

**Class Syllabus: Refugee and Forced Migration Law and Practice with a Focus on
the International Protection Needs of Women and Children
Winter Term 2004/2005: Module III
Professor Anna Marie Gallagher
International MA Program in Peace and Development Studies
Universitat Jaume I, Castellon, Spain**

About the course

This course will be taught over a period of two weeks, Monday through Friday, from 9:00 until 13:00 hours. During each week, we will have four days of lecture. On the first Friday, we will view a documentary about asylum procedures in the United States and have class discussion afterwards. On the second Friday, I will assign a group class exercise related to topics discussed during the course. During the classes, you will also be asked to break into small groups for short exercises. The first week of classes will focus on providing an overview of refugee and migration law and procedures. We will also discuss the situation of internally displaced persons (IDP) and stateless people. During the second week of the course, we will focus on the situation of and protection issues relating to women and children refugees, forced migrants and internally displaced persons.

Reading Materials

You will be provided a reader for the course which will contain materials relevant to the topics of the classes. In the syllabus below, I indicate what materials are required reading for each class. Additionally, I am including the two bibliographies: 1) bibliography on Gender and Asylum; 2) bibliography on separated children issues. These bibliographies may be useful to those of you who are interested in learning more on the issues we will be discussing in class.

Reaching me

I will be available during the week after class time to meet with you on any questions you have about class materials or about refugee and forced migration issues generally. My e mail is: anna@comunicacionglobal.com . If you have any questions or comments, please feel free to contact me through my e-mail address.

Class Preparation, Assignments and Grading

In addition to class attendance, I will require that you participate actively in discussions during lectures and short exercises, during the group class exercise and in a class discussion after we view the documentary “Well-Founded Fear.” You will also be required to write a short paper in response to a hypothetical case which I will give you prior to the end of the course. You should submit your paper to me no later than one week after the end of the course. I will grade you based on your class participation (33%), your participation in the class exercise (33%) and your written response to the hypothetical case.

Class Syllabus

WEEK I: International Refugee Protection and Forced Migration: An Overview

Class I: Origins of International Protection

During this first class, we will be talking about the ancient roots of protection of foreigners, origins of modern refugee protection, and the state of the world's refugees and forced migrants. We will also be discussing and defining terms and concepts which will be talked about during the two weeks of the course.

Readings

- Arthur C. Helton, What is Forced Migration? 13 Geo. Imm. L. J. 521 (1999)
- Musalo, Moore and Boswell, Refugee Law and Policy: Cases and Materials (Carolina Academic Press, 2d ed.), pp. 5-11
- U.S. Committee for Refugees: Selected pages from World Refugee Survey 2004
- Selected pages and document from UNHCR Statistical Reports

Class II: International Protection System: Legal Framework and Actors

During this class, we will discuss the legal framework for protection of refugees. We will identify the relevant actors in the international protection system on the international, regional and national levels. Some questions you should consider are: How would you define the term "refugee"? Does the 1951 Convention provide sufficient protection in the the changed world of refugees and forced migrants today? Should countries be obligated to accept and resettle a certain number of refugees from abroad yearly? If so, what criteria should be used to determine who can be resettled? Should certain persons be refused refugee protection?

Reading

- 1951 Convention Relating to the Status of Refugees
- 1967 Protocol Relating to the Status of Refugees
- Elizabeth G. Ferris, "The Role of Non-Governmental Organizations in the International Refugee Regime" from Problems of Protection: The UNHCR, Refugees and Human Rights, edited by Niklaus Steiner, Mark Gibney, Gil Loescher (Routledge 2003)

- UNHCR Handbook on Procedures and Criteria for Determining Refugee Status (UNHCR 1979)
- UNHCR Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees (4 September 2003)
- UNHCR Guidelines on International Protection: Cessation of Refugee Status under 1C(5) and 6 of the 1951 Convention Relating to the Status of Refugees (10 February 2003)
- UNHCR Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative within the Context of 1A(2) of the 1951 Convention Relating to the Status of Refugees (23 July 2003)
- Global Consultations on International Protection: Asylum Processes (Fair and Efficient Asylum Procedures) EC/GC/01/12 (31 May 2001)

Class III: Internally Displaced Persons and Stateless Persons

We will discuss the definition and situation of IDPs and stateless persons, including the legal instruments available to protect them and the actors involved in providing services and protection. You should think of the following questions in preparing for the class: Who should be responsible for protecting IDPs when their own states are responsible for violating their human rights? When does IDP status end? Who determines that? Should IDPs be permitted to apply for refugee status while still in their country of origin? How do people become stateless? Can a stateless person be a refugee?

Readings

- Guiding Principle on Internal Displacement (1998)
- 1954 Convention Relating to the Status of Stateless Persons
- 1961 Convention on the Reduction of Statelessness

Class IV: Rights of Refugees and Asylum Seekers; Complementary Forms of Protection

In Europe, States generally provide some assistance to asylum seekers pending adjudication of their claims. However, that assistance has been reduced and the provision of such assistance has been the subject of much public debate. In the United States, asylum seekers receive no assistance unless and until their application is granted. During this class, we will look at what the UN and human rights standards say about refugee and asylum seekers rights and what States do to guarantee those rights. Additionally, we will be talking about complementary forms of protection. Several states have subsidiary

forms of protection which they often grant instead of refugee status -- which provides more rights. Some countries – such as the United States—provide what is known as Temporary Protected Status to persons fleeing generalized conflict and natural disasters under certain circumstance. Europe in the 1990’s began to provide temporary protection to persons fleeing the former Yugoslavia. In preparing for this class, you should consider the following: Should asylum seekers have rights to housing and medical care before they are granted asylum? Should there be any limits? Are there alternatives to giving assistance? Regarding subsidiary protection, should there be a numerical limit to such grants? What criteria should be used to grant temporary protection? Should persons granted temporary protection have the same rights as refugees?

Readings

- EU Council Directive on Minimum Standards for the Reception of Asylum Seekers (27 January 2003)
- UNHCR Global Consultations on International Protection: Summary Conclusions – Family Unity (9 Nov. 2001)
- Selected Provisions from Universal Instruments Related to Family, Family Reunification and Family Members’ Status
- UNHCR Handbook on Procedures and Criteria for Determining Refugee Status (UNHCR 1979), pp. 181-188.

Class V: Documentary Showing and Discussion

We will watch a documentary, “Well Founded Fear”, about the asylum adjudication system in the United States. Before the documentary, I will give you a list of questions you should be considering as you watch for class discussion at its conclusion.

Week II: International Protection Needs of Women and Children

Class I: Introduction: Terms, Concepts and the Reality of Women and Children Seeking Protection

During this introduction class, we will talk about the situation of women and children around the world generally, and, more specifically, the situation of the world’s women and children asylum seekers, refugees and internally displaced. Additionally, we will discuss the issue of gender-based violence, its definition and prevalence in the world today.

Readings

- Selected Readings from - War Has Changed Our Life, Not Our Spirit: Experiences of Forcibly Displaced Women (JRS 2001)
- Susan Forbes Martin, Refugee Women, pp. 13 -23 (Lexington Books 2d ed. 2004)
- Michael L. Penn and Rahel Nardos, Overcoming Violence Against Women and Girls: The International Campaign to Eradicate a Worldwide Problem, pp. 23-39 (Rowman & Littlefield 2003)

Class II: Situation of Women and Children Refugees in Camps

Civil unrest and conflicts produce the majority of the world's refugees. During this class, we will discuss the elements of conflict situations and possible gender dimensions. We will also talk about the major protection concerns facing women in refugee like situations. Before coming to class, think about the following questions: Are women affected differently by conflict than men? If so, how? During flight and subsequent settlement in camps, what risks do women face? Are there ways to minimize or eliminate those risks?

Readings

- UNHCR Guidelines on the Protection of Refugee Women (July 1991)

Class III: Gender Based Violence and Asylum

Although more than half the world's refugees are women, less than half seek asylum in third countries – for example, in Europe, Canada or the United States. Many women suffer from violence based on their gender but do not realize they may have a claim for asylum. During the last several years, the number of gender based claims has risen and to some extent governments are beginning to recognize gender based claims as a basis for refugee status. We will discuss the law of gender based claims and the current jurisprudence on the issue in selected countries. Before class, you should think of the following: Should gender be a ground for asylum? If so, under what circumstances? If not, why not? Should women receive different treatment than men in the adjudication of their asylum applications?

Readings

- Canada: Women Refugee Claimants Fearing Gender-Related Persecution , by the Immigration and Refugee Board (1993, updated November 1996)
- United States: Considerations for Asylum Officer Adjudicating Asylum Claims from Women (May 26, 1995)

- 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)

Class IV: The Situation of Children Refugees and Asylum Seekers

During this class, we will talk about the situation of children refugees in camps and unaccompanied children seeking asylum in Europe and the United States. According to estimates, over half of the world’s refugees are children. More and more minors are travelling north alone looking for protection in the United States and in Europe. Many fall prey to traffickers. We will talk about the laws which protect refugee children and unaccompanied minors. We will also discuss special needs of children in adjudications of their claims for asylum. Before the class, you should think of the following: What special considerations should be given to children seeking asylum? Do children have the right on their own to apply for asylum? Is there a special age when they would have such a right? In refugee camp situations, what rights do children have? What needs must be met in camp-like situations?

Readings

- UNHCR Refugee Children: Guidelines on Protection and Care (1994)
- UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum (February 1997)
- Refugees Magazine No. 122 (2001): Children
- Separated Children in Europe Programme Home Page

Class V: Final Class: Group Exercise to be Assigned