

## INTERNATIONAL HUMAN RIGHTS LAW: RIGHTS OF MIGRANTS

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### Requirements

- 35% Midterm Exam
  - Thursday 5/7
  - Prompt distributed at 11:00AM and due via Canvas no later than 12:20PM
  - Short-answer and essay questions
- 25% Policy Memo
  - Due Thursday 6/4 via Canvas no later than 12:20PM
  - 5 single-spaced pages, 1-inch margins, 12-point Times New Roman font
  - Prompt to be distributed after midterm
- 40% Cumulative Final Exam
  - Tuesday 6/9
  - Prompt distributed at 11:30AM and due via Canvas at 2:59PM
  - Short-answer and essay questions

I understand that many of you may be facing new challenges as a result of the COVID-19 pandemic, including issues related to health, financial insecurity, and caregiving responsibilities, just to name a few. Your health and safety are very important to me. Please let me know if your personal circumstances will affect your ability to attend or be fully engaged during lecture—I will do my best to be helpful.

As we adjust to remote learning, I expect the transition to be far from perfect, but I hope that we can work together and do our best given the circumstances.

- ZOOM BY VIDEO. Please join each class using video. This way, you can see the lecture slides and we can interact with each other. If you are unable to join using video, please let me know so I am aware that your only option is to join by audio
- MUTE/UNMUTE. You will be muted upon entering our Zoom. Please keep yourself muted during lecture. Unmute yourself after you are called on. You can unmute yourself by clicking the microphone icon on your thumbnail or by holding down the space bar
- NAME. When you connect to Zoom, please make sure that your name is listed (First Last)
- QUESTIONS/COMMENTS. You can use the "Raise Hand" feature to indicate that you have a question/comment. To do so, click "Participants" on the bottom menu and then "Raise Hand" (you may need to hover over the Video to see the control panel). You can also ask a question or post a comment via chat. To do so, click "Chat" on the bottom menu and a dialog box will appear. I will do my best to address questions/comments in a timely manner
- LECTURE SLIDES. Lecture slides will be posted on Canvas after lecture
- RECORDING: Lectures will be recorded and posted on Canvas the weekend following the lecture (e.g., the lectures for Tuesday and Thursday or week 1 will be posted on Canvas the weekend of week 1)

## Readings (all readings posted on Canvas)

### Between Human Rights and Citizenship Rights

4/2-7 | **Hannah Arendt.** 1966. "The Decline of the Nation-State and the End of the Rights of Man." In *The Origins of Totalitarianism*.

#### Recommended

Marie-Benedicte Dembour and Tobias Kelly. 2011. "Introduction." In *Are Human Rights For Migrants*. Routledge.

Seyla Benhabib. 2004. *The Rights of Others: Aliens, Residents, and Citizens*. Cambridge University Press.

Kristen Hill Maher. 2002. "Who Has a Right to Rights? Citizenship's Exclusions in an Age of Migration." In *Globalization and Human Rights*.

Monika Krause. 2008. "Undocumented Migrants: An Arendtian Perspective." *European Journal of Political Theory* 7(3): 331-348.

Ayelet Shachar. 2009. *The Birthright Lottery: Citizenship and Global Inequality*. Harvard University Press.

Review Symposium: Citizenship in an Unequal World. 2011. *Perspectives on Politics* 9(3): 621-637.

### What Are the Human Rights of Migrants?

4/7-9 | **Stefanie Grant.** 2011. "The Recognition of Migrants' Rights Within the UN Human Rights System: The First 60 Years." In *Are Human Rights For Migrants*. Routledge.

**United Nations Office of the High Commissioner for Human Rights (OHCHR).** 2005. *The International Convention on Migrant Workers and Its Committee*.

#### Recommended

United Nations Economic and Social Council (ECOSOC). 1972. *Exploitation of Labour Through Illicit and Clandestine Trafficking*.

United Nations Economic and Social Council (ECOSOC). 2010 (E/2010/89). *Report of the United Nations High Commissioner for Human Rights*.

Linda Bosniak. 1991. "Human Rights, State Sovereignty and the Protection of Undocumented Migrants under the International Migrant Workers Convention." *International Migration Review* 25(4): 737-770.

Amnesty International (AI). 2006. *Living in the Shadows: A Primer on the Human Rights of Migrants*. International Migrant Bill of Rights (IMBR).

<http://www.law.georgetown.edu/academics/centers-institutes/isim/imbr/upload/IMBR-Text.pdf>

### Protecting the Human Rights of Migrants

4/14-16 | **Euan MacDonald and Ryszard Cholewinski.** 2007. *The Migrant Workers Convention in Europe: Obstacles to the Ratification of the International Convention on the Rights of All Migrant Workers and Members of Their Families*.

**United Nations Human Rights Council (HRC).** 2016 (A/HRC/29/36). *Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau*.

**United Nations Human Rights Council (HRC).** 2011 (A/HRC/14/30.Add.1). *Report of the Special Rapporteur on the Human Rights of Migrants, Jorge Bustamante. Addendum: Communications Sent to Governments and Replies Received*.

**United Nations General Assembly.** 2018. *Global Compact for Safe, Orderly and Regular Migration*.

**Tom K. Wong.** 2015. *Rights, Deportation, and Detention in the Age of Immigration Control*. Stanford University Press. **"Human Rights and Immigration Control Wrongs" (optional) (see p. 48-64)**

### Recommended

- Emilie Hafner-Burton and Kiyoteru Tsutsui. 2005. "Human Rights in a Globalizing World: The Paradox of Empty Promises." *American Journal of Sociology* 111(1): 1373-1411.
- Emilie Hafner-Burton and Kiyoteru Tsutsui. 2007. "Justice Lost: The Failure of International Human Rights Law to Matter Where Needed Most." *Journal of Peace Research* 44(4): 407-425.
- Oona A. Hathaway. 2002. "Do Human Rights Treaties Make a Difference?" *Yale Law Journal* 111(8): 1935-2042.

### Human Rights and Immigration Control Wrongs: Detention

- 4/21-23 | **United Nations High Commissioner for Refugees (UNHCR)**. 2011. *Back to Basics: The Right to Liberty and Security of Person and 'Alternatives to Detention' of Refugees, Asylum Seekers, Stateless Persons and Other Migrants*.
- European Court of Human Rights (ECtHR)**. 2011. *M.S.S. v. Belgium and Greece*.
- United Nations Human Rights Committee (UNHRC)**. 1997. (CCPR/C/59/D/560/1993). *A v. Australia*.
- Jesuit Refugee Service (JRS)**. 2010. *Becoming Vulnerable in Detention*.
- Amnesty International (AI)**. 2009. *Jailed Without Justice: Immigration Detention in the USA*.
- Tom K. Wong, Sebastian Bonilla, and Anna Coleman**. 2019. *Seeking Asylum: Part 1*. La Jolla, CA: U.S. Immigration Policy Center (USIPC) at UC San Diego.
- Tom K. Wong**. 2015. *Rights, Deportation, and Detention in the Age of Immigration Control*. Stanford University Press. **"Human Rights and Immigration Control Wrongs" (optional) (see p. 42-48) and "The Labyrinth of Immigration Detention," (see p. 109-126)**

### Recommended

- United Nations Commission on Human Rights (UNCHR). 2002 (E/CN.4/2003/8/Add.2). *Report of the Working Group on Arbitrary Detention: Addendum Visit to Australia*.
- United Nations High Commissioner for Human Rights (UNHCHR). 2012. *Guidelines to the Applicable Criteria and Standards Relating to the Detention of Asylum-Seekers and Alternatives to Detention*.
- United Nations Commission on Human Rights (UNCHR). 1999 (E/CN.4/2000/4). "Deliberation No. 5." In *Civil and Political Rights, Including Questions of Torture and Detention: Report of the Working Group on Arbitrary Detention*.
- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). 2013. "Immigration Detention." In *CPT Standards*.
- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). 2011. "Public Statement Concerning Greece." In *21st General Report of the CPT*.
- United States Customs and Immigration Enforcement Office of Professional Responsibility (ICEOPR). 2009. *Report of Investigation: NG, Hiuli/Unknown/Incident Critical/Significant/CENTRAL FALLS, PROVIDENCE, RI*.
- U.S. Immigration and Customs Enforcement (ICE). *Death Detainee Report*.  
<https://www.ice.gov/death-detainee-report>
- Nina Bernstein. 2008, May 5. Few Details on Immigrants Who Died in Custody. *New York Times*.
- Nina Bernstein. 2010, January 9. Officials Hid Truth of Immigrant Deaths in Jail. *New York Times*.
- BBC News. 2006, September 16. *Hanged Detainee Aimed to Save Son*.
- Michael Flynn. 2012. "Who Must Be Detained? Proportionality as a Tool for Critiquing Immigration Detention Policy." *Refugee Studies Quarterly* 31(3): 40-68.
- Mary Bosworth and Emma Kaufman. 2011. *Foreigners in a Carceral Age: Immigration and Imprisonment in the U.S.*

Human Rights and Immigration Control Wrongs: Deportation

- 4/28-30 | **United Nations Office of the High Commissioner for Human Rights (OHCHR).** 2006. *Expulsion of Aliens in International Human Rights Law.*
- California State Legislature.** 2005. "Apology Act for the 1930s Mexican Repatriation Program."
- United States Coast Guard (USCG).** n.d. *What was the Coast Guard's Role in the SS St. Louis Affair, Often Referred to as "The Voyage of the Damned"?*
- Human Rights Watch.** 2009. *Pushed Back, Pushed Around.*
- Tom K. Wong.** 2015. *Rights, Deportation, and Detention in the Age of Immigration Control.* Stanford University Press. **"Human Rights and Immigration Control Wrongs" (optional) (see p. 37-42) and "Deportation Nations" (see p. 65-71)**

Recommended

- J. Otto Pohl. 1999. *Ethnic Cleansing in the USSR, 1937-1949.* Praeger. "Koreans" and "Chechens and Ingush."
- Francisco E. Balderrama and Raymond Rodríguez. 2006. *Decade of betrayal: Mexican repatriation in the 1930s.* University of New Mexico Press.
- European Parliament. 2010. *European Parliament Resolution of 9 September 2010 on the Situation of Roma and on Freedom of Movement in the European Union.*
- Kim Willsher. 2010, September 13. France's Deportation of Roma Shown to be Illegal in Leaked Memo. *The Guardian.*
- Sam Quinones. 2007, August 8. Disabled Man Found After 89-Day Ordeal. *Los Angeles Times.*
- Julia Preston. 2011, December 13. Immigration Crackdown Also Snares Americans. *New York Times.*
- Randolph Capps et al. 2007. *Paying the Price: The Impact of Immigration Raids on America's Children.*
- U.S. Government and Accountability Office (GAO). 2020. *Southwest Border: Actions Needed to Improve DHS Processing of Families and Coordination Between DHS and HHS.*
- Bridget Anderson, Matthew J. Gibney, and Emanuela Paoletti. 2011. "Citizenship, Deportation, and the Boundaries of Belonging." *Citizenship Studies* 15(5): 547-563.
- Daniel Kanstroom. 1999. Deportation, Social Control, and Punishment: Some Thoughts About Why Hard Laws Make Bad Cases. *Harvard Law Review* 113(1): 1890-1935.
- Daniel Kanstroom. 2007. "Post-Deportation Human Rights Law: Aspiration, Oxymoron or Necessity?" *Stanford Journal of Civil Rights and Civil Liberties* 3 (1): 195-232.

Midterm Review 5/5

Midterm 5/7

International Refugee Law & Policy

- 5/12-14 | **Guy S. Goodwin-Gill.** 2008. *Convention Relating to the Status of Refugees.*
- James Hathaway.** 2005. "The Evolution of the Refugee Rights Regime." In *The Rights of Refugees Under International Law.*
- United Nations High Commissioner for Refugees (UNHCR).** 1997. *UNHCR Note on the Principle of Non-Refoulement.*
- United Nations High Commissioner for Refugees (UNHCR).** n.d. Syria Regional Refugee Response. <http://data.unhcr.org/syrianrefugees/regional.php>

Recommended

- United Nations General Assembly. 2018. *Global Compact on Refugees.*
- United Nations High Commissioner for Refugees (UNHCR). 2017. *A Guide to International Refugee Protection and Building State Asylum Systems.*
- Council of Europe. 2010. *Asylum and the European Convention on Human Rights.*

- European Union Agency for Fundamental Rights (FRA). 2013. *Handbook on European Law Relating to Asylum, Borders, and Immigration*.
- Alexander Betts. 2009. *Forced Migration and Global Politics*.
- Thomas Gammeltoft-Hansen. 2014. "International refugee law and refugee policy: the case of deterrence policies." *Journal of Refugee Studies* 27(4): 574-595.

### International Refugee Resettlement

- 5/19-21 | **United Nations High Commissioner for Refugees (UNHCR)**. 2019. *UNHCR Projected Global Resettlement Needs 2020*.
- United Nations High Commissioner for Refugees (UNHCR)**. n.d. Syria Regional Refugee Response. <http://data.unhcr.org/syrianrefugees/regional.php>

#### Recommended

- United Nations. 2019. *Regional Refugee and Resilience Plan 2019-20 In Response to the Syria Crisis*.
- Gil Loescher, Alexander Betts, and James Milner. 2008. *The United Nations High Commissioner for Refugees (UNHCR): The Politics and Practice of Refugee Protection into the 21<sup>st</sup> Century*.
- Matthew J. Gibney. 2004. *The Ethics and Politics of Asylum: Liberal Democracy and the Response to Refugees*. Cambridge University Press.
- Timothy Hatton. 2009. "The Rise and Fall of Asylum: What Happened and Why?" *The Economic Journal* 119(535): 183-213.
- Eric Neumayer. 2004. "Asylum Destination Choice: What Makes Some West European Countries More Attractive Than Others?" *European Union Politics* 5(2): 155-180.

### U.S. Refugee Law & Policy

- 5/26 | **United States Department of State**. 2018. Proposed Refugee Admissions for Fiscal Year 2019.
- White House**. 2019. *Presidential Determination on Refugee Admissions for Fiscal Year 2020*.  
<https://www.whitehouse.gov/presidential-actions/presidential-determination-refugee-admissions-fiscal-year-2020/>
- U.S. Congressional Research Service (CRS)**. 2018. *Refugee Admissions and Resettlement Policy. Refugee Act of 1980*.  
<https://www.gpo.gov/fdsys/pkg/STATUTE-94/pdf/STATUTE-94-Pg102.pdf>

#### Recommended

- American Immigration Council (AIC). 2020. *An Overview of U.S. Refugee Law and Policy*.
- Donald Kerwin. 2012. "The faltering US refugee protection system: Legal and policy responses to refugees, asylum-seekers, and others in need of protection." *Refugee Survey Quarterly* 31(1): 1-33.
- Jaya Ramji-Nogales, Andrew I. Schoenholtz, and Philip G. Schrag. 2011. *Refugee roulette: Disparities in asylum adjudication and proposals for reform*. NYU Press.

### U.S. Asylum Law & Policy: "Remain in Mexico"

- 5/28 | **U.S. Department of Homeland Security (DHS)**. 2019. *Migrant Protection Protocols*.  
<https://www.dhs.gov/news/2019/01/24/migrant-protection-protocols>
- U.S. Department of Homeland Security (DHS)**. 2019. *Policy Guidance for Implementation of the Migrant Protection Protocols*.  
[https://www.dhs.gov/sites/default/files/publications/19\\_0129\\_OPA\\_migrant-protection-protocols-policy-guidance.pdf](https://www.dhs.gov/sites/default/files/publications/19_0129_OPA_migrant-protection-protocols-policy-guidance.pdf)
- Kshatriya, Krista, and S. Deborah Kang**. 2019. *Walls to Protection: The Grim Reality of Trump's "Remain in Mexico" Policy*. La Jolla, CA: U.S. Immigration Policy Center (USIPC) at UC San Diego.

**Tom K. Wong and Vanessa Ceceña.** 2019. *Seeking Asylum: Part 2.* La Jolla, CA: U.S. Immigration Policy Center (USIPC) at UC San Diego.

Recommended

Brief Of Amicus Curiae Local 1924 In Support Of Plaintiffs-Appellees' Answering Brief And Affirmance Of The District Court's Decision.

<https://assets.documentcloud.org/documents/6172520/Local-1924-Amicus-Brief.pdf>

U.S. Congressional Research Service (CRS). 2019. "Migrant Protection Protocols": Legal Issues Related to DHS's Plan to Require Arriving Asylum Seekers to Wait in Mexico.

Human Rights First. n.d.. *Delivered to Danger*

<https://www.humanrightsfirst.org/campaign/remain-mexico>

Human Trafficking

6/2 |

**United Nations Office on Drugs and Crime (UNODC).** 2016. *Global Report on Trafficking in Persons.*

**United States Department of State.** 2016. *Trafficking in Persons Report.*

**United Nations Office of the High Commissioner for Human Rights (OHCHR).** 2014. *Human Rights and Human Trafficking.*

**James Hathaway.** 2008. "The Human Rights Quagmire of Human Trafficking." *Virginia Journal of International Law* 49 (1): 1-59.

**Anne Gallagher.** 2009. "Human Rights and Human Trafficking: A Quagmire or Firm Ground? A Response to James Hathaway." *Virginia Journal of International Law* 49 (4): 789-848.

Recommended

Alison Brysk and Austin Choi-Fitzpatrick (eds.). 2012. *From Human Trafficking to Human Rights: Reframing Contemporary Slavery.* University of Pennsylvania Press.

Seo-Young Cho. 2012. *Modeling for Determinants of Human Trafficking.* *Economics of Security* Working Paper 70.

Anne Gallagher. 2001. "Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis." *Human Rights Quarterly* 23(4): 975-1004.

Anne Gallagher. 2002. "Trafficking, Smuggling and Human Rights: Tricks and Treaties." *Forced Migration Review* 12(25): 8-36.

Janice Raymond. 2002. "The New UN Trafficking Protocol." *Women's Studies International Forum* 25(5): 491-502.

Jo Doezema. 2005. "Now You See Her, Now You Don't: Sex Workers at the UN Trafficking Protocol Negotiation." *Social & Legal Studies* 14(1): 61-89.

Kara Abramson. 2003. "Beyond Consent: Implementing the United Nations Trafficking Protocol." *Harvard International Law Journal* 44(1): 473.

*Final Review 6/4*

*Final 6/9*

United Nations & Other International Rights Frameworks

- International Convention on the Rights of All Migrant Workers and Members of Their Families (ICRMW). 1990.
- Declaration on the Human Rights of Individuals Who are Not Nationals of the Country in which They Live. 1985.
- Convention Relating to the Status of Refugees (Refugee Convention). 1951.
- Protocol Relating to the Status of Refugees 1967.
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol). 2000.
- Protocol Against the Smuggling of Migrants by Land, Sea and Air. 2000.
- Universal Declaration of Human Rights (UDHR). 1948.
- African Charter on Human and Peoples' Rights. 1981.
- American Convention on Human Rights. 1966.
- European Convention on Human Rights. 1950.