of Refugee Protection

- Content of refugee protection under the 1951 Convention and the 1967 Protocol
- Criteria for granting protection: alienage, well-founded fear, persecution, grounds of persecution and exclusion from the Convention
- International Human Rights and Forced Migration

Required Readings

- Guy S. Goodwin-Gill, "International Law of Refugee Protection," in Elena Fiddian-Qasmiyeh, et al eds, *The Oxford Handbook of Refugee & Forced Migration Studies* (Oxford: Oxford University Press, 216) 36-47.
- Colin Harvey, "Time for Reform? Refugees, Asylum-Seekers, and Protection Under International Human Rights Law," (2015) 34:1 *Refugee Survey Quarterly* 43-60.
- Alice Edwards, "Human Rights, Refugees, and The Right 'To Enjoy' Asylum," (2005) 17:2 *International Journal of Refugee Law* 293-330.

Week 4: February 1**Securitization of Forced Migration**

- Constructing refugees as a security threat
- Militarizing Borders and Containing “Threats”
- Interdiction, Safe Third Country, Country of First Asylum

Required Readings

- Katy Long, “In Search of Sanctuary: Border Closures, ‘Safe’ Zones and Refugee Protection” (2013) 26:3 *Journal of Refugee Studies* 458.
- Cathryn Costello, “Safe Country? Says Who?” (2016) 28:4 *International Journal of Refugee Law* 601.
- Tilman Rodenhäuser, “Another Brick in the Wall: Carrier Sanctions and the Privatization of Immigration Control” (2014) 26:2 *International Journal of Refugee Law* 223.

Week 5: February 8**Guest Speaker & Film**

- Nadia Williamson: UNHCR Canada

Critical Commentary Due February 8 on CULearn at 9:00pm

Week 6: February 15**Humanitarian Intervention: Government Responses & NGO’s**

- Response of UNHCR
- Other organizations
- Humanitarian Alliances

Required Readings

- Alexander Betts, Gil Loescher & James Milner, “Chapter 4: The Politics and Practice of UNHCR’s Mandate in” *UNHCR: The Politics and Practice of Refugee Protection*, (New York, Routledge, 2012) 82-103.
- Andreas Fischer-Lescano, Tillmann Lohr, and Timo Tohidipur, “Border Controls at Sea: Requirements under International Human Rights and Refugee Law,” (2009) 21:2 *International Journal of Refugee Law* 256.
- Barbara Harrell-Bond, “Can Humanitarian Work with Refugees be Humane?” (2002) 24 *Human Rights Quarterly* 51.
- Kathryn Libal & Scott Harding, “Humanitarian Alliances: Local and International NGO Partnerships and the Iraqi Refugee Crisis” (2011) 9 *Journal of Immigrant and Refugee Studies* 161.

**Winter Break: February 19 - 23
No Class or Office Hours**

Week 7: March 1**Protracted Refugee Situations and Spaces of Protection**

- Protracted refugee situations
- Refugee camps and settlements

Required Readings

- Anna Lise Purkey, “Questioning Governance in Protracted Refugee Situations: The Fiduciary Nature of the State-Refugee Relationship” (2013) 25:4 *International Journal of Refugee Law* 693.
- Simon Turner, “What is a Refugee Camp? Explorations of the Limits and Effects of the Camp” (2016) 29:2 *Journal of Refugee Studies* 139.
- Sari Hanafi, Jad Chaaban and Karin Seyfert, “Social Exclusion of Palestinians Refugees in Lebanon: Reflections on the Mechanisms that Cement their Persistent Poverty” (2012) 31:1 *Refugee Survey Quarterly* 34.
- Noura Ekarat, “Palestinian Refugees and the Syrian Uprising: Filling the Protection Gap During secondary Forced Displacement” (2014) 26:4 *International Journal of Refugee Law* 581.

Essay Proposal and Outline Due March 1 on CULearn by 9:00pm**Week 8: March 8****Durable Solutions**

- Local integration
- Resettlement
- Repatriation

Required Readings

- Kate Long, “Rethinking Durable Solutions” in Elena Fiddian-Qasmiyeh, et al eds, *The Oxford Handbook of Refugee & Forced Migration Studies* (Oxford: Oxford University Press, 2016) 475-487.
- James Milner, “Can Global Refugee Policy Leverage Durable Solutions? Lessons From Tanzania’s Naturalization of Burundian Refugees” (2014) 24:7 *Journal of Refugee Studies* 553. (Local Integration)
- Liliana Lyra Jubilut & Wellington Pereira Carneiro, “Resettlement in Solidarity: A New Regional Approach Towards a more Humane Durable Solution” (2011) 30:3 *Refugee Survey Quarterly* 63. (Resettlement)
- Jasna Capo, “Durable Solutions, Transnationalism and Homemaking among Croatian and Bosnian Former Refugees” (2015) 31:1 *Refugee* 19. (Repatriation)

Week 9: March 15**Forced Migration in Europe****Required Readings**

- Nils Holtug, “A Fair Distribution of Refugees in The European Union” (2016) 12:3 *Journal of Global Ethics* 279.
- Navena Nancheva, “Bulgaria’s Response to Refugee Migration: Institutionalizing the Boundary of Exclusion” (2016) 29:4 *Journal of Refugee Studies* 549.
- Nanette Funk, “A specter in Germany: refugees, a ‘welcome culture’ and an ‘integration politics’ (2016) 12:3 *Journal of Global Ethics* 289.
- Paul Strauch, “When Stopping the Smuggler Means Repelling the Refugee: Internal Human Rights Law and the European Union’s Operation to Combat Smuggling in Libya’s Territorial Sea” (2017) 126:8 *Yale Law Journal* 2421.

Week 10: March 22**Ongoing Challenges: Climate Change and Human Trafficking****Required Readings**

- Etienne Piguet, Antoine Pecoud & Paul de Guchteneire, "Migration and Climate Change: An Overview," (2011) 30:3 Refugee Survey Quarterly 1.
- Xing-Yin Ni, "A National Going Under: Legal Protection for Climate Change Refugees" (2015) 38 Boston College International and Comparative Law Review 229.
- Susan Kneebone, "The Refugee Trafficking Nexus: Making Good (The) Connection" (2010) 29:1 Refugee Survey Quarterly 137.
- Satvinder S. Juss, "Recognizing Refugee Status for Victims of Trafficking and the Myth of Progress" (2015) 34 Refugee Survey Quarterly 107.

Critical Commentary Due March 22 on CULearn at 9:00pm

Week 11: March 29**Ongoing Challenges: Gender and Disability****Required Readings**

- Georgina Firth & Barbara Mauthe, "Refugee Law, Gender and the Concept of Personhood" (2013) 25 International Journal of Refugee Law 470.
- Jamie Chai Yun Liew, "Taking It Personally: Delimiting Gender-Based Refugee Claims Using the Complementary Protection Provision in Canada" (2014) 26 Canadian Journal of Women & Law 300.
- Mary Crock, Christine Ernst & Ron McCallum, "Where Disability and Displacement Intersect: Asylum Seekers and Refugees with Disabilities" (2012) 24 International Journal of Refugee Law 735.

Week 12: April 5**Course Overview**

- Course Review
- Final Essay Questions

Final Paper Due: April 11, 2018 on CULearn by noon