

Professional Linkage Seminar: Refugee Law & Policy
Northwestern University
INTL_ST Catalog Number: 394-0-21; Class Number 27360
Professor Tara Magner
Winter 2012

Syllabus

Contact Information:

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Reading Assignments:

Part of the reading for this course will include legal cases, statutes, regulations, and conventions, which are available on the Blackboard site for this class. Cases have been excerpted into short form.

Other assigned readings (book chapters, articles, essays, et cetera) are available in a course package.

For each class session, there is likely to be a mix of Blackboard and course package readings assigned.

Class Participation: Students are expected to attend each class, be prepared, and fully participate in class discussions. Failure to participate on a regular basis will affect a student's final grade.

Final Exam: In-class open book exam.

Laptop Computer Policy: In general, the use of laptop computers is not allowed in this course. One or two students may take notes on a laptop in each class session, and those electronic notes may be shared with all students. A sign-up sheet for note-takers will be circulated during the first class session.

CLASS 1. JANUARY 6, 2012

The Nature of Forced Migration, the Origins of Modern Refugee Law, and the Legal Framework for Protection.

- Gil Loescher, BEYOND CHARITY: INTERNATIONAL COOPERATION AND THE GLOBAL REFUGEE CRISIS, pp. 34-48; 55-74.
- U.N. Convention Relating to the Status of Refugees, focus especially on Articles I and 33.
- Rosenberg, Tina, "For Refugees, the Price of Dignity," *New York Times*, September 1, 2011.

CLASS 2. JANUARY 13, 2012

Part 1: Adjudication of Asylum Claims; Standards of Review

- FORCED MIGRATION Casebook pp 71-88.
- *Chevron* deference: *Negusie v. Holder*, 129 S. Ct. 1159 (2009). Read majority opinion by Justice Kennedy and partial concurrence/partial dissent by Justice Stevens. Other portions are optional for Class 2, but assigned for Class 6.
- Review in class:
 - Immigration and Nationality Act § 101(a)(42) (8 USC 1101(a)(42)) (Definition of refugee).
 - Immigration and Nationality Act § 208 (8 USC § 1158) (Statute for asylum).
 - Immigration and Nationality Act § 241(b)(3); 8 USC § 1231(b)(3) (Statute for withholding of removal).
 - 8 C.F.R. § 208.9 (The Asylum Interview).
 - 8 C.F.R. § 208.13 (Establishing Eligibility for Asylum).
 - 8 C.F.R. § 208.16 (Withholding of Removal)

Part 2: Evidentiary Standards; Credibility; Corroboration

- *Matter of Dass*, 20 I & N Dec. 120 (BIA 1989).
- *Zarouite v. Gonzales*, 424 F.3d 60 (1st Cir. 2005).
- *Matter of M-D-*, 21 I & N Dec. 1180 (BIA 1998).
- *Diallo v. INS*, 232 F.3d 279 (2d Cir. 2000).
- *Matter of Mogharrabi*, 19 I & N Dec. 439 (BIA 1987).
- *In re J-Y-C-*, 24 I & N Dec. 260 (BIA 2007).
- *El Moussa v. Holder*, 569 F.3d 250 (6th Cir. 2009).
- Suketu Mehta, "The Asylum Seeker," *The New Yorker*, August 1, 2011.

CLASS 3. JANUARY 20, 2012

Part 1: What Rises to the Level of Persecution?

- *Matter of Chang*, 20 I & N Dec. 38 (BIA1989).
- *Pitcherskaia v. INS*, 118 F.3d 641 (9th Cir. 1997).
- *In re Kasinga*, 21 I & N Dec. 357 (BIA en banc 1996).
- *Dwomoh v. Sava*, 696 F. Supp. 970 (SDNY 1988).

Part 2: Level of Risk Required for Asylum and Withholding of Removal

- *INS v. Stevic*, 467 U.S. 407 (1984).
- *INS v. Cardoza-Fonseca*, 480 U.S. 421 (1987).
- *Matter of Mogharrabi*, 19 I & N Dec. 439 (BIA 1987).

Part 3: Past Persecution; Well-Founded Fear of Future Persecution

- *Matter of Chen*, 20 I & N Dec. 16 (BIA 1989).
- *Matter of H-*, 21 I & N Dec. 337 (BIA 1996).
- *Matter of Y-T-L-*, 23 I & N Dec. 601 (BIA en banc 2003).
- *Matter of D-I-M*, 24 I & N Dec. 448 (BIA 2008).
- 8 C.F.R. § 208.13 (Establishing Eligibility; Past Persecution; Well Founded Fear).

CLASS 4. JANUARY 27, 2012

Part 1: The Bases of Persecution: Race, Religion, Nationality

- *Lie v. Ashcroft*, 396 F.3d 530 (3rd Cir. 2005).
- *Eduard v. Ashcroft*, 379 F.3d (5th Cir. 2004).
- *Tian-Yong Chen v. INS*, 359 F.3d 121 (2nd Cir. 2004).
- *Li v. Gonzales*, 420 F3d 500, vacated as moot, 429 F.3d 1153 (5th Cir. 2005).

Part 2: The Bases of Persecution: Political Opinion

- *Matter of Acosta*, 19 I & N Dec. 211 (BIA 1985).
- *Bolanos-Hernandez v. INS*, 767 F.2d 1277 (9th Cir. 1984).
- *Hernandez-Ortiz v. INS*, 777 F.2d 509 (9th Cir. 1985).
- *INS v. Elias Zacharias*, 502 U.S. 478 (1992).
- *Matter of R-*, 20 I & N Dec. 621 (BIA 1992).
- *Matter of S-P-*, 21 I & N Dec. 486 (BIA 1996).
- *Martinez-Buendia v. Holder*, 616 F.3d 711 (7th Cir 2010).
- Aguilar, Julian, "Mexican Journalist Wins Asylum in Texas," *Texas Tribune*, September 1, 2011.

Part 3: Mixed Motives; REAL ID Act Requirements

- *Sangha v. INS*, 103 F.3d 1482 (9th Cir. 1997).
- *Gafoor v. INS*, 231 F.3d 645 (9th Cir 2002).
- *Matter of J-B-N-, and S-M-*, 24 I & N Dec. 208 (BIA 2007).

CLASS 5. FEBRUARY 3, 2012

Part 1: The Bases of Persecution: Membership in a Particular Social Group

- *Matter of Acosta*, 19 I & N Dec. 211 (BIA 1985).
- *Sanchez-Trujillo v. INS*, 801 F.2d 1571 (9th Cir. 1986).
- *Hernandez Montiel*, 225 F.3d 1084 (9th Cir. 2000)
- *Matter of Toboso-Alfonso*, 20 I & N Dec. 819 (BIA 1990).
- *Matter of C-A-*, 23 I & N Dec. 951 (BIA 2006).
- *Matter of E-A-G-*, 24 I. & N. Dec. 591 (BIA 2008).
- *Gatimi v. Holder*, 578 F.3d 611 (7th Cir. 2009).
- *Benitez Ramos v. Holder*, 589 F.3d 426 (7th Cir. 2009).
- Pending cases:
 - Campbell, Robertson, “Judge Grants Asylum to German Homeschoolers,” *New York Times*, February 28, 2010.
 - “U.S. Immigration Opposes Asylum Decision,” Home School Legal Defense Association, March 22, 2010.
 - Discussion of pending trafficking case, *Demiraj v. Holder*, not assigned for reading.

Part 2: Gender-Based Claims Based on Membership in a Particular Social Group

- *In re Kasinga*, 21 I & N Dec. 357 (BIA en banc 1996).
- *Matter of A-T-*, 24 I & N Dec. 296 (BIA 2007).
- *Matter of A-T-*, 24 I & N Dec. 617 (A.G. 2008).
- *Matter of S-A-K- and H-A-H-*, 24 I & N Dec. 464 (BIA 2008).
- *Matter of R-A-*, 22 I & N Dec. 906 (BIA en banc 1999).
- *Matter of L-R-*, Brief for DHS, **Read only pp 1-21.**
- Discussion of recent cases on honor killing, femicide in Guatemala.
 - Preston, Julia, “Asylum Granted to Mexican Woman in Case Setting Standard on Domestic Abuse,” *New York Times*, August 12, 2010.

CLASS 6, FEBRUARY 10, 2012

Part 1: Protection under the Convention Against Torture

- *Matter of M-B-A*, 23 I. & N. Dec. 474 (BIA 2002).
- *Matter of J-F-F-*, 23 I. & N. Dec. 912 (BIA 2006).
- *Kang v. Attorney General*, 611 F.3d 157 (3d Cir. 2010).
- *Khouzam v. Chertoff*, 549 F.3d 235 (3d. Cir. 2008).
- Review in class:
 - 8 C.F.R. § 208.17 (Convention Against Torture Deferral of Removal).
 - 8 C.F.R. § 208.18 (Convention Against Torture Implementation).
- **Class 6 continued next page**

CLASS 6: Part 2: Bars to Asylum.

- Filing Deadline:
 - 8 CFR § 208.4 Filing the Application; One Year Filing Deadline
 - *Singh v. Holder*, 656 F.3d 1047 (9th Cir 2011).
- Firm Resettlement:
 - *Matter of Soleimani*, 20 I. & N. Dec. 99 (BIA 1989).
 - 8 CFR § 208.15 (Firm Resettlement)
- Persecutor Bar:
 - *Negusie v. Holder*, 129 S. Ct. 1159 (2009). **Review portions read from Class 2; read other concurrences and dissents not assigned for Class 2.**
- Terrorism Bar:
 - *Matter of S-K-*, 23 I. & N. Dec. 936 (BIA 2006).
 - Frosch, Dan, “Friends of U.S., Terrorists in Eyes of Law,” *New York Times*, October 13, 2011.
 - **Optional:** Summary of Human Rights First report on terrorism bars, available at <http://www.humanrightsfirst.info/pdf/RPP-DelayandDenial-sum-doc-111009-web.pdf>.

CLASS 7. FEBRUARY 17, 2012.

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

- FORCED MIGRATION Casebook pp. 592-597; 610-612.
- Presidential Proclamation 4865 (1981), “High Seas Interdiction of Illegal Aliens”.
- Executive Order 12324 (1981), “Interdiction of illegal aliens”.
- Executive Order 12807 - Interdiction of Illegal Aliens, May 24, 1992.
- *Sale v. Haitian Centers Council*, 509 U.S. 155 (1993).
- “*A Less than ‘Pacific’ Solution for Asylum Seekers in Australia*,” 16 INTERNATIONAL JOURNAL OF REFUGEE LAW 53 (2004).
- Siegel, Matt, “Australia Abandons Refugee Swap Plan,” *New York Times*, October 13, 2011.
- William Wheeler and Ayman Oghanna, “Libya’s Forgotten Refugees: After Liberation, Nowhere to Run,” *New York Times*, October 30, 2011

CLASS 8. FEBRUARY 24, 2012

Protracted Refugee Situations; Durable Solutions

- UNHCR, *The State of the World's Refugees*, Chapter 5: Protracted Refugee Situations: The Search for Practical Solutions.
- UN High Commissioner for Refugees, “*The End of History? Conflict, Displacement and Durable Solutions in the Post-Cold War Era*,” May 2011.
- FORCED MIGRATION Casebook pp. 702-716.
- Philip Gourevitch, “Alms Dealers,” *The New Yorker*, Oct. 11, 2010.

CLASS 9. MARCH 2, 2012.

Resettlement and Other Forms of Protection

- FORCED MIGRATION Casebook pp. 668-675.
- FORCED MIGRATION Casebook pp. 693-702 .
- David Martin, “The United States Refugee Admissions Program: Reforms for a New Era of Refugee Resettlement” (***Read Exec Summary only***).
- United Nations, Guiding Principles on Internal Displacement, September 2004.