Overview

This course will cover the international and U.S. refugee law regime, with a focus on asylum law in the United States. The course will trace the history and development of the United Nations 1951 Refugee Convention, the 1967 Protocol, and the U.S. Refugee Act of 1980. Students will become familiar with the key actors in the asylum and refugee law arena, including the United Nations High Commission for Refugees, international non-governmental organizations, the U.S. Congress, the Departments of Homeland Security and Justice, and the federal courts. Students will gain an understanding of the refugee definition as interpreted in the U.S.

The course will address the limits of refugee law and will assess the current asylum system in the United States from both a practitioner’s and a policy perspective – contextualizing asylum law within the need for international and domestic policymakers alike to meet obligations under international conventions while maintaining national security, including addressing the challenges of terrorism and transnational crime. The course objectives are: (1) to leave students with an understanding of the international refugee system and of asylum law and procedures in the United States; and, (2) to prepare students for clinical work, employment and internship opportunities within the U.S. government and the NGO community and/or the representation of asylum seekers in pro bono practice. We will also briefly touch on other forms of humanitarian immigration relief in the US for immigrant survivors of serious crime, including domestic violence and human trafficking.

PLEASE NOTE THAT YOU ARE REQUIRED TO READ A REFUGEE NARRATIVE (BOOK) NO LATER THAN THE SECOND CLASS (AND EMAIL ME YOUR CHOICE). See the details below under Class 1, but I like to flag this up front to avoid confusion and/or surprises. It is best if you can complete this reading by the first class, but it is not required until the second class.

Also, please note that this is an incredibly dynamic area of law as of 2018. As a result, please anticipate that the assignments may change over the course of the semester as the courts and executive branch issue new decisions. I will update assignments via email, please be sure that I have your accurate and frequently used email.

Class Attendance and Preparation:

GMUSL academic regulations require regular and punctual class preparation and attendance for academic credit to be earned. Unexcused absences from class will significantly limit the

1 The academic regulations further state: “If a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent for that session.” The academic regulations also provide that in cases
benefits you gain from the course and will diminish your ability to succeed in the course. The syllabus contains required reading as well as optional reading. Where cases are assigned, we will discuss the facts, procedural posture, holding, and key take-away points from each case. You should come to class prepared to discuss each case in the assigned reading.

I hope that students will volunteer participation, but I will also call on you sporadically as necessary to achieve full participation. My goal is to push you to think and engage critically with the material, one another, and me – questions and disagreements are always welcome. Once per semester, each student may, without penalty, notify me by email no later than one hour prior to class to request a “pass” for that week without explanation. A pass means you will attend but will not be called upon unless you volunteer to participate. It is not an excuse for an otherwise unexcused absence; it is simply a “get out of jail free card” that prevents you from being called upon without volunteering during that class.

**Methods of Evaluation:**

**Exam:** The examination will count for 80% of your grade in this class. The examination will be a three-hour, take-home, open-book exercise (you may access your casebook, optional readings, your class notes, and any materials you and your classmates together prepare – you will not be permitted access to the internet or other sources) and will consist of three essay-questions, typically two issue-spotting fact patterns (that require you to demonstrate strategic judgment in addition to clear understanding of the law) and one policy question. **You must complete the exam no later than 5:00 p.m. on Friday, December 14.**

**Class Participation:** Class participation counts for 20% of your grade in the class.

**Contacting the Instructor:**

Please feel free to contact me with any questions or concerns about class and/or your professional development and interests at: laurieballcooper@gmail.com.

**Course Materials**


- Casebook Update (July 2017) available at: [https://system.na1.netsuite.com/core/media/media.nl?id=2115620&c=3668083&h=65cdfcd7da402f171174&_xt=.pdf](https://system.na1.netsuite.com/core/media/media.nl?id=2115620&c=3668083&h=65cdfcd7da402f171174&_xt=.pdf).

- Supplementary materials assigned with a hyperlink in the syllabus below or a citation to pull from legal databases as necessary.

Having merit, substitution of work equivalent to class attendance is permissible at the instructor’s sole discretion and within certain parameters. If you miss more than 3 sessions of our course, which meets once a week, you will be ineligible to receive credit for the course. Please contact the instructor if you need to be absent.
Immigration law is a complex network of statutes, regulations, case law, and international treaties. You will be expected to develop familiarity with 8 U.S.C. §§ 1157-1158 and 8 C.F.R. §§ 207-208, the primary statutes and regulations regarding asylum and refugee status, along with other statutes and regulations. Keep in mind that the immigration statutes can be cited either as part of the INA (Immigration and Nationality Act) or to the codification of that Act in the U.S. Code. We will use both citations in class, because the nature of immigration law is that you need to be able to go back and forth depending on the venue in which you find yourself (or, sometimes, the preferences of an individual adjudicator).

Class Sessions (by week)

**Schedule subject to change as world events and class interests dictate!**

Class 1, August 21: Introduction to Forced Migration -- Concept, History, and International Institutions

Required:

- FM, pp. 7-11 (What is forced migration?), pp. 43-59 (The law applicable to forced migrants), 70-82 (Who should be considered a refugee?).

By the second class, please read one of the following narrative accounts of the refugee journey or another narrative of your choosing and be prepared to discuss the book by giving a basic summary of the plot and discussing some element of the narrative you found surprising, disturbing, or particularly salient:


Please email the instructor the title of the book that you will be reading no later than 5:00 p.m. on Friday, August 24. Reviewing a refugee narrative that you have previously read is
fine, but please do take a second look at the book to refresh your memory – we will draw on these narratives throughout the semester.

Class 2, August 28: International Refugee System & US Refugee Resettlement Program

Required:
- Refugee narrative (see above).
- 2017 Supplement to FM, pp. 2-36.
- Refugee narrative – please see above for assignment details.

Class 3, September 4: Protection in the US -- *Non-Refoulement*, Asylum, & Procedures

Required:
- 8 U.S.C. §1158 (INA § 208); 8 C.F.R. § 208.13.
- Please review the I-589 form available at www.uscis.gov, under “Forms.”

Class 4, September 11: Introduction to Persecution – How much harm is persecution?

Required:
- FM, pp. 131-175 (What is persecution?)

Optional:

Class 5, September 18: Past Persecution, Humanitarian Asylum, Future Persecution, and Degrees of Risk

Required:
- FM, pp. 176-202 (Past Persecution and Internal Flight – including humanitarian asylum and past persecution as continuing persecution and evidence of likelihood of future persecution)
- FM 215-235 (Level of Risk)
Class 6, September 25: Nexus; Grounds of Persecution – Political Opinion, Religion, Race & Nationality; Mixed Motives

Required:
- FM, pp. 249-275 (Political Opinion & Imputed Political Opinion).
- FM, pp. 275-301 (Nexus and Mixed Motives).
- FM, pp. 301-325 (Race, Nationality, and Religion).

Optional:

Class 7, October 2: Grounds of Persecution (continued) – Membership in a Particular Social Group

Required:
- FM, pp. 326-375 (Particular Social Group).
- Crespin-Valladares, 632 F.3d 117 (4th Cir. 2011).

Optional:

Please note that there is no class on Tuesday, October 9 as the law school will observe a Monday schedule on that date.

Class 8, October 16: Gender-Based Asylum Claims

Required:
- FM, pp. 379-446 (Gender-Related Persecution) (you should *skim* the materials related to domestic violence to understand the history and then read carefully the two decisions below).

Optional:
Class 9, October 23: Limitations on Protection – Exclusionary Grounds (One-Year Filing Deadline, Safe Third Country, and Firm Resettlement) & The Persecutor Bar

Required:

- 8 C.F.R. 1208.4(a) (Prohibitions on Filing)
- FM, pp. 465-483 (Timing and Transit)
- 8 U.S.C. 1101(a)(42)
- FM, pp. 484-493 (Exclusion from Protection, Persecutors)

Optional:


Class 10, October 30: Exclusion Continued (Security and Crime); Procedural Exclusions

Required:

- Barahona v. Holder, 691 F.3d 349 (4th Cir. 2012).

Optional:

Class 11, November 6: Discretionary Denials; CAT Relief and Withholding

Required:
- FM, pp. 236-246 (Discretion to Grant or Deny Protection).
- 587-626 (Definition of Torture; Nonrefoulement and US Implementation).

Optional: Life as a Recipient of Humanitarian Immigration Status
- 8 U.S.C. 1641 (qualified aliens)

Class 12, November 13: Adjudication of Asylum Claims – Who Decides and How?

Required:
- FM, pp. 673-751 (Communication Challenges, Evidentiary Requirements & The Asylum System Under Stress). Please note, readings for this week are longer than usual, please feel free to skip the exercises in FM this week.
- Please skim Tae-Hyun Kim, Rethinking Review Standards in Asylum, 55 Wm. & Mary L. Rev. 581 (2013).

Optional:

Class 13, November 20: Other forms of Relief for Survivors of Violence: TPS, U and T Visas, VAWA, Special Immigrant Juvenile Status

Required:
- FM, pp. 951-958 (TPS); 983-985 (Victims of Trafficking and Other Crimes).
• 8 C.F.R. 214.14 (U Visa Regulations).
• 8 C.F.R. 214.11 (T Visa Regulations).
• 8 C.F.R. 204.2 (VAWA Regulations).

Please also identify the statutes – both INA sections and codifications in the US Code (8 USC XXXX) for the U and T Visas and VAWA relief.

Optional:

Class 14, November 27: Final Exam Review

Please submit questions to the instructor by e-mail prior to the final review session by 5:00 p.m. on Sunday, November 18. Any questions received after the deadline are unlikely to be incorporated into the final review – although I will still happily address them as time permits during the review session.

Your exam will be a 3-hour take-home exam that you must complete independently. You have the option to take the exam on your laptop. It will be open book, meaning you may use your casebook, class notes, and articles you have downloaded for class. You may use any document in paper or PDF/offline form. You may not use the internet, including Lexis/Westlaw. I encourage collaboration as you prepare for the exam (but not during the exam, which must be completed independently), and you are welcome to work together as a class to create a shared course outline. Keep in mind, part of the challenge of an open-book exam is timing – it will feel like you do not have enough time, so be sure to organize your materials strategically and understand that a great portion of the exam’s challenge is in completing the questions thoroughly in the time allotted. The exam must be completed by 5:00 p.m. on Friday, December 14. The take-home will be available from the registrar’s office and your answers should be submitted via electronic mail to the registrar’s office as well, with only your Exam ID as identifying information.