PART:-I- INTERNATIONAL REFUGEE LAW MODULE

Course Title: INTERNATIONAL REFUGEE LAW [IRL]

Course Code: LW016

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Course Duration: Winter Semester

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Medium of Instruction: English

Prerequisites: Nil

Precursors: Nil

Equivalent Courses: N/A


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PART-XI:-MODULE CONTENTS

WEEK-1:- INTRODUCTION TO INTERNATIONAL REFUGEE LAW

- Introduction to Terms & Terminologies of International Refugee Law & Forced Migration Studies. IRL Course Logistics and Expectations.

DISCUSSION TOPICS:

- Students should prepare to discuss their own family’s history of migration, whether within their own country or regional (South Asia) or international—if any. These have to be short written summaries (250–1000 words) that will be due in class).
- According to Arendt, the right to asylum, despite its “long and sacred history”, was considered to be in conflict with “the international rights of the [nation] state”. Why? And why do states commit to protecting foreigners today?
- “States constitute the primary nexus when it comes to security for individuals and groups”; at the same time “the principal threats to …human security… are transnational in nature”. Is the opposite true for refugees and asylum seekers? With transnational globalization expanding, are states still the “primary nexus” of security for individuals?
- What difference does border crossing make to the international community's humanitarian obligations? Why?
- “Refugee status is a privileged category vis-a-vis other classes of coerced migrants.” What other classes are there and do they require international protection?
- The importance of Terms & Terminologies of International Refugee Law
- Why study International Refugee Law & Forced Migration?
- Why do people move? Where do they go and why? Why and where did people move?
- What were the major migrations and what were their effects?
- How do migrants affect the culture of the receiving state?
- How do natives react to migrants’ different culture? How does this affect politics?
- Why do states allow people to leave? Under what conditions do states allow people to leave?
- When do states force people to stay? When does it help the state to allow people to leave and when does it hurt the state?
- What are important definitions of and differences in key notions of migration (statistical vs. other definitions (migrant, diaspora, mobility, refugee, IDP))?
- What are major flows and stocks of international forced migration?
- What are the key questions, analytical categories, and disciplinary tools of international refugee law and forced migration studies?
- Is it justified to differentiate between the two areas of study? If yes, when and why? What are key disciplinary perspectives on migration and forced migration?
- How do refugees contribute to conflict? Do migrants foster or prevent war back home?
- What are dominant representations of “the refugee” in media and by advocates?
What narratives and underlying emotions are connected to these representations? Are mainstream representations ‘accurate’ or what are their shortcomings? How do certain representations and narratives related to the public opinion about displacement, immigration, security and connected issues?

The meaning of Asylum and Refugee Law?

What causes Refugee flows? What types of conflicts lead to refugees?

What are the differences between IDPs and international refugees?

Where are there major refugee flows?

Can international law defend an individual? (And a state?)

Who creates the norms of international law and in what form?

How to find a refugee law norm?

VIDEOS:

1. https://www.youtube.com/user/unhcr [United Nations High Commissioner for Refugees (UNHCR)]
2. https://www.youtube.com/user/unhcr/featured [UNHCR]
4. https://www.youtube.com/watch?v=F3TZGDaM6O4 [How Do We Tackle The Root Causes of Displacement?]
5. https://www.youtube.com/watch?v=LpwqK3B2ae8 [To Be A Refugee (UNHCR)]
7. https://www.youtube.com/watch?v=s5aLyr4YyEY [Refugees: Looking For Safe Shores]
8. https://www.youtube.com/watch?v=fMJUJ64RPPM [UNHCR Executive Committee 2015: Opening Remarks by António Guterres]
9. https://www.youtube.com/watch?v=b3mg-sCNXdE [UNHCR Executive Committee on the Afghan refugee situation with Pakistan]
10. https://www.youtube.com/watch?v=lvVcXmnA3DA#t=10 [High Commissioner Guterres Remarks on the Resettlement of Refugees from Bhutan in Nepal]
12. http://www.youtube.com/watch?v=SA-Im1o2uE [Refugees are Scum—Social Experiment]
15. http://www.youtube.com/watch?v=RBQ-IoHfimQ [Most Shocking Second a Day Video]
16. http://www.youtube.com/watch?v=QHhy6 [This is What War does to Children]
17. http://www.youtube.com/watch?v=Vc_VNvD9B3c [What if Manhattan…]
18. http://www.youtube.com/watch?v=L9O8j9QPZe8 [Would you give your jacket to Johannes?]
19. http://www.youtube.com/watch?v=E0vd-8pAI_g [So You Think You Can Stay Reality Show]
20. https://www.youtube.com/watch?v=e00zfzk4gdg [The Refugee Boat Hero who Saved a Child and Stirred a Continent---Melissa Fleming and TEDxThessaloniki]
21. https://www.youtube.com/watch?v=a2nTq67So3U#t=10 [How Climate Change Impacts Human Displacement]

CORE CASE STUDIES: Afghanistan, Myanmar, Pakistan, Kosovo, Crimean Tatars,

CORE CASES: ONLY ONE LEADING CASE SHALL BE DISCUSSED
PRIMARY TEXTS:

- 1949 Migration for Employment Convention (Revised), 1949 (No. 97) (ILO)
- 1951 Convention Relating to the Status of Refugees (UNCSR)
- 1967 Additional Protocol to 1951 Convention Relating to the Status of Refugees
- 1975 Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) (ILO)
- 1984 Cartagena Declaration on Refugees.
- 1985 Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live of 13 December 1985
- 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families of 18 December 1990
- 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)
- 2016 New York Declaration for Refugees and Migrants
- 2016 UNHCR, Global Trends 2015 (pp. 1-21).
- 2016 United Nations Department of Economic and Social Affairs, Population Division.
- 2018 The Global Compact for Safe, Orderly and Regular Migration (GCM) Agreement, 10–11 December 2018, signed by 164 Nations on 19 December 2018 at Marrakesh, Morocco

RECOMMENDED READINGS:


OPTIONAL READINGS:


**ADVANCED READINGS:**

5. Responses to Hathaway by Adelman and McGrath and Cohen, also in *Journal of Refugee Studies* 20 (3).

**WEEK-2:- SOURCES OF INTERNATIONAL REFUGEE LAW AND FORCED MIGRATION STUDIES AND ITS EVOLUTION AND LEGO-INSTITUTIONAL RESPONSES**

➢ The Global Standards of Human Rights, Evolutionary Development of 1951 UN Convention relating to the Status of Refugees (UNCSR) with its 1967 Additional Protocol (1967-AP), Universal and Regional Sources of IRL and its Relationship with Human Rights Law and International Humanitarian Law, the Evolution of Refugee Status in International Law, the Main Features of the UNCSR and the Statute of the UNHCR; Key Provisions and Implementation. Principles and Concepts of Refugee Protection, The Institutional Pillar: UNHCR’s Foundations and its International Refugee Law Role; UNHCR’s Mandate and Activities; UNHCR’s Statutory Role and Work Related to Refugee Law; Flexibility in UNHCR’s International Law Role; Applying Lessons from the Past to Enhance UNHCR's Role in the Future. The Normative Pillar: the UNCSR and its 1967-AP; UNHCR’s Approaches to Address Weaknesses in the Treaty Framework; UNHCR’s Approaches to Improve the Effectiveness of IRL; The Crisis in Refugee Protection; Humanitarian Responses to Refugees: Institutions and Obligations and Summation.

**DISCUSSION TOPICS:**

 UPLOAD What are the Global Standards of Human Rights?
 UPLOAD What are the Linkages between IRL, IHRL and IHL?
 UPLOAD Does IRL have sources outside international law?
 UPLOAD How did IRL evolve?
UNHCR Statute as source of IRL

What is UNHCR’s “core” function? What additional duties has UNHCR assumed, beyond the core protection function? Do they impinge on UNHCR’s capacity---as the “qualified representative of international public order”---to assert claims on behalf of refugees?

What restrictions does the “non-political” character of UNHCR realistically impose on its operations? How do you assess the different perspectives of Ogata, De Waal and Harrell-Bond et al?

The end of bipolarism has led to increased interventionism by UN agencies (and NGOs). How does this affect the agencies’ neutrality and what mechanisms for accountability exist? To whom should the agencies be held accountable?

Is UNHCR’s emphasis on refugee camps and on repatriation realistic, appropriate, suspect? Are there alternatives?

Who are the Major Actors/agencies (Displaced Persons, Governments, Intergovernmental Organizations, NGOs) (Focus on UNHCR)?

How do humanitarian agencies attempt to respond to the needs of displaced populations? Are current institutional responses sufficient?

Organizational mandates: Is UNHCR really a non-political organization? Is it possible (and desirable) for a humanitarian agency to be neutral?

**PRIMARY TEXTS:**

- Core Human Rights Treaties [Relevant Provisions]
- Core IHL Treaties [Relevant Provisions]

**VIDEOS:**


**CORE CASES:** ONLY ONE LEADING CASE SHALL BE DISCUSSED

1. *Peoples’ Union For Civil Liberties [PUCL] v. Union Of India and Another*, AIR 1997 SC 568

**RECOMMENDED READINGS:**


**OPTIONAL READINGS:**

7. Forced Migration Review 29 on Humanitarian Reform: Fulfilling its Promise?
ADVANCED READINGS:


WEEK-3:-UNDERSTANDING REFUGEE DEFINITION AND PERSECUTION PARADIGMS

DISCUSSION TOPICS:

 dez According to Arendt, the right to asylum, despite its “long and sacred history”, was considered to be in conflict with “the international rights of the [nation] state”. Why? And why do states commit to protecting foreigners today?
 dez “States constitute the primary nexus when it comes to security for individuals and groups”; at the same time “the principal threats to …human security… are transnational in nature”. Is the opposite true for refugees and asylum seekers? With transnational globalization expanding, are states still the “primary nexus” of security for individuals?
 dez What difference does border crossing make to the international community's humanitarian obligations? Why?
 dez “Refugee status is a privileged category vis-a-vis other classes of coerced migrants.” What other classes are there and do they require international protection?
 dez Who is a refugee? Legal, political and theoretical definitions and frameworks. What definitions can be said to be ethical? What are the international and domestic legal definitions and standards for being recognized as refugees?
 dez Is the 1951 Convention definition a refugee outmoded in the post-Cold War era? How do Shacknove, Surkhe and Martin’s suggested definitions differ?
 dez Is being individually targeted for persecution required for refugee protection under international law, or is it sufficient to be a member of a targeted group?
 dez Does economic destitution compromise eligibility for refugee protection?
 dez What differences exist and what are the underlying values? Specifically, what are the challenges of recognizing persons fleeing non-state persecution and gender-based violence?
 dez Do refugees have a stronger claim to protection and assistance than other groups, such as internally displaced persons (IDPs) and economic migrants?
 dez Political and scholarly consequences of definitions
 dez Is the concept of a refugee outmoded in the post-Cold War era?
 dez What criteria-cause of or need for flight, or others - should determine access to international protection?
 dez How have states sought to narrow the convention definition?
 dez Is immediate, life-threatening violence too stringent a requirement?
 dez Is the requirement that an asylum applicant be targeted for persecution coherent?
 dez How should the credible fear standard be understood and applied?
 dez When if at all can forced compliance with the law of a country amount to persecution? If so does any concept of state sovereignty survive?
 dez Can economic harms amount to persecution?
 dez Is neutrality a political opinion?
 dez Terrorist v. Criminal: How should one distinguish between legitimate criminal prosecution and government persecution?
 dez What special problems arise in applying refugee standards in civil war situations?
 dez What are the Age and Gender Dimensions in International Refugee Law?
 dez Is the absence of “gender” as a ground of persecution in the Refugee Convention an obstacle to securing protection for women?
 dez Are women seeking asylum relatively disadvantaged by their gender (as usually claimed) or advantaged as more plausible “victims”?
 dez Is the applicant in In re R-A the only member of her “particular social group”? If yes, does this constitute a problem in gaining refugee protection? If not, why not?
 dez When is a government unable to control a non-state persecuting group?
What is a social group? What constitutes a “social group” for the purposes of the Refugee Convention? Is “social visibility” a coherent criterion? If not, how does one narrow down social group membership beyond the commonality of being a target for persecution?

Can a parent claim asylum on the basis of possible future persecution of his or her accompanying minor child?

Would it make a difference if gender were added to the list of persecution grounds?

Is asylum an appropriate response to domestic violence, FGM, population policies?

How can/should one decide what is 'fundamental to someone's identity'?

CORE CASES: ONLY ONE LEADING CASE SHALL BE DISCUSSED

1. Refugee Definition:
   - Chen v. Holder, 604 F.3d 324 (7th Cir. 2010).

2. Well-Founded Fear of Being Persecuted:
   - INS v Stevic
   - INS v Cardoza-Fonseca
   - Matter of Mogharrabi
   - R v Sec. of St. for Home Dept ex p Sivakumaran:
   - Matter of Chan
   - Guo v Carroll
   - Kovac v INS
   - Borca v INS

3. Political Opinion:
   - INS v Elias Zacharias
   - Bolanos-Hernandez v INS
   - Matter of Maldonado-Cruz
   - Matter of Izatula
   - Singh v Ilchert
   - Dwomoh v Sava
   - In re S ..P..
   - In re D.V.

4. Social Groups:
   - St. for Home Dept. v. Savchenkov (UK) - Claims based on Gender.
   - Morato v Min for Immigration, Local Government and Ethnic Affairs (Australia)
   - Matter of Acosta, 19 I&N Dec. 211 (BIA 1985),
   - Matter of CA, 23 I&N 951(BIA 2006)
   - Benitez Ramos v. Holder, 589 F.3d 426 (7th Cir. 2009),
   - Islam (A.P.) v. Secretary of State for the Home Department; Regina v. Immigration Tribunal and Another Ex Parte Shah (A.P.), [1999] (H.L.)
   - Secretary of State for the Home Department v K; Fornah v Secretary of State for the Home Department [2006] UKHL 46, 18 October 2006, para. 84.
5. **Homosexuality:**
- Golchin v Sec. of State for Home Dept
- Matter of Toboso-Alfonso
- In Re Inaudi

6. **Gender:**
- Gilani
- Campos-Guardado v INS
- Lazo-Majano v INS
- Fatin v INS
- Fisher I
- Fisher II

7. **Domestic Violence:**
- Matter of A and Z

8. **Female Genital Mutilation:**
- *In Re Fauziya Kasinga*, 21 I&N 357 (BIA 1996)

**PRIMARY TEXTS:**
- Convention Relating to the Status of Refugees. Read Art. 1(A) 2; 12-34.
- International Covenant on Civil and Political Rights. Read Arts. 1-27.
- Refugees Magazine No. 122 (2001): Children
- Separated Children in Europe Programme Home Page
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984. Read Arts. 1 – 3.
- UN Convention on Status of Refugees. Read Art. 1(a).
- UNCHR Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees (7 May 2002)
- UNHCR Guidelines on International Protection: “Membership in a particular social group” within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees (7 May 2002) UNHCR Position on Gender-Related Persecution (January 2000)
- UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum (February 1997)
- United States: Considerations for Asylum Officer Adjudicating Asylum Claims from Women (May 26, 1995)
- US Bureau of Citizenship and Immigration Services, Considerations for Asylum Officers Adjudicating Asylum Claims from Women, 26 May 1995. [optional]
RECOMMENDED READINGS:

1. A. Shacknove, "Who is a Refugee?" [1985] 95 Ethics 274-284
5. G. Goodwin-Gill, Text 1, Ch. 1, "Definition and Description, 3-31.
7. K. Musalo et al., excerpts re “credible fear standard” and past persecution.

OPTIONAL READINGS:

1. A. Helton and A. Nicoll, Female Genital Mutilation as Ground for Asylum in the US.
2. C.P. Blum, License to Kill: Asylum Law and the Principle of Legitimate Government Authority to Investigate its Enemies.

ADVANCED READINGS:

2. European Union London Resolution on Manifestly Unfounded applications for Asylum (1992)
7. UNHCR, Text 3, 9 - 25.
WEEK-4:- THE INSTITUTION OF ASYLUM, POSSIBILITY OF THE EXPANSIONIZATION OF GROUNDS OF ASYLUM BEYOND DURABLE SOLUTIONS UNDER INTERNATIONAL REFUGEE PROTECTION REGIME AND GLOBAL COMPACT ON MIGRATION


DISCUSSION TOPICS:

- What role has history played in the current conceptualization of refugee protection? Can history enhance or hinder a progressive approach?
- What does protection currently mean? Is it rights-based or assistance-based? Does such a distinction matter? Which rights should and could be core to protection? Does protection mean something different for different groups, at different stages of flight and in different spaces? How should such issues be addressed?
- What are the moral and practical approaches to protracted refugee situations? What roles should be played by protection, integration or citizenship in this context?
- Is it time to drop the term “refugee” for most people seeking safety? Would the adoption of a different term, such as “forced migrant”, “survival migrant” (Betts) or “flee of necessity” (Aleinikoff & Zamore), be a truer reflection of current realities? What would be the implications for protection?
- What is a refugee? What is an asylee? What is the history of the refugee and asylee regime?
- How has the refugee and asylee regime evolved over the last 60-70 years?
- How are asylum cases determined in different parts of the world? [US, EU, AU etc.]
- What are the politics that surround the issue of refugee and asylum policy?
- Why have states restricted asylum seeking in the last 20 years?
- Do foreign policy considerations of nation-states still affect refugee policy and practice?
- What does Sale v Haitian Centers Council indicate about the relation between international and domestic law?
- “Increasing Restrictionism in Immigration Breeds Asylum Abuse, False Documents and Trafficking Rings.” Is there a way out of this that does not violate international law?
- Do children's asylum claims present any special features?
- In what circumstances, if any, should a parent be able to prevent a child from making an asylum claim?
- Is a family a social group for asylum purposes?
- Should different standards for granting refugee protection apply to unaccompanied or separated children? Are there risks?

VIDEOS:

- Homeland: Immigration in America-Refugees
- POV: Well-Founded Fear
CORE CASES: ONLY ONE LEADING CASE SHALL BE DISCUSSED

1. **Asylum:**
   - Mohammad Sediq v. Union of India (UoI) And Others, August 21, 1998

2. **Child Asylum:**
   - Castellano-Chacon v. INS, 341 F.3d 533 (6th Cir. 2003). Read Sections I, II, and VII. [Available Online]
   - Gonzalez v. Reno, 212 F.3d 1338 (11th Cir. 2000). Read 1344-1347 (up to A); 1351 (from Para 29-31) to 1354 (up to C).
   - Nwaokolo v. INS, 314 F.3d 303 (7th Cir. 2002). Read 304-305 (up to A); 307 (from 1) to 311.

3. **Non-refoulement:**
   - State Of Arunachal Pradesh v. Khudiram Chakma, 1994 AIR 1461, 1993 SCR (3) 401
   - In ECtHR, Case of M.S.S. v. Belgium and Greece [GC], no. 30696109, ECHR 2011,
   - Institute for Human Rights and Development in Africa (On behalf of Sierra Leonian Refugees in Guinea) v. Guinea, Communication No. 249/02, 36th Ordinary Session, December 2004,
   - Curtis Francis Doebbler v. Sudan, Communication No. 235/00, 46th Ordinary Session, November 2009

PRIMARY TEXTS:

2. 1948 Universal Declaration of Human Rights [Article-14]
6. 1951 Definitions of “refugee” according to agreements, conventions and protocols mentioned in article 1 A (1) of the Convention relating to the Status of Refugees of 28 July 1951
11. 1984 UN Convention Torture (CAT) [Article-3]
12. 1985 Convention concerning International Co-operation regarding Administrative Assistance to Refugees of 3 September 1985
14. UNHCR Agenda for Protection, October 2003, pp. 68–75.

RECOMMENDED READINGS:


OPTIONAL READINGS:

ADVANCED READINGS:


WEEK-5:- REFUGEE STATUS DETERMINATION DYNAMICS, PROCEDURES AND THE RISE OF RESTRICTIONISM


DISCUSSION TOPICS:

- What is Refugee Status Determination?
- Burden of Proving an Asylum Claim
- Credibility, Corroboration
- What are the Procedural Standards, Access and Aspects of Refugee Status Determination?
- International Human Rights Requirements Related To Asylum Procedures.
- What are processes of refugee admission in countries of the ‘Global North’?
- Why is it important to focus on processes and procedures?
- What objectives can admission policies have? What are current trends in the granting access to asylum seekers and refugees? And why does gender matter?
What is Dublin System?
Harmonization of the 1951 Geneva Convention Refugee Definition.
What is Safe Country of Origin?
Minimum Standards for Reception Conditions.
What is persecution?
What are the grounds of persecution?
What are the Level of Risk, Role of Past Persecution, and Discretion?
What are the Protected Grounds [Race, Religion, Nationality, Political Opinion particularly Imputed Political Opinion and Neutrality, Social Groups and Asylum Claims Based on Gender]?
What is the distinction between a 'political' and a 'non-political' offence?
Do the victims of 'terrorist' acts make a difference to the nature of the acts?
Can involuntary acts constitute 'assistance in persecution' and should they disqualify applicants from asylum? What is the appropriate standard?

CORE CASES: ONLY ONE LEADING CASE SHALL BE DISCUSSED

4. Eshonkulov v. Russia, ECtHR, Strasbourg, 15 January 2015
5. S.M.H. v. The Netherlands, ECtHR, Strasbourg, 15 January 2015

Exclusion:
Danyal Shafiq v. Australia, CCPR/C/88/D/1324/2004, UN Human Rights Committee (HRC), 13 November 2006,

Terrorism:
Matter of McMullen
Matter of S-K, 23 I&N 936 (BIA 2006),
McMullen v. INS
T v. Sec St Home Dept
Matter of Pearson

War Crimes and Crimes Against Humanity:
Joined Cases C-57/09 and C-101/09 Bundesrepublik Deutschland v. B and D, [2010] ECR I-000,

Particularly Serious Crime:
Matter of Caraballe, 19 I&N 357 (BIA 1986)
Ali v. Achim, 486 F.3d 462 (7th Cir. 2006)
Conseil d’etat [CE] [Council of State] April 7, 2010, Rec. Lebon 2010 IX-X, 319840 (Fr.)

Prosecution v. Persecution:

- Bastianpour v. INS
- Sadeghi v. INS

PRIMARY TEXTS:

1. UNHCR Handbook

RECOMMENDED READINGS:


OPTIONAL READINGS:

6. Jennifer Bond, Principled Exclusion: A Revised Approach to Article1(F) (a) of the Refugee Convention, Michigan Journal of International Law, Vol. 35:15, Fall 2013

ADVANCED READINGS:


WEEK-6:- INTERNAL DISPLACEMENT, STATELESSNESS, FORCED MIGRATION, CLIMATE CHANGE AND CLIMATE REFUGEES


CASE STUDIES:

- Crimean Tatars,
- The Syrian Refugee Crisis and Policy Responses in the Middle East and Europe.

VIDEOS:

1. Climate Change and Migration—Living on the Go, Climate and Development Knowledge Network (in Bangladesh, June 2014, 20min): [www.youtube.com/watch?v=-Gz_EnVwRIw](https://www.youtube.com/watch?v=-Gz_EnVwRIw)
DISCUSSION TOPICS:

- What is the concept of the internally displaced person (IDP)?
- How the concept of IDP has emerged in the past 20 years and how this has been framed by law and policy?
- How are IDPs different from refugees and how are they not? What are the consequences of classifying an individual and IDP instead of a refugee?
- What rights, guidelines, and norms exist for IDPs?
- What are the rules relating to forcible displacement, transfer and deportation in IHL and human rights law; international criminal law and the criminalization of forced displacement?
- How to address and attend on IDPs in conflict contexts before moving on to consider other forms of internal displacement?
- How to appreciate and impart a solid critical understanding of a number of topics including their reception under international humanitarian law (IHL); the domestic law and policy on IDPs?
- How to extend transitional justice to internal displacement; and persons displaced by disasters and climate change?
- What is the context within which the protection of refugees and other displaced persons take place?
- What are the legal and empirical understandings of the roles of key protection actors that might be developed through the core models in order to consider how these may best be influenced and build on their skills in the relevant areas?
- What are the models on developing a firm appreciation of the factors that influence how protection actors – such as States and UNHCR – behave and the practical strategies through which such behaviour may be influenced?
- How to bring out the critical understanding of key theories of norm adherence and normative change in the field of human rights and refugee protection; critical insight into lobbying, media, campaigning and monitoring work in the refugee field; different strategies for managing project cycle, drafting legal and policy interventions and carrying out fundraising?
- What is the international law relating to statelessness and stateless persons and its development over the past 60 years?
- What are the critical understanding of the concept and implications of nationality in international law; the empirical roots and scope of the problem of statelessness across the world; the definition of stateless person contained in the 1954 Convention relating to the Status of Stateless Persons, and its conceptual connections with the refugee concept; the push towards elimination of statelessness in the framework of the 1961 Convention on the Reduction of Statelessness; regional approaches to statelessness; the role of human rights standards in relation to statelessness; the expanding mandate of UNHCR in respect of stateless persons; and national laws and policies relating to statelessness?
- Contrast Shacknove’s approach to refugee protection with evolving UNHCR practice in respect of IDPs.
- Could/should a single system of international protection address problems of internal displacement and search for asylum?
- Are there dangers/benefits for the refugee concept that arise from work with IDPs by refugee protection agencies?
- What are the links between climate factors and human mobility?
- What are key obstacles for legal and political recognition of the involved phenomena?
- What other factors do environmental aspects interact with and with what results?
- What policy options exist to prevent and address the negative impact?

CORE CASES: - ONLY ONE LEADING CASE SHALL BE DISCUSSED
PRIMARY TEXTS:

代表团
2. 1984 Cartagena Declaration on Refugees.

CORE READINGS:


OPTIONAL READINGS:


ADVANCED READINGS:


MID SEMESTER EXAMINATION WEEK

WEEK-7:- REGIONAL REFUGEE PROTECTION AND FORCED MIGRATION FRAMEWORKS


DISCUSSION TOPICS:

- Both the US and EU states face a filtering challenge at their borders, resulting from the conflict between facilitating trade and controlling unwanted migration. Do they offer the bona fide asylum seeker equal chances of effective protection? What are the most significant differences?

- As European integration proceeds, which aspects of border control have been “de-coupled” from individual states? Which aspects have been jealously guarded by states? Is free movement within the EU compatible with current EU refugee policy? What are the differences between refugees
and asylees in US policy? What procedures apply to each group? Do foreign policy considerations still affect U.S. refugee policy and practice?

⇒ Do states have responsibility for asylum seekers who never reach their territory? Identify the principal similarities between the U.S. and European Asylum Systems.

⇒ Do the U.S. and European Asylum Systems offer the bona fide asylum seeker equal chances of effective protection?

⇒ What are the most significant differences between the U.S. and European Asylum Systems?

⇒ On current trends does it appear as if the U.S. is following the European lead or vice versa?

⇒ What does ‘integration’ of migrants and refugees mean and what specific measures have been enacted to facilitate their integration?

⇒ What public policies have been put into place to ‘govern’ refugees and migrants, their social welfare, and integration? What challenges exist?

⇒ What are the gains and losses of the two different approaches? Has the idealism of the OAU Convention been implemented in current practice?

⇒ How has the legal scope of refugee protection expanded since the 1951 Convention?

⇒ Examine the working definition of internally displaced persons. Compare it to the Refugee Convention, OAU and Cartagena declaration definitions. Which groups are included that fall outside other forms of international protection? How are internally displaced persons protected under international law, if at all?

⇒ Sovereignty as responsibility: when does international responsibility displace state sovereignty?

⇒ What are the principle differences between the 1951 Convention and the OAU Convention?

⇒ Has the idealism of the OAU Convention been implemented in current practice?

⇒ How should a (relatively) prosperous state like South Africa approach the question of group eligibility for asylum given the scale of African problems?

**CORE CASES: ONLY ONE LEADING CASE SHALL BE DISCUSSED**

2. *Husayn (Abu Zubaydah) v. Poland*, ECtHR, Strasbourg, 24 July 2014
6. *Obst v. Germany*, ECtHR, Strasbourg, 23 September 2010
7. *Shuth v. Germany*, ECtHR, Strasbourg, 23 September 2010

**PRIMARY TEXTS:**

1. UNHCR, Text 2, Ch.2, *Defending Refugee Rights*, 51-97.

**AFRICA**

7. 2004 Cotonou Declaration and Programme of Action of 3 June 2004
8. 2006 African Youth Charter of 2 July 2006

**AMERICA**

1. 1928 Convention on Asylum of 20 February 1928
2. 1933 Convention on Political Asylum of 26 December 1933
3. 1939 Treaty on Political Asylum and Refuge of 4 August 1939
4. 1954 Convention on Diplomatic Asylum of 28 March 1954
5. 1954 Convention on Territorial Asylum of 28 March 1954
6. 1984 Cartagena Declaration on Refugees of 19-22 November 1984
10. 1994 San José Declaration on Refugees and Displaced Persons of 7 December 1994
13. 2004 Mexico Declaration and Plan of Action to Strengthen the International Protection of Refugees in Latin America of 16 November 2004

**ARAB**

1. 1949 Assistance to Palestine Refugees, UN GA Resolution 302 (IV) of 8 December 1949
7. 1990 Cairo Declaration on Human Rights in Islam of 31 July-9 August 1990

**ASIA-AFRICA**

1. 2001 Final Text of the Revised AALCO 1966 Bangkok Principles on Status and Treatment of Refugees (as adopted on 24 June 2001 at the AALCO’s 40th Session, New Delhi)
2. 2006 AALCO Resolution on “Legal Identity and Statelessness” of 8 April 2006

EUROPE

3. 1990 Dublin Convention Determining the State Responsible for Examining Applications for Asylum Lodged in one of the Member States of the European Communities, Text 1, 454-463.
4. EU Conclusion on Countries in which there is generally no serious risk of persecution.
5. EU London Resolution on Harmonized Approach to Questions Concerning Host Third Countries.

RECOMMENDED READINGS:

7. G. Goodwin-Gill, Text 1, Ch. 8 (part) and Ch. 9 (part), Treaty Standards and Protection in Municipal Law, 311 - 348.
10. Rachel Murray, Human Rights in Africa: From the OAU to the African Union, pp. 1-115

OPTIONAL READINGS:


4. Daniel Thomas, pp. 27-256


ADVANCED READINGS:


4. Steiner, Alston and Goodman, pp. 1020-1062; pp. 786-867; 1062-1083


WEEK-8:- THE PRINCIPLES AND INSTITUTIONS OF MIGRANTS AND REFUGEE REFUGEES AND THE REFUGEE PROTECTION UNDER INTERNATIONAL HUMAN RIGHTS LAW AND INTERNATIONAL HUMANITARIAN LAW

DISCUSSION TOPICS:

- What is the role of IOs and NGOs in refugee protection and how have they transformed the understanding and application of protection?
- Is a successful refugee protection regime reliant on responsibility-sharing by states? If so, how is responsibility-sharing and state accountability to be improved or achieved?
- What are basic human rights? What are the basic human rights of refugees outside RC?
- How can the rights of refugees be protected under IHRL?
- What is refugee status a solution to?
- Where the line between state sovereignty and individual protection should be drawn?
- Is the notion of a refugee dependent on and defined by the existence of sovereign nation states?

CORE CASES: ONLY ONE LEADING CASE SHALL BE DISCUSSED

1. A. A. C. v. Sweden, CAT/C/37/D/227/2003, UN Committee Against Torture (CAT), 14 December 2006,
2. Harminder Singh Khalsa et al. v. Switzerland, CAT/C/46/D/336/2008, UN Committee Against Torture (CAT), 7 July 2011,
5. Mondal v. Sweden, CAT/C/46/D/338/2008, UN Committee Against Torture (CAT), 7 July 2011,
7. Nirmal Singh v. Canada, CAT/C/46/D/319/2007, UN Committee Against Torture (CAT), 8 July 2011,

PRIMARY TEXTS:

1. 1948 Universal Declaration of Human Rights of 10 December 1948
3. 1966 International Covenant on Civil and Political Rights of 16 December 1966
4. 1966 Optional Protocol to the International Covenant on Civil and Political Rights of 16 December 1966

RECOMMENDED READINGS:


OPTIONAL READINGS:

2. UNHCR, Text 2, Preface, Forward, Introduction and Ch. 1, Safeguarding Human Security, ix - 49 Steiner, Alston and Goodman, pp. 735-843

ADVANCED READINGS:


WEEK-9: REFUGEE PROTECTION IN SAARC REGION AND TWAILERS’ AND REFUGEES IN THE GLOBAL SOUTH AND ASIAN APPROACH TO INTERNATIONAL REFUGEE LAW


DISCUSSION TOPICS:

⇒ Is there any South Asian Discourse or Approach to the contemporary refugee regime?
Why South Asian countries (except Afghanistan) have not signed 1951 UN Convention?

What are the arguments for and against encampment of refugees and what actors favor which arguments?

How do we assess life in refugee camps from the perspectives of human security and capabilities?

What are specific needs and vulnerabilities of women and children?

What are protracted situations and what are their root causes?

What durable solutions are discussed and how do you assess these solutions from normative and practical perspectives?

Testing the Boundaries of the Westphalian Order of IRL?

Does existing IRL address refugee issues in South Asian Region?

Should regionalization of the 1951 UN Convention be explored?

Identifying the bottlenecks in formulating a SAARC Refugee Law?

The refugee protection under the South Asian constitutional orders?

Adequacy of refugee jurisprudence developed by the SAARC municipal legal jurisdictions?

Feasibility of Progressive Development and Codification of IRL under the SAARC Mechanism?

Appreciation of the benefits of the uniform refugee law in SAARC region?

VIDEOS:

Three video stories of your choice from www.dadaabstories.org (tab: camp life; explore camp life).

CORE CASES: ONLY ONE LEADING CASE SHALL BE DISCUSSED

1. National Legal Services Authority v. Union of India and others, Writ Petition (Civil) No. 400 of 2012, India: Supreme Court, 15 April 2014,
2. Suresh Kumar Koushal and another v. NAZ Foundation and others, Civil Appeal No.10972 of 2013, India: Supreme Court, 11 December 2013,
6. State of Arunachal Pradesh v. Khudiram Chakma; Khudiram Chakma v. State of Arunachal Pradesh and Others, 1994 Sup (1) Supreme Court Cases 615; Civil Appeal Nos. 2182 and 2181 of 1993,, India: Supreme Court, 27 April 1993,
10. Gulbahar v. The Union of Burma, B. L. R. (C.C.) 811, Myanmar: Supreme Court, 1965
11. Peer Mohamed v. Union of Burma, L. R. (C.C.) 51, Myanmar: Supreme Court, 1965,
PRIMARY TEXT:

- 1967 UN Declaration on Territorial Asylum
- 1984 UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [Extracts]
- 2004 The South Asia Declaration On Refugees

RECOMMENDED READINGS:

4. UNHCR Handbook for the Protection of Internally Displaced Persons

OPTIONAL READINGS:


ADVANCED READINGS:


**WEEK-10:-TEMPORARY, COMPLEMENTARY AND OTHER FORMS OF REFUGEE PROTECTION AND THE FUTURE OF INTERNATIONAL PROTECTION FOR FORCED MIGRANTS IN INTERNATIONAL REFUGEE LAW**


**DISCUSSION TOPICS:**

- How powerful is international law in the field of refugee protection?
- What are the grounds for Temporary Protection in International Refugee Law and State Practice?
- How to appreciate the Relationship between Temporary Protection, Subsidiary Protection and Refugee Status?
- Identify the main strengths and weaknesses of the current international regime in ensuring implementation.
- Are the concepts of 'temporary protection' and 'safe haven' a supplement or a substitute for refugee protection as traditionally conceived?
- What is the future of refugee protection? “Can we think of humanitarian law, refugee law and human rights law as three overlapping circles of international protection for victims of conflict, persecution and oppression? What are the significant differences or potential tensions between the three frameworks and how might they complement or reinforce one another?”
- Protection or deterrence: what other options exist? Are the concepts of “temporary protection” and “safe haven” a supplement or a substitute for refugee protection?
- What new global problems impinge on current models and frameworks of refugee protection?
“The results of a freer ‘market’ in asylum seeking can only be guessed at”. What other alternatives are there? Are environmentally displaced persons refugees? Are they legally entitled to international protection?

Is Turkish temporary protection or the Jordanian humanitarian-development model a template for protection for future large-scale flight?

**CORE CASES:** ONLY ONE LEADING CASE SHALL BE DISCUSSED

- Tahir Hussain Khan v Canada, November 18, 1994 [Committee Against Torture]
- Chahal v UK [extracts European Court of Human Rights]

**PRIMARY TEXTS:**

1. UN Guidelines on Temporary Protection or Stay Arrangements
2. 1967 UN Declaration on Territorial Asylum
3. 1984 UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [Extracts]
5. U.N. Office for the Coordination of Humanitarian Affairs Guiding Principles on Internal Displacement
6. UNHCR Handbook for the Protection of Internally Displaced Persons

**RECOMMENDED READINGS:**


**OPTIONAL READINGS:**


**ADVANCED READINGS:**


**WEEK-11:-THE CONTEMPORARY ISSUES IN INTERNATIONAL REFUGEE LAW AND NEW DEVELOPMENTS AND CHALLENGES TO THE PROTECTION OF REFUGEES AND FORCED MIGRANTS AND PERSPECTIVES ON THE FUTURE**


**DISCUSSION TOPICS:**

- What are the contemporary critical issues in International Refugee Law?
- What are the strategies towards an interpretative harmony for IRL?
- Application of Human Rights Law to the Interpretation of Economic Persecution.
- The fragmented Nature of the International Refugee Regime and its Consequences.
- Comparative Analysis of the Applications of the 1951 Convention.
- Refugee Issues: Dynamic of Mobility and Displacement, Women and Children Refugees.
- Who are the climate refugees?
- *Non-Refoulement*: A Peremptory Norm of International Law.
- Loss and Denial of Refugee Status: Article 1F of the 1951 Refugee Convention.
- What are the policy responses to the refugee crisis and their limitations in the neighboring countries (especially Jordan, Lebanon, and Turkey) and in Europe?
- Why is Europe struggling to cope with the refugee crisis?
- What does this mean for longer-term development and refugee governance in the region, the EU, and globally? [Given the current nature of this topic, the reading list may be updated closer to the date of the class.]
- What are the key moral arguments made to admit refugees and other migrants?
What are the underlying assumptions and who is defining the rights in access to space?

To what extent are normative perspectives addressed in research and policy discussions on (forced) migration?

What real developments, activities, and time-related factors are viewed as being significant from an ethical perspective and why?

What are the differences between moral rights to access a geo-political space and moral claims after being admitted?

When do we speak of ‘securitization’ of an issue? To what extent are migration issues viewed as threats to security and what actors promote such perspectives?

What approaches exist to de-securitize forced migration topics?

The majority of refugees in Europe (and many in the US) have been smuggled or trafficked. Why?

What is the difference between “smuggling” and “trafficking?” Can the difference be characterized effectively by one or two variables?

“Increasing Restrictionism in immigration breeds asylum abuse, false documents and trafficking rings.” Is there a way out of this that does not violate international law?

What are the advantages and disadvantages of the US State Department approach to trafficking as set out in the TIP report?

Do victims of trafficking have access to international protection? Should they and if so how this should be implemented?

Are victims of trafficking refugees and therefore eligible for international protection under the refugee convention?

What are the causes of trafficking? What are states responsibilities? What are the most promising strategies for protecting trafficked persons and preventing recruitment?

Is US law in conformity with the exclusion clauses of the Refugee Convention?

What are the relevant factors for making the distinction between a “political” and a “non-political” offence? Consider Aguirre-Aguirre in particular.

What is the relationship between Article-1(F) and Article-33 (2) of the 1951 Convention? What different dangers/prohibited conducts do they address? What are the minimum standards of procedural fairness required by international law? How do they compare with current US practice?

Why should those who have been convicted of serious non-political crimes be excluded from refugee protection? What if a state, as the US recently, enlarges the category of “serious crime” to include behavior punished by a one year jail sentence?

Consider the application of the definition of “terrorist” and the use of the “material support” bar in current US immigration law; do they provide a clear guide to exclusion? Do they conform to international guidelines?

**CORE CASES: ONLY ONE LEADING CASE SHALL BE DISCUSSED**

- Agiza v. Sweden
- Alzery v. Sweden Elspeth Guild

**PRIMARY TEXTS:**

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplemen
ohchr.org/english/law/protocoltraffic.htm


UNHCR, Guidelines on International Protection: The application of Article 1A (2) of the 1951 Convention and/or
1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked,
HCR/GIP/06/07, 7 April 2006.


RECOMMENDED READINGS:

2. Chimni, B.S. (200 I), 'Reforming the International Refugee Regime: A Dialogic Model', Journal of
Refugee Studies, 14, pp. 151-68.
Rienner Publishers (Chapter 2).
4. Debbas, Gowland Vera, The Problem of the Refugees in the Light of Contemporary International
5. Hammerstad, Anne. 2014. The Securitisation of Forced Migration. Chapter 21 in: Elena Fiddian-
Survey, 1996.
8. Jane McAdam, Climate Change Displacement and International Law: Complementary Protection
Standards, LEGAL AND PROTECTION POLICY RESEARCH SERIES, DIVISION OF
INTERNATIONAL PROTECTION, UNHCR, May 2011 CP2500, 1211 Geneva 2 Switzerland.
9. Qasmiyeh, Gil Loescher, Katy Long, and Nando Sigona (eds), The Oxford Handbook of Refugee
and Forced Migration Studies, pp. 265-277.
Refugee Law, 16, pp. 289-335.

OPTIONAL READINGS:

Issues in Refugee Research, Working Paper No. 162, 1 July 2008 (Geneva: UNHCR),
www.unhcr.org/refworld/topic,459d17822,466032142,4c23256b0,0.html.
2. Alexis A. Aronowitz, Human Trafficking, Human Misery: The Global Trade in Human Beings
(Westport, Conn.: Praeger, 2010). Read 23-76.
4. Bruce Burson (Edited) Climate Change and Migration: South Pacific Perspectives, Institute of
5. European Commission, Report of the Experts Group on Trafficking in Human Beings, Brussels,
December 2004. Read Ch. 3 (“Guiding Principles and Cross-Cutting Themes”) 59-70,
http://europa.eu.int/comm/justice_home/doc_centre/crime/trafficking/doc/report_expert_group_1
204_en.pdf.
7. Jacqueline Bhabha and Christina Alfirev, “The Identification and Referral of Victims of Trafficking to Procedures for Determining International Protection Needs”, October 2009 (Geneva: UNHCR). Read 7-21 (end para. 43); 31-37 [online materials section of class page].
ADVANCED READINGS:

WEEK-12:- THE CRITIQUE OF IRL AND TERM PAPER PRESENTATION AND FEEDBACK

➢ A Critique of IRL, Presentation of the Term Papers and Online Feedback.

PART-X:- WEBSITES GUIDANCE AND DIGITAL DISSEMINATION OF CONTEXTUAL INFORMATION FOR THE STUDENTS’ ACHIEVEMENT:

A. Websites Guidance:
   ▪ Canadian Council for Refugees: www.ccrweb.ca
   ▪ Forced Migration On-line: www.forcedmigration.org
   ▪ Forced Migration Review: www.fmreview.org
   ▪ Human Rights Watch: www.hrw.org
   ▪ Immigration and Refugee Board of Canada: www.irb-cisr.gc.ca
   ▪ International Committee for the Red Cross: www.icrc.org
   ▪ International Crisis Group: www.crisisweb.org
   ▪ Internal Displacement Monitoring Centre: www.idmc.org
   ▪ MSF Virtual Refugee Camp: www.refugeecamp.org
   ▪ Norwegian Refugee Council: www.nrc.no
   ▪ Refugees International: www.refintl.org
   ▪ Relief Web: www.reliefweb.int
   ▪ UNHCR: www.unhcr.org
   ▪ University of Oxford Refugee Studies Centre: www.rsc.ox.ac.uk
   ▪ Women’s Commission for Refugee Women and Children: www.womenscommission.org

B. Contextual International Journals
   ▪ Forced Migration Review
   ▪ International Journal of Refugee Law
   ▪ International Migration
   ▪ International Migration Review
   ▪ Journal of Refugee Studies

C. Forced Migration
   ▪ Forced Migration Online – www.forcedmigration.org

D. Refugees and Asylum
   ▪ AsylumLaw.org – www.asylumlaw.org
   ▪ Canadian Immigration and Refugee Board – www.irb-cisr.gc.ca
   ▪ European Council on Refugees and Exiles – www.ecre.org/
   ▪ International Committee of the Red Cross – www.icrc.org
   ▪ International Organization for Migration (IOM) – www.iom.int
   ▪ Refugee Law Reader – www.refugeelawreader.org
   ▪ Refugee Media Project – www.refugeemediaproject.org
   ▪ Southern Refugee Law Center – www.srlc.org
   ▪ UN Office of the High Commissioner for Refugees (UNHCR) – www.unhcr.org
   ▪ UN Global Migration Group – www.globalmigrationgroup.org
   ▪ University of California, Hastings College of the Law, Center for Gender and Refugee Studies – http://cgrs.uchastings.edu
   ▪ University of Michigan Law School, Refugee Caselaw Site – www.refugeecaselaw.org

E. Human Rights
   ▪ Amnesty International – www.amnesty.org
   ▪ Human Rights Watch – www.hrw.org
F. Internal Displacement
- Internal Displacement Monitoring Centre – [www.internal-displacement.org](http://www.internal-displacement.org)

G. Human Trafficking
- UN Global Initiative to Fight Human Trafficking (GIFT) - [www.ungift.org/knowledgehub](http://www.ungift.org/knowledgehub)

H. Torture
- International Rehabilitation Council for Torture Victims – [www.irct.org](http://www.irct.org)

I. News, Analysis and Research
- Center for Immigration Studies – [www.cis.org](http://www.cis.org)
- Migration Policy Institute – [www.migrationpolicy.org](http://www.migrationpolicy.org)
- UNHCR RefWorld – [www.unhcr.org/refworld](http://www.unhcr.org/refworld)

**PART XI: GRADING SYSTEM FOR THE STUDENTS’ ACHIEVEMENT:**

Standard (A+, A, A-…F) Grading is based on students’ overall performance in the assessment tasks/activities/assignments/term papers etc.

To pass this course, students must obtain an aggregate mark of 50% and a minimum of 50% in each of the coursework and the examination elements of the assessment. Coursework for this purpose means those ways in which students are assessed otherwise than by the end of session examination.

A. Note-1: Course Instructor/Professor will discuss new and sudden developments germane to the IRL during the Winter Semester or otherwise with prior consultation with the students.
B. Note-2: The IRL-LLM-Syllabus is periodically and daily updated by inclusion and exclusion. The students are encouraged to keep a tab on the new developments and the challenges in the field.

(UPDATED TILL JANUARY 20, 2019)