

Refugee Law & Policy
LAWJ-440-08
Fall 2011
Professor Tara Magner
Georgetown University Law Center

Syllabus

Contact Information:

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Office hours by appointment.

Casebook:

Forced Migration Law & Policy by Martin, Aleinikoff, Motomura, Fullerton (2007).

Other Assigned Reading:

Casebook Supplement (August 2010).

Loescher, *BEYOND CHARITY*, selected pages.

Note: These and other required readings can be found via GULC course materials or at the links provided in this syllabus.

Class participation:

Students are strongly encouraged to participate in class discussion on a regular basis.

Class participation will count for 20% of the final grade.

Final Exam: In-class open book exam. The exam will count for 80% of the final grade.

Laptop Computer Policy: In general, the use of laptop computers is not allowed in this course.

CLASS 1. SEPTEMBER 1, 2011

Course Introduction: The Nature of Forced Migration.

- Casebook pp. 1-26.
- See Casebook Supplement for modifications to readings—
 - p. 11 (insert at end of note 2)
 - p. 15 (insert text prior to Table 1.1, substitute Tables 1.1, 1.2)
 - p. 22 (insert text at end of page)
 - p. 26 (substitute for Tables 1.6, 1.7).
- U.N. Convention Relating to the Status of Refugees, especially Articles I and 33, available at <http://www.unhcr.org/3b66c2aa10.html>.

CLASS 2. SEPTEMBER 8, 2011

The Origins of Modern Refugee Law; The Legal Framework for Protection.

- Casebook pp. 28-42; 68-71.
- Loescher, pp. 34-48; 55-74.

CLASS 3. SEPTEMBER 15, 2011

Adjudicating Asylum Claims in the United States.

- Casebook pp. 71-88.
- See Casebook Supplement for modifications to readings—
 - p. 86 (insert text prior to “b. Review Standards”)
 - p. 87 (insert text prior to “Notes”).
- Review Standards: Example of application in *Kang v. Attorney General of U.S.*, 611 F.3d 157, (3d Cir. 2010). Skim case for facts, but pay attention to standard of review.
- *Chevron* deference: *Negusie v. Holder*, 129 S. Ct. 1159 (2009), read majority opinion by Justice Kennedy and partial concurrence/partial dissent by Justice Stevens, available at <http://www.supremecourtus.gov/opinions/08pdf/07-499.pdf>.

The Asylum Process.

- Immigration and Nationality Act § 208 (8 U.S.C. § 1158), available at http://www.law.cornell.edu/uscode/8/usc_sec_08_00001158----000-.html.
- Procedures for Asylum, 8 C.F.R. § 208.9, available at <http://www.gpoaccess.gov/cfr/retrieve.html>.

CLASS 4. SEPTEMBER 22, 2011

The Asylum Process: Credibility & Corroboration.

- Casebook pp. 538-48; 559-67.
- See Casebook Supplement for modifications to readings—
 - p. 559 (insert begins after note 5 and prior to “b. Corroboration”)
 - p. 567 (insert begins before “SECTION C. ASYLUM ADJUDICATION...”).

Persecution Standard.

- Casebook pp. 96-119.
- See Casebook Supplement for modifications to reading—
 - p.106 (insert begins after note 4).

CLASS 5. SEPTEMBER 29, 2011

Level of Risk; Individualized Threat.

- Casebook pp. 142-159.

The Asylum Application & Hearing.

- Casebook pp. 573-587.
- “Establishing Eligibility for Asylum,” 8 C.F.R. 208.13, *available at* <http://www.gpoaccess.gov/cfr/retrieve.html>.

CLASS 6. OCTOBER 6, 2011

Past Persecution.

- *Matter of Chen*, 20 I. & N. Dec. 16 (BIA 1989) *available at* <http://www.usdoj.gov/eoir/vll/intdec/vol20/3104.pdf>.
- Casebook pp. 171-88.
- See Casebook Supplement for modifications to readings—
 - p. 176 (insert begins before notes)
 - p. 186 (insert begins at end of opinion).

The Grounds of Persecution: Race, Nationality & Religion.

- Casebook pp. 230-55.

CLASS 7. OCTOBER 13, 2011

The Grounds of Persecution: Political Opinion.

- Casebook pp. 191-229.
- See Casebook Supplement for modifications to reading—
 - p. 229 (insert prior to “Exercise”).
- *Martinez-Buendia v. Holder*, 616 F.3d 711 (7th Cir. 2010).

CLASS 8. OCTOBER 20, 2011

The Grounds of Persecution: Membership in a Particular Social Group.

- Casebook pp. 255-264 (*Matter of Acosta*, *Matter of Toboso-Alfonso*).
- Casebook pp. 281-285 (*Matter of C-A-*).
- *Matter of E-A-G-*, 24 I. & N. Dec. 591 (BIA 2008), read excerpts in course materials.
- *Gatimi v. Holder*, 578 F.3d 611 (7th Cir. 2009), read excerpts in course materials.
- *Benitez Ramos v. Holder*, 589 F.3d 426 (7th Cir. 2009), read excerpts in course materials.
- *Matter of R-A-*, 22 I. & N. Dec. 906 (BIA 2009), read excerpts in course materials.
- Discussion of *Romeike* case:
 - “Judge Grants Asylum to German Home Schoolers,” *New York Times*, Feb. 28, 2010, available at [http://www.nytimes.com/2010/03/01/us/01homeschool.html?sq=judge grants asylum to german home schooler&st=cse&scp=1&pagewanted=print](http://www.nytimes.com/2010/03/01/us/01homeschool.html?sq=judge+grants+asylum+to+german+home+schooler&st=cse&scp=1&pagewanted=print).
 - Case update on website of Home School Legal Defense Association: <http://www.hslda.org/hs/international/Germany/20103220.asp>.

CLASS 9. OCTOBER 27, 2011

Membership in a Particular Social Group: Gender-Based Asylum.

Required:

- Casebook pp. 302-307 (*Matter of Kasinga*, majority opinion only).
- Skim casebook pp. 178-186 (Briefly review *Matter of Y-T-L-* as necessary to understand *Matter of A-T-*).
- *In re A-T-*, 24 I&N Dec. 296 (BIA 2007), read excerpts in course materials. (Note: This is the BIA opinion).
- *Matter of A-T-*, 24 I & N Dec. 617 (A.G. 2008) (Note: This is the Attorney General opinion).
- DHS 2009 Brief in Case (Title Redacted) on Domestic Violence Cases, April 13, 2009, pp 1-21 only, available at <http://www.refugees.org/resources/for-lawyers/asylum-research/domestic-violence-based-asylum/immigration-judge.html>.
- “Asylum Granted to Mexican Woman in Case Setting Standard on Domestic Abuse,” *New York Times*, Aug. 12, 2010, available at <http://www.nytimes.com/2010/08/13/us/politics/13asylum.html?scp=1&sq=musal&st=cse>.
- *Perdomo v. Holder*, 611 F.3d 662, (9th Cir. 2010). Read Discussion section; skim other sections.

CLASS 10. NOVEMBER 3, 2011

GUEST LECTURER HEIDI ALTMAN, CLINICAL TEACHING FELLOW, CALS CLINIC

Bars to Asylum: Filing Deadline; Third Country Transit; Firm Resettlement; Persecutor Bar; Terrorism Bars.

- Casebook pp. 368-385; 404-410; 411– 414; 420-28.
- See Casebook Supplement for modifications to readings—
 - p. 381 (insert begins prior to “Notes & Questions”)
 - p. 381 (insert replaces note 5)
 - p. 410 (insert adds a new note 6)
 - p. 427 (insert replaces note 7)
 - p. 427 (insert replaces note 8)
 - p. 428 (insert at end of note 9)
 - p. 428 (insert following note 9).
- *Ali v. Achim*, 468 F.3d 462 (7th Cir. 2007); read all but section IIB. (This case is not in the GULC course materials. Please download it on your own.)
- *Skim Negusie v. Holder*, 129 S. Ct. 1159 (2009), originally assigned for Class 3; available at <http://www.supremecourt.us/opinions/08pdf/07-499.pdf>.

Optional: Skim summary of Human Rights First report on terrorism bars, available at <http://www.humanrightsfirst.info/pdf/RPP-DelayandDenial-sum-doc-111009-web.pdf>.

CLASS 11. NOVEMBER 10, 2011

Restrictions on Access to the Asylum Procedure: Asylum Seekers at Sea.

- Casebook pp. 594-619; 735-49.
- See Casebook Supplement for modifications to readings—
 - p. 612 (insert text prior to “Comparative Perspectives”)
 - p. 614 (insert text prior to “b. United Kingdom”).

CLASS 12. NOVEMBER 17, 2011

**GUEST LECTURER GEOFFREY HEEREN, CLINICAL TEACHING FELLOW, CALS CLINIC,
FOR DISCUSSION ON TORTURE**

Convention Against Torture.

Required:

- Casebook pp. 449-455 (Introduction to U.S implementation of Torture Convention).
- Casebook pp. 468-75 (*Matter of M-B-A-*).
- Casebook pp. 475-78 (*Matter of J-F-F-*).
- *Khouzam v. Chertoff*, 549 F.3d 235 (3d. Cir. 2008), read excerpts in course materials.

Optional: Review from Class 3

- *Kang v. Attorney General of U.S.*, 611 F.3d 157 (3d Cir. 2010) (for critique of U.S. government’s presentation of evidence).

Protracted Refugee Situations.

- UNHCR, The State of the World's Refugees, Chapter 5: Protracted Refugee Situations: The Search for Practical Solutions, *available at* <http://www.unhcr.org/4444afcb0.html>.

Durable Solutions.

- Casebook pp. 659-660.
- See Casebook Supplement for readings to replace casebook pp. 660-663 (UNHCR Global Refugee Trends).
- Casebook pp. 663-664.

CLASS 13. DECEMBER 1, 2011

Refugee Resettlement.

Casebook pp. 668-675; 685-690; 693-699.

Ideology in Refugee Admissions.

- Casebook pp. 699-702.

Reform proposals.

- Casebook pp. 702-716.

Course Evaluations