

International Human Rights Law: Rights of Migrants. Winter 2014

Instructor: Tom K. Wong

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Office Hours: Thursdays 10AM – 12PM

Additional Office Hours

- Skype (tomkwong_ucsd) Hours: by appointment (email me to set up a date and time)
- Coffee Shop Hours: Tuesdays 10AM – 12PM (location changes, please email to set up a date and time)

Requirements

- Midterm, 2/7/14, (multiple-choice and short-answer questions) 30%
- Final Exam, 3/21/14, (multiple-choice, short-answer, and essay questions) 40%
(Comprehensive)
- Paper 20%
- Lecture Participation 10%

Readings (all readings posted on TED)

Note on readings: The majority of what you will need to know for your exams will come from lecture. I thus recommend skimming through the readings prior to each unit (e.g., review the *What Are the Human Rights of Migrants* readings before week 2). As we go through each lecture, note to yourself which readings are discussed most prominently. When it comes time for your exams – (1) attending lecture, (2) reviewing the lecture slides (which will be posted on TED), and (3) carefully reviewing the readings that feature most prominently in the lectures – provides one recipe for success.

Between Human Rights and Citizenship Rights

- Week 1 | **Marie-Benedicte Dembour and Tobias Kelly.** 2011. "Introduction." In *Are Human Rights For Migrants*.
- Seyla Benhabib.** 2004. "Introduction," "On Hospitality," and "The Right to Have Rights" (3 chapters, pages 1-69). In *The Rights of Others: Aliens, Residents, and Citizens*.
- Joe Carens.** 2008. "The Rights of Irregular Migrants." *Ethics & International Affairs* 22 (2): 163-186.

Recommended

- Hannah Arendt.** 1966. "The Decline of the Nation-State and the End of the Rights of Man." In *The Origins of Totalitarianism*.
- Makau Mutua.** 2001. "Savages, Victims, and Saviors: The Metaphor of Human Rights." *Harvard International Law Journal* 42 (1): 201-245.
- Christina Boswell.** 2008. "The Elusive Rights of an Invisible Population." *Ethics and International Affairs* 22 (2): 187-192.
- Joe Carens.** 1987. "Aliens and Citizens: The Case for Open Borders." *The Review of Politics* 49 (2): 251-273.
- David Cole.** 2006. "The Idea of Humanity: Human Rights and Immigrants' Rights." *Columbia Human Rights Law Review* 37 (1): 627-658.
- Monika Krause.** 2008. "Undocumented Migrants: An Arendtian Perspective." *European Journal of Political Theory* 7 (3): 331-348.

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

What Are the Human Rights of Migrants?

- Week 2 | **Stefanie Grant.** 2011. "The Recognition of Migrants' Rights Within the UN Human Rights System: The First 60 Years." In *Are Human Rights For Migrants*.
- Euan MacDonald & 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 Office of the High Commissioner for Human Rights (OHCHR).** 2005. *The International Convention on Migrant Workers and Its Committee*. United Nations.
- International Migrant Bill of Rights (IMBR).**
<http://www.law.georgetown.edu/academics/centers-institutes/isim/imbr/upload/IMBR-Text.pdf>

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*.

Protecting the Human Rights of Migrants

- Week 3-4 | **United Nations Office of the High Commissioner for Human Rights (OHCHR).** 2013. *Migration and Human Rights: Improving Rights-Based Governance of International Migration*.
- United Nations Human Rights Council (HRC).** 2011 (A/HRC/17/33). *Report of the Special Rapporteur on the Human Rights of Migrants, Jorge Bustamante*.
- 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.** 2013 (A/68/292). *Promotion and Protection of Human Rights, Including Ways and Means to Promote the Human Rights of Migrants: Report of the Secretary-General*.

Recommended

- Emilie Hafner-Burton & 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 & 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.
- Yasemin Soysal.** 1994. *Limits of Citizenship: Migrants and Postnational Membership in Europe*. Chicago, IL: University of Chicago Press.
- Saskia Sassen.** 2003. "The Repositioning of Citizenship: Emergent Subjects and Spaces for Politics." *The New Centennial Review* 3 (2): 41-66.

Virginie Guiraudon & Gallya Lahav. 2000. A Reappraisal of the State Sovereignty Debate: The Case of Migration Control. *Comparative Political Studies* 33 (2): 163-195.

Human Rights and Immigration Control: Detention

Week 4-5 | **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.*
Amnesty International (AI). 2009. *Jailed Without Justice: Immigration Detention in the USA.*
Jesuit Refugee Service (JRS). 2010. *Becoming Vulnerable in Detention.*
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 Human Rights Committee (UNHRC). 1997. (CCPR/C/59/D/560/1993). *A v. Australia.*
European Court of Human Rights (ECtHR). 2011. *M.S.S. v. Belgium and Greece.*

Recommended

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, Hiuliu/Unknown/Incident Critical/Significant/CENTRAL FALLS, PROVIDENCE, RI.*
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 & Emma Kaufman. 2011. *Foreigners in a Carceral Age: Immigration and Imprisonment in the U.S.*
Michael Welch & Liza Schuster. 2005. "Detention of Asylum Seekers in the US, UK, France, Germany, and Italy: A critical View of the Globalizing Culture of Control." *Criminal Justice* 5 (4): 331-355.
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.*

Midterm Review 2/5/14

Midterm 2/7/14

Human Rights and Immigration Control: Deportation

Week 6 |

J. Otto Pohl. 1999. "Koreans" and "Chechens and Ingush." In *Ethnic Cleansing in the USSR, 1937-1949*.

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"?*

California State Legislature. 2005. "Apology Act for the 1930s Mexican Repatriation Program."

Daniel Kanstroom. 2007. "Post-Deportation Human Rights Law: Aspiration, Oxymoron or Necessity?" *Stanford Journal of Civil Rights and Civil Liberties* 3 (1): 195-232.

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*.

CNN World. 2010, September 14. *European Commission Blasts France's Deportation of Roma*.

Julia Preston. 2011, December 13. Immigration Crackdown Also Snares Americans. *New York Times*.

Sam Quinones. 2007, August 8. Disabled Man Found After 89-Day Ordeal. *Los Angeles Times*.

Gianluca Gentili. 2010. "European Court of Human Rights: An Absolute Ban on Deportation of Foreign Citizens to Countries Where Torture or Ill-Treatment is a Genuine Risk." *International Journal of Constitutional Law* 8 (2): 311-322.

Human Rights Watch. 2009. *Pushed Back, Pushed Around*.

Recommended

Daniel Kanstroom. 1999. Deportation, Social Control, and Punishment: Some Thoughts About Why Hard Laws Make Bad Cases. *Harvard Law Review* 113 (1): 1890-1935.

Wayne Cornelius. 2005. "Controlling 'Unwanted; Immigration: Lessons from the United States, 1993-2004." *Journal of Ethnic and Migration Studies* 31 (4): 775-79.

Jonathan Baum. 2010. *In the Child's Best Interest? The Consequences of Losing a Lawful Immigrant Parent to Deportation*.

Bridget Anderson, Matthew J. Gibney, and Emanuela Paoletti. 2011. "Citizenship, Deportation, and the Boundaries of Belonging." *Citizenship Studies* 15 (5): 547-563.

Randolph Capps et al. 2007. *Paying the Price: The Impact of Immigration Raids on America's Children*.

Human Rights Watch (HRW). 2010. *Fast-Tracked Unfairness: Detention and the Denial of Asylum Seekers in the UK*.

International Refugee Law

Week 7-8 |

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). 2012. *The State of the World's Refugees: In Search of Solidarity*.

Eiko Thielemann. 2004. "Does Policy Matter? On Governments' Attempts to Control Unwanted Migration." *Center for Comparative Immigration Studies Working Paper* 112.

United Nations High Commissioner for Refugees (UNHCR). 2013. *UNHCR Projected Global Resettlement Needs*.

United Nations. 2013. *2014 Syria Regional Response Plan*.

United Nations High Commissioner for Refugees (UNHCR). n.d. Syria Regional Refugee Response. <http://data.unhcr.org/syrianrefugees/regional.php>.

Recommended

Alexander Betts. 2009. *Forced Migration and Global Politics*.

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 21st Century*.

Matthew J. Gibney. 2004. *The Ethics and Politics of Asylum: Liberal Democracy and the Response to Refugees*.

Timothy Hatton. 2009. "The Rise and Fall of Asylum: What Happened and Why?" *The Economic Journal* 119 (535): 183-213.

Jennifer Hyndman & Alison Mountz. 2008. "Another Brick in the Wall? Neo-Refolement and the Externalization of Asylum by Australia and Europe." *Government and Opposition* 43 (2): 249-269.

Eric Neumayer. 2004. "Asylum Destination Choice: What Makes Some West European Countries More Attractive Than Others?" *European Union Politics* 5 (2): 155-180.

Elizabeth Holzer. 2013. "What Happens to Law in a Refugee Camp?" *Law & Society* 47 (4): 837-872.

United Nations High Commissioner for Refugees (UNHCR). 2013. *The Future of Syria: Refugee Children in Crisis*.

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*.

Human Trafficking

Week 8-9 |

United Nations Office on Drugs and Crime (UNODC). 2012. "Introduction," "Patterns and Flows of Trafficking in Persons: Global Overview," and "Global Responses." In *Global Report on Trafficking in Persons*.

U.S. Department of State. 2013. *Trafficking in Persons Report*.

United Nations Office of the High Commissioner for Human Rights (OHCHR). 2002 (E.2002.68.Add.1). *Recommended Principles and Guidelines on 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

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.

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.

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

Alison Brysk & Austin Choi-Fitzpatrick (eds.). 2012. *From Human Trafficking to Human Rights: Reframing Contemporary Slavery*.

Wrap Up

Week 10 | TBA

Final Review 3/21/14

Final Exam 3/21/14 (11:30AM – 2:29PM)

United Nations and Other International Legal 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.