

International Human Rights Law: Rights of Migrants. Spring 2015

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Office Hours: Tuesdays and Thursdays 2:00PM-3:00PM in SSB 363

Additional Office Hours

- Skype (tomkwong_ucsd): please email to set up date/time
- Coffee Shop Hours: Wednesdays 10:00AM-12:00PM (usually in North Park, please email in advance for location)

Requirements

- Midterm, 30%, 4/28 (multiple-choice, short-answer, and essay questions)
- Assignment 1, 5% (requires attendance)
- Assignment 2, 5% (requires attendance)
- Policy Memo, 20%, due 6/5 (prompt to be distributed during week 3)
- Cumulative Final Exam, 40%, 6/8 (multiple-choice, short-answer, and essay questions)

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 & Citizenship Rights

3/31 |

Hannah Arendt. 1966. “The Decline of the Nation-State and the End of the Rights of Man.” In *The Origins of Totalitarianism*.

Marie-Benedicte Dembour & Tobias Kelly. 2011. “Introduction.” In *Are Human Rights For Migrants*. Routledge.

Recommended

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*.

David Cole. 2006. “The Idea of Humanity: Human Rights and Immigrants' Rights.” *Columbia Human Rights Law Review* 37 (1): 627-658.

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

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.

No Class 4/2

What Are the Human Rights of Migrants?

- 4/4-9 | **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.
- 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*.

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>

Assignment 1—Movie

- 4/14 | **Watch in class**

Protecting the Human Rights of Migrants

- 4/16-23 | **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*.
- Tom K. Wong.** 2015. *Rights, Deportation, and Detention in the Age of Immigration Control*. Stanford University Press. **Read chapter 2 “Human Rights and Immigration Control Wrongs.” (focus on p. 48-64)**

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*. University of Chicago Press.

Midterm 4/28

Assignment 2—Movie

4/30 | **Watch in class**

Human Rights & Immigration Control: Detention

- 5/5-7 | **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*.
- Tom K. Wong**. 2015. *Rights, Deportation, and Detention in the Age of Immigration Control*. Stanford University Press. **Read chapter 2 "Human Rights and Immigration Control Wrongs" (focus on p. 42-48), chapter 4, "The Labyrinth of Immigration Detention," (focus on p. 109-126).**

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, Hiulin/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.*

Human Rights and Immigration Control: Deportation

- 5/12-14 | **J. Otto Pohl.** 1999. *Ethnic Cleansing in the USSR, 1937-1949.* Praeger. **Read "Koreans" and "Chechens and Ingush."**
- 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.*
- Tom K. Wong.** 2015. *Rights, Deportation, and Detention in the Age of Immigration Control.* Stanford University Press. **Read chapter 2 "Human Rights and Immigration Control Wrongs" (focus on p. 37-42), chapter 3, "Deportation Nations," (focus on p. 65-71).**
- U.S. Congress.** 2014. H.R. 5230. <https://www.govtrack.us/congress/bills/113/hr5230/text>

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

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

International Refugee Law

5/19-26 |

- 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*.
- United Nations High Commissioner for Refugees (UNHCR).** 2015. *UNHCR Projected Global Resettlement Needs*.
- United Nations.** 2014. *Regional Refugees and Resilience Plan 2015-16 In Response to the Syria Crisis*.
- United Nations High Commissioner for Refugees (UNHCR).** n.d. Syria Regional Refugee Response. <http://data.unhcr.org/syrianrefugees/regional.php>.

Recommended

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

5/28-6/4 |

- United Nations Office on Drugs and Crime (UNODC).** 2014. *Global Report on Trafficking in Persons*.
- U.S. Department of State.** 2014. *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 & 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.

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.