

REFUGEE PROTECTION AND FORCED MIGRATION

(4 ECTS credit points, 21 July - 14 August 2015)

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Curriculum and course structure

This course examines the protection regime pertaining to refugees, internally displaced persons (IDPs), and stateless persons. It gives special attention to the evolving set of legal norms, institutions, and procedures that have emerged from the international community's resolve to protect refugees and other forced migrants.

The course begins with an introduction to the international human rights and refugee protection regimes (session 1). It then continues with a historical perspective of the pre-United Nations initiatives to protect refugees (session 2) and introduces the normative ethics and politics of refugee protection (session 3). That is followed by an analysis of both the legal and institutional pillars of the refugee regime, i.e. of the refugee definitions captured in various international instruments (sessions 4 and 5) and of the protection granted by the UNHCR (sessions 6 and 7). The regional refugee regimes are then examined, specifically those developed in Africa, Latin America (session 9), and Europe (session 10). Last but not least, the course will review the protection of IDPs (session 11) and of stateless persons (session 12). Throughout the course, case studies will be used so that students can translate into practice the legal instruments, theoretical concepts, and doctrine that they have learned (in particular session 6).

Course objective

This course aims to provide class members with the necessary knowledge and tools which will allow them to understand and position themselves critically with regard to a variety of issues related to refugees and other forced migrants.

At the end of the course, students will be equipped with both the historical, political, and legal knowledge necessary to understand the main challenges involving the legal and institutional protection of refugees and forced migrants. They will also have learned how to use the concepts and procedural tools which allow to differentiate refugees, IDPs, and stateless persons from other migrants, e.g. economic and environmental migrants.

Core bibliography¹

Betts, A. *Forced Migrants and Global Politics*. Malden/Oxford, Wiley-Blackwell, 2009.

Crépeau, F. et al. (eds). *Forced Migration and Global Processes – a view from forced migration studies*. Oxford, Lexington Books, 2005.

Feller, E. et al. (eds). *Refugee Protection in International Law - UNHCR's Global Consultations on International Protection*, Cambridge, Cambridge University Press, 2003; available at www.refworld.org

Fiddian-Qasmiyeh, E. et al. (eds). *The Oxford Handbook of Refugee and Forced Migration Studies*. Oxford, Oxford University Press, 2014.

Fischel de Andrade, J.H. & M.P. Contreras. *Cases and Materials on Refugees and Forced Migrants*. Milano, 2015.

Goodwin-Gill, G. & J. McAdam. 3rd ed., *The Refugee in International Law*, Oxford. Oxford University Press, 2007.

Hathaway, J.C. *The Rights of Refugees in International Law*. Cambridge, Cambridge University Press, 2005.

_____. & M. Foster. *The Law of Refugee Status*. 2nd ed., Cambridge, Cambridge University Press, 2014.

UNHCR. *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*. Geneva, UNHCR, 2011.

_____. *A Thematic Compilation of Executive Committee Conclusions*. Geneva, UNHCR, 2011.

_____. *Handbook on Protection of Stateless Persons*. Geneva, UNHCR, 2014.

_____. *Procedural Standards for Refugee Status Determination under UNHCR's Mandate*. Geneva, UNHCR, 2003.

_____. *UNHCR Compilation of Case Law on Refugee Protection in International Law*. Geneva, UNHCR, 2008.

_____. *UNHCR Master Glossary of Terms*. Geneva, UNHCR, 2006.

_____. *UNHCR Protection Manual*. Geneva, UNHCR, 2014.

Weis, P. *The Refugee Convention, 1951 – The Travaux Préparatoires analysed with a commentary by Dr Paul Weis* (Cambridge International Documents Series, v. 7). Cambridge, Cambridge University Press, 1995.

Zimmermann, A. (ed.). *The 1951 Convention relating to the Status of Refugees and its 1967 Protocol - a commentary*. Oxford, Oxford University Press, 2011.

¹ All UNHCR publications are available at www.refworld.org.

Participation & evaluation

In order to be granted 4 ECTS, participants will be asked to attend actively all sessions, including the case studies.

Didactics

Students are expected to prepare in advance for each session. They are required to read the compulsory literature and prepare a short presentation on a reading that will be assigned them during the first class. All students are strongly encouraged to actively participate during class discussions and activities.

Sessions' schedule

Date	Session	Subject
21 July	1	International human rights and refugee protection regimes
22 July	2	A historical account of refugee protection
24 July	3	The normative ethics and politics of refugee protection
28 July	4	The normative pillar : refugee definitions in universal and regional instruments
29 July	5	(cont.)
31 July	6	Case study: eligibility
4 August	7	The institutional pillar : UNHCR's mandate and activities
5 August	8	(cont.)
7 August	9	The protection of refugees in Africa and Latin America
11 August	10	The protection of refugees in Europe
12 August	11	IDPs : normative and institutional arrangements + Case studies
14 August	12	Stateless persons + Case studies

Track B:

Tuesday: 1.30 PM - 3 PM and 3.30 PM - 5 PM

Wednesday: 1.30 PM - 3 PM and 3.30 PM - 5 PM

Friday: 9 AM - 10.30 AM and 11 AM - 11.45 PM

SESSION 1: 21 July 2015

Session's Subjects

- Introduction to the course
- International human rights and refugee protection regimes

Compulsory Reading

Slides and Reading Abstracts – Session 1

Recommended Reading

Betts, A. "The Refugee Regime Complex", 29(1) *Refugee Survey Quarterly* (2010), pp. 13-37.

Canefe, N. "The Fragmented Nature of the International Refugee Regime and its consequences: a comparative analysis of the application of the 1951 Convention", in J.C. Simeon (ed.), *Critical Issues in International Refugee Law: strategies toward interpretative harmony*, Cambridge, Cambridge University Press, 2010, pp. 174-210.

Donnelly, J. *Universal Human Rights in Theory and Practice*. 3rd ed., Cornell University Press, Ithaca/London, 2013, pp. 161-196 [Chapter 11: "International Human Rights Regimes"].

UNHCR. *Expert Meeting on Complementarities between International Refugee Law, International Criminal Law and International Human Rights Law: Summary Conclusions*, Arusha, 2011.

SESSION 2: 22 July 2015

Session's Subjects

- A historical account of refugee protection

Compulsory Reading

Slides and Reading Abstracts – Session 2

Recommended Reading

Grahl-Madsen, A. "The European Tradition of Asylum and the Development of Refugee Law", 3(3) *Journal of Peace Research* (1966), pp. 278-288.

Hathaway, J.C. "The Evolution of Refugee Status in International Law: 1920-1950", 33(2) *International and Comparative Law Quarterly* (1984), pp. 348-380.

Price, M.E. *Rethinking Asylum – history, purpose, and limits*. Cambridge, Cambridge University Press, 2009, pp. 24-68 [Chapter 1: "Recovering Asylum's Political Roots"].

Sinn, U. "Greek sanctuaries as places of refuge", in N. Marinatos & R. Hägg (eds), *Greek Sanctuaries – new approaches*, London, Routledge, 1993, pp. 88-109.

SESSION 3: 24 July 2015

Session's Subjects

- The normative ethics and politics of refugee protection

Compulsory Reading

Slides and Reading Abstracts – Session 3

Recommended Reading

Cronin, B. *Institutions for the Common Good – international protection regimes in international society*. Cambridge, Cambridge University Press, 2003, pp. 152-184 [Chapter 6: "The nation-state and the protection of refugees"].

Gibney, M.J. "Liberal Democratic States and Responsibilities to Refugees", 93(1) *American Political Science Review* (1999), pp. 169-181.

Haddad, E. "Refugee Protection: a clash of values", 7(3) *International Journal of Human Rights* (2003), pp. 1-26.

Singer, P. & R. Singer. "The Ethics of Refugee Policy", in M. Gibney (ed.), *Open Borders? Closed Societies?: the ethical and political issues*, Westport, Greenwood, 1988, pp. 111-130.

SESSION 4: 28 July 2015

Session's Subjects

- The normative pillar: refugee definitions in universal and regional instruments
 - 1950 UNHCR Statute, 1951 Convention, 1969 OUA Convention, 1984 Cartagena Declaration [inclusion clauses]

Compulsory Reading

Slides and Reading Abstracts – Session 4

UNHCR. *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, Geneva, 2011, pp. 5-42.

Recommended Reading

Ibhawoh, B. "Defining Persecution and Protection: the cultural relativism debate and the rights of refugees", in N. Steiner et al. (eds), *Problems of Protection – the UNHCR, refugees, and human rights*, New York, Routledge, 2003, pp. 61-75.

Jackson, I.C. "The 1951 Convention relating to the Status of Refugees: a universal basis for protection", 3(3) *International Journal of Refugee Law* (1991), pp. 403-413.

UNHCR. *Interpreting Article 1 of the 1951 Convention Relating to the Status of Refugees*, Geneva, 2001, 24p.

SESSION 5: 29 July 2015

Session's Subjects

- The normative pillar: refugee definitions in universal and regional instruments
 - 1950 UNHCR Statute, 1951 Convention [cessation clauses, cessation, and exclusion clauses]

Compulsory Reading

Slides and Reading Abstracts – Session 5

UNHCR. *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, Geneva, 2011, pp. 97-104 [Guidelines on International Protection No. 3: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees (the "Ceased Circumstances" clauses)] and pp. 115-122 [Guidelines on International Protection No. 5: Application of Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees].

_____. *Article 1F, Framework for Exclusion Analysis*.

Recommended Reading

Fitzpatrick, J. & Bonoan, R. "Cessation of Refugee Status", in E. Feller et al. (eds), *Refugee Protection in International Law - UNHCR's Global Consultations on International Protection*, Cambridge, Cambridge University Press, 2003, pp. 491-544; available at www.refworld.org

Harvey, C. "Exclusion from Refugee Status and the Interpretation of 'Political Crimes'", 47 *Northern Ireland Legal Quarterly* (1996), pp. 314-321.

SESSION 6: 31 July 2015

Session's Subjects

Case study: eligibility

SESSION 7: 4 August 2015

- The institutional pillar: UNHCR's mandate and activities
 - Mandate: evolutionary perspective
 - Advocacy and urban settings

Recommended Reading

Slides and Reading Abstracts – Session 7

UNHCR. HQs Organigramme; available at <http://www.unhcr.org/4bffd0dc9.html>

Compulsory Reading

Lewis, C. *UNHCR and International Refugee Law: from treaties to innovation*, Routledge, London, 2012, pp. 50-77 [Chapter 3: "Flexibility in UNHCR's international law role"].

Loescher, G. *The UNHCR and World Politics*, Oxford, Oxford University Press, 2001, pp. 1-20 [Chapter 1: "The UNHCR at 50: State pressures and institutional autonomy"].

_____. *The United Nations High Commissioner for Refugees for (UNHCR): the politics and practice of refugee protection into the twenty-first century*, Routledge, London, 2008, pp. 121-130 [Chapter 6: "Towards the future"].

SESSION 8: 5 August 2015

Session's Subjects

- The institutional pillar: UNHCR's mandate and activities
 - Mass influx situations and rural settings
- Movie: "Guinea: Aid and Abuse" (13'27")

Compulsory Reading

Slides and Reading Abstracts – Session 8

Video: <http://dannyfisher.org/2009/02/27/the-new-york-times-nicholas-kristof-and-george-clooney-visit-eastern-chad/> (4'23").

Recommended Reading

Davis, J. & R. Lambert. *Engineering in Emergencies: a practical guide for relief workers*. London, Intermediate Technology Publ. Ltd., 1995, pp. 556-574 [Chapter 17: "Refugees Camps"].

Harrell-Bond, B. "The experience of refugees as recipients of aid", in A. Ager (ed.), *Refugees: perspectives on the experience of forced migration*, London, Pinter, 1999, pp. 136-168.

Hyndman, J. "A Refugee Camp Conundrum: Geopolitics, Liberal Democracy, and Protracted Refugee Situations", 28(2) *Refuge* (2011), pp. 7-15.

UNHCR. *UNHCR Policy on Alternatives to Camps*, 22 July 2014.

SESSION 9: 7 August 2015

Session's Subjects

- The protection of refugees in Africa and Latin America

Compulsory Reading

Slides and Reading Abstracts – Session 9

Recommended Reading

Arboleda, E. "Refugee Definition in Africa and Latin America: the lessons of pragmatism", 3(2) *International Journal of Refugee Law* (1991), pp. 185-207.

Fischel de Andrade, J.H. "Forced Migration in South America", in E. Fiddian-Qasmiyeh et al. (eds), *The Oxford Handbook of Refugee and Forced Migration Studies*, Oxford, Oxford University Press, 2014, pp. 677-689.

Rankin, M.B. *Extending the Limits or Narrowing the Scope? Deconstructing the OAU Refugee Definition Thirty Years On* (New Issues in Refugee Research: Working Paper No. 113). Geneva, UNHCR, 2005, 29p.

Reed-Hurtado, M. *The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America* (PPLA/2013/03). Geneva, UNHCR, 2013, 33p.

SESSION 10: 11 August 2015

Session's Subjects

- The protection of refugees in Europe

Compulsory Reading

Slides and Reading Abstracts – Session 10

Recommended Reading

Bank, R. "Forced Migration in Europe", in E. Fiddian-Qasmiyeh et al. (eds), *The Oxford Handbook of Refugee and Forced Migration Studies*, Oxford, Oxford University Press, 2014, pp. 690-702.

El-Enany, N. & Thielemann, E.R. "The Impact of the EU on National Asylum Policies", in S. Wolff et al. (eds), in *The Area of Freedom, Security and Justice: myth or reality? Taking stock of the Lisbon Treaty and the Stockholm Programme*, The Hague, Asser, 2011, pp. 97-116.

Guild, E. "The European Geography of Refugee Protection: exclusions, limitations and exceptions from the 1967 Protocol to the present", 4 *European Human Rights Law Review* (2012), pp. 413-426.

Hathaway, J.C. "Harmonizing for Whom? The Devaluation of Refugee Protection in the Era of European Economic Integration", 26(3) *Cornell International Law Journal* (1993), pp. 719-735.

SESSION 11: 12 August 2015

Session's Subjects

- IDPs: normative and institutional arrangements
 - Case studies

Compulsory Reading

Slides and Reading Abstracts – Session 11

Recommended Reading

- Fischel de Andrade, J.H. & N. Delaney. "Minority Return to South-Eastern Bosnia and Herzegovina: a review of the 2000 return season", 14(3) *Journal of Refugee Studies* (2001), pp. 315-330.
- Global Protection Cluster (GPC). *Handbook for the Protection of Internally Displaced Persons*, Geneva, GPC, 2010, pp. 7-17 [Part I.1: "Key concepts and approaches"] and pp. 18-41 [Part I.2: "The legal framework"].
- Mooney, E.D. "Something Old, Something New, Something Borrowed... Something Blue? The protection potential of a marriage of concepts between R2P and IDP protection", 2 *Global Responsibility to Protect* (2010), pp. 60-85.
- Orchard, P. "Implementing a Global Internally Displaced Persons Protection Regime", in A. Betts & P. Orchard (eds), *Implementation & World Politics – how international norms change practice*, Oxford, Oxford University Press, 2014, pp. 105-123.

SESSION 12: 14 August 2015

Session's Subjects

- Stateless persons: identification, prevention, reduction, and protection
 - Case studies

Compulsory Reading

Slides and Reading Abstracts – Session 12

Recommended Reading

- Darling, K. "Protection of Stateless Persons in International Asylum and Refugee Law", 21(4) *International Journal of Refugee Law* (2009), pp. 742-767.
- UNHCR & IPU. *Nationality and Statelessness* (Handbook for Parliamentarians No. 22). Geneva, 2014.
- Vlieks, C. *Strategic Litigation: An Obligation for Statelessness Determination under the European Convention on Human Rights?* (Discussion Paper 09/14). London, European Network on Statelessness, 2014, 27p.