

University of Chicago
Winter quarter 2009
Human Rights: Alien and Citizen, HMRT 24701/34701
Susan Gzesh, Senior Lecturer and Executive Director, Human Rights Program
(sgzesh@uchicago.edu)
Class meets: Tuesday and Thursday 3:00 – 4:20
Syllabus: 3d edition (January 10, 2009)

The fundamental principle underlying the concept of human rights is that rights are inherent in the identity of human beings, regardless of their citizenship, nationality or immigration status. In a world in which migration, and particularly unauthorized migration, has become a major social issue everywhere, the notion of universal rights carries a certain utopian appeal.

This course will address whether and how international human rights doctrines, concepts, conventions, and mechanisms may protect the “alien” (or foreigner) who has left his or her country of origin to work, seek safe haven, or join family or friends in another country. The course materials will also consider the accountability of states for the human rights violations that, in some cases, are the fundamental cause of unauthorized migration. Refugees flee situations in which their fundamental human rights are at risk. Others are forced to emigrate or become trafficking victims due to state policies which violate fundamental economic, social, and cultural rights, causing severe economic hardship in certain sectors.

Unauthorized migrants risk that their human rights to be free from abusive treatment will be violated all along their path to their destination. Finally, both lawful and unauthorized migrants find that their human rights and labor rights are also violated in their countries of destination.

Why “human beings” become “migrants” or “refugees” and what happens to them when they cross borders are subjects of concern for social scientists as well as human rights advocates. How native or resident populations and governments respond to new arrivals has varied tremendously, as determined by particular historical and political factors. In some situations, humanitarian impulses or political interests have dictated a warm welcome and respect for the human rights of the new arrivals. In other cases, governments have openly violated international human rights norms which protect refugees, created massive detention camps for unauthorized arrivals, and made resident alien populations targets of suspicion and repression. In some extreme cases, states have “denationalized” people in certain ethnic or religious minorities who previously had citizenship. Cultural factors, racism, gender relations, the legacies of colonialism and slavery, economic factors, and foreign policy all have impacted the situation of the non-citizen or “alien.”

We will use an interdisciplinary approach to address such questions as:

1) Why do human beings migrate? Why would an individual move from the status of “citizen” to “alien”?

2) What is the meaning of citizenship? How is it acquired or lost? What rights may societies and nation-states grant only to citizens, but withhold from others?

3) Are human rights truly universal? Are rights necessarily dependent on citizenship? How have some populations been forced into a situation of statelessness?

4) How do differences in rights between citizens and aliens become more important during national security crises?

5) What are the principal categories used by nation states to classify foreign visitors and residents? What is the difference, for example, between a refugee and an economic migrant? How do these categorizations affect the rights of foreigners?

6) What might human rights as a measuring instrument tell us about conditions which promote refugee flows and other forms of forced migration? Why are migrants who are “forced” to leave their country of origin deemed deserving of human rights protection, but other migrants who supposedly depart “voluntarily” not?

7) How do international human rights doctrines limit actions by states with respect to certain categories of foreigners such as refugees, asylum applicants, and migratory workers? What limits do human rights place on the power of states to detain foreigners?

References and readings:

The syllabus contains required readings for each class which are necessary for students to be able to participate in class discussions. Optional readings are included in order to guide students interested in more information about particular topics, for independent research or paper topics. The syllabus contains references to contemporary international human rights treaties, conventions, agreements, and reports – which can assist the student in understanding how human rights can be used as an analytical tool.

Course requirements: You are expected to attend class and participate in discussions. There will be one short writing assignment due in the second week of class. The main writing requirement is an original research paper of 12 – 15 pages (18 – 20 pages for graduate and professional students) due at the end of the term. Suggested topics will be distributed by the instructor. In lieu of a midterm exam, paper topic abstracts will be due at the beginning of 7th week. Students contemplating writing a major paper on a topic related to human rights and migration (such as a B.A. or M.A. thesis, or dissertation proposal) are encouraged to use the course paper assignment as a preliminary effort. Grades will be based 80% on the paper, 10% on class participation and 10% on the midterm assignment.

Class meetings: Class will meet every Tuesday and Thursday at 3:00 p.m.. However, on Thursday, January 15 and Tuesday, January 20, Susan Gzesh will be out of town. Julia Brookins, PhD candidate in History and a two-time teaching assistant for this course will lecture on Thursday, January 15. A make-up class is tentatively scheduled for Wednesday, February 11.

Books have been ordered through the Seminary Coop bookstore.

Required books:

Stephen Castles and Mark J. Miller, *The Age of Migration: International Population Movements in the Modern World*, 4th edition, Guilford Press, 2008 [**note: NOT the 3 edition**] Readings are structured so we do not need the books until Week 3. There is now a companion website: www.age-of-migration.com with photos and other features..

Columbia University, *Twenty Five Human Rights Instruments* (aka “the Little Red Book”)

Global Migration Group, *International Migration and Human Rights: Challenges and Opportunities on the Threshold of the 60th Anniversary of the Universal Declaration of Human Rights*, 2008; this 133 page book is available free to download to print or read on your computer;

http://www.globalmigrationgroup.org/pdf/Int_Migration_Human_Rights.pdf

Suggested books: (excerpts from these texts are included in the syllabus; you may want to purchase them as fundamental texts in the field: all are paperback editions)

a) social theory related to citizenship and migration

Seyla Benhabib, *The Rights of Others: Aliens, Residents, & Citizens*, Cambridge, 2004

Saskia Sassen, *Guests and Aliens*, The New Press, 1999

b) labor migration:

Barbara Ehrenreich & Arlie Hochschild, eds., *Global Woman: Nannies, Maids, and Sex Workers in the New Economy*, Henry Holt & Co. 2002

Douglas Massey, Jorge Durand, & Nolan Malone, *Beyond Smoke and Mirrors: Mexican Migration in an Era of Economic Integration*, Russell Sage, 2002

Other references/ treaties and conventions:

Documents:

The University of Minnesota Law School maintains the best on-line library of human rights related documents and references: <http://www1.umn.edu/humanrts/>

United Nations and regional agencies:

Global Migration Group – an inter-agency task force comprised of 11 United Nations agencies, the World Bank, the International Organization for Migration, and the International Labor Organization, <http://www.globalmigrationgroup.org>

United Nations Human Rights Commission’s Special Rapporteur on Migrants. Reports from the Special Rapporteur, Gabriela Rodriguez Pizarro, can be found at <http://www.unhchr.ch/html/menu2/7/b/mmig.htm>

The United Nations High Commission on Human Rights also has a Working Group on Arbitrary Detention, whose reports are at: <http://www.unhchr.ch/html/menu2/7/b/mard.htm>.

The UN Committee on the Elimination of Racial Discrimination has issued a resolution on discrimination against non-citizens, to be found at: <http://www.unhchr.ch/html/menu2/7/b/mard.htm>

The InterAmerican Commission on Human Rights (Comision InterAmericana de los Derechos Humanos) has been actively involved in the monitoring of the human rights problems of migrants in the Americas. www.cidh.org; reports of the IACHR Special Rapporteur on Migrant Workers and their Families can be found at <http://www.cidh.org/annualrep/2002eng/chap.6.htm>)

The International Labor Organization (a multi-lateral organization which was founded in the 1920s, now affiliated with the UN) has a section devoted to the protection of migratory workers: <http://www.ilo.org/public/english/protection/migrant/index.htm>

The International Organization (a multi-lateral organization, headquartered in Geneva) tracks international policy trends and contracts with governments to work with migrants and refugee populations in movement, <http://www.iom.int/jahia/Jahia/lang/en/pid/1>

Non-governmental organizations & migration policy “think tanks”:

1) NGOs

Many non-governmental organizations work to protect the human rights of non-citizens, be they migratory workers, refugees, victims of trafficking, or separated family members. Some of the best known organizations include:

Amnesty International: www.amnestyinternational.org; the Spanish-language AI website is at <http://www.amnistiainternacional.org/>

Centro de Estudios Legales y Sociales (CELS), <http://www.cels.org.ar/> an Argentine NGO which works on human rights in the Americas, including work on migrants’ rights (see the section of the website on Tolerance and Non-Discrimination); material on their website is in English and Spanish.

December 18th Network, <http://www.december18.net/web/general/start.php> is an international website, with materials in seven languages, linking NGOs working on migrant rights worldwide.

Human Rights First (formerly Lawyers Committee for Human Rights): <http://www.humanrightsfirst.org/> (HRFirst is a US-based organization which monitors human rights violations around the world, including the U.S.)

Human Rights Watch: www.hrw.org; materials from HRW in Spanish are available at <http://www.hrw.org/spanish/>

Migrant Rights International: www.migrantrights.org (dedicated to the ratification of the Convention on the Rights of Migratory Workers and their Families)

National Association of Latin American and Caribbean Communities, Chicago, Illinois, www.nalacc.org (national coalition of immigrant-led organizations with interests in international trade, remittance flows, and the immigrant voice in policy discussions)

National Immigration Forum, Washington, D.C. www.immigrationforum.org (the leading national coalition lobbying on immigration policy)

National Network for Immigrant and Refugee Rights, Oakland, California, www.nnirr.org (national coalition of grass-roots immigrants’ rights groups with a human rights and international law focus)

Platform for International Cooperation on Undocumented Migrants (PICUM), based in Brussels, Belgium, <http://www.picum.org/>

2) Think tanks and research networks:

Center for Immigration Studies, Washington, D.C., <http://www.cis.org/>

Forced Migration Online, University of Oxford, England, www.forcedmigration.org/

International Network on Migration and Development, Mexico,

<http://www.migracionydesarrollo.org/> (website is bilingual in English & Spanish)

Migration Policy Institute, Washington, D.C., www.migrationpolicy.org

Refugee Studies Centre, University of Oxford, England, <http://www.rsc.ox.ac.uk/>

Class topics and readings

Week 1, January 6 & 8 : Migration, aliens, and citizens

Tuesday, January 6: Introduction to the course: Why do people move from one country to another? How do “citizens” become “aliens”?

Readings:

Stories of migration:

_____, Genesis, Chap. 42 – 48 – The Israelites leave Palestine for Egypt because of a famine. In Egypt, they know they will find food and work.

Marilyn Davis, *Mexican Voices/ American Dreams*, (oral history) pp.15 – 22.

The author interviews a Mexican *bracero* (guest worker) of the 1940s and his wife who stayed behind and managed the family farm.

Ariel Dorfman, *Heading South, Looking North: a Bilingual Journey* (autobiography) pp. 14 – 29; The author grew up between Chile, Argentina, and the U.S., constantly negotiating cultural and linguistic crossovers

Maxine Hong Kingston, *China Men* (fiction), pp. 34 – 57; A young Chinese man in Fujian Province struggles to escape a suffocating future as a teacher.

Gillian Slovo, *Every Secret Thing*, (autobiography), pp. 100- 106; A South African mother, active in the African National Congress during the apartheid years, takes her daughters into exile in England after she has been released from prison.

Assignment: students should prepare to discuss their own family’s history of migration, whether within the U.S. or international; short written summaries (250 – 1000 words) will be due in class on Thursday, January 15).

Thursday, January 8: Migration stories continue

Reading –

1) a social science perspective on contemporary migration issues:

Castles and Miller (text): Chapter 1: Introduction, pp. 1-19 – **note:** (If the Castles book has not yet arrived at the Sem Coop, you can read this as the “sample chapter” online at the website: <http://www.age-of-migration.com/na/assets/pdfs/sample.pdf>)

2) Are human rights universal, regardless of nationality or immigration status?

Global Migration Group, *International Migration and Human Rights*, (referred to as “GMG text”); Chap. I: Introduction, pp. 1 – 6; Chap. III: The Legal Framework, pp. 13-17

Universal Declaration of Human Rights (in the “Little Red Book”), Article 2; Article 6; Article 13 have particular relevance for this course;

International Covenant on Economic, Social, and Cultural Rights, Articles 1 – 15; start thinking about how these rights apply (or not) to foreigners whether legally present or not; also think about how violations of these rights in migrants’ countries of origin can produce emigration;

International Covenant on Civil and Political Rights, Articles 2 - 25 ; pay particular attention to Article 2 (“all individuals within its territory”)

Week 2 (January 13 & 15) Are rights connected to citizenship?

Tuesday, January 13: *Citizenship and rights*: What is the meaning of citizenship? How is citizenship acquired or granted under different contemporary regimes? Are rights linked to citizenship? What distinctions have nation states made between citizens and aliens? What is our contemporary understanding of this distinction? Why is there no international human rights convention which mandates rules for the acquisition and loss of citizenship? Does international human rights law have anything to say about citizenship?

Required readings (read in order):

Gershon Shafir, “Citizenship and Human Rights in and Era of Globalization,” in Falk, Elver, Hajjar, eds., *Human Rights: Critical Concepts in Political Science*, Routledge, 2008; pp. 9 - 25

Thucydides, Pericles’ funeral oration in the *Peloponnesian Wars*;

<http://www.wsu.edu/~dee/GREECE/PERICLES.HTM>

Hannah Arendt, “Race Unity as a substitute for National Emancipation,” from *The Origins of Totalitarianism*, Harcourt, 1985, pp. 165 – 170

Joseph Carens, “Aliens and Citizens: The Case for Open Borders,” excerpted in Alexander Aleinikoff, David Martin, & Hiroshi Motomura, *Immigration and Citizenship: Process and Policy*, 5th ed., West, 2003, pp. 232 – 235; [referred to as Aleinikoff, Martin hereafter]

Castles and Miller, (text) “State and nation” pp. 41-47; and “Citizenship” – pp. 268 - 276

Michael Walzer, “Spheres of Justice: A Defense of Pluralism and Equality,” excerpted in Aleinikoff, Martin, at pp. 225 – 232

Legal definitions: national citizenship, international human rights norms:

National Assembly of France, Declaration of the Rights of Man and Citizen, 1789, at http://avalon.law.yale.edu/18th_century/rightsof.asp

Universal Declaration of Human Rights, 1948, Preamble and Articles 1, 13, and 15 (in the Red Book)

International Covenant on Civil and Political Rights, 1976, Articles 2, 12, 13, 16, 24.3, & 25 (in the Red Book)

American Declaration on the Rights and Duties of Man, 1948, “Whereas” – second paragraph; Articles 8, 17, 19, 32, 34, & 38 (in the Red Book)

Optional reading:

Stephen Castles and Alastair Davidson, Chap. 4 “Becoming a Citizen,” in *Citizenship and Migration: Globalization and the Politics of Belonging*, Routledge, 2000, pp. 85- 128

Kay Heilbrunner, “Nationality,” in *Migration and International Legal Norms*, T. Alexander Aleinikoff and Vincent Chetail, eds., TMC;

Yasemin Nuhoglu Soysal, “Changing Parameters of Citizenship and Claims-Making: Organized Islam in European Public Spheres,” *Theory and Society*, Vol. 26, No. 4, Special Issue on Recasting Citizenship. (Aug., 1997), pp. 509-527.

Stable URL: <http://links.jstor.org/sici?sici=0304-2421%28199708%2926%3A4%3C509%3ACPOCAC%3E2.0.CO%3B2-J>

Myron Weiner, Chapter 4: “Absorption: Citizenship and Rights” from *The Global Migration Crisis* (see January 4 assignment for complete info), pages 13 – 19 , as copied in “Course Documents” on chalk site).

For those of you interested in the UN system and citizenship rights, see: David Weissbrodt, U.N. Special Rapporteur, *Working Paper on the Rights of Non-Citizens; Appendix on Issues Relating to Migrants*, U.N. Doc. E/CN.4/Sub.2/1999/7/Add.1 (1999). <http://www1.umn.edu/humanrts/demo/noncitMay99-append.html>

Thursday, January 15: American citizenship: What historical and political factors have formed the contemporary understanding of citizenship in the U.S.? Despite the statement in the Declaration of Independence that “all men are created equal,” various groups have been excluded from *de jure* and *de facto* citizenship in the past 200 years. What are the major contemporary controversies regarding access to full citizenship in the U.S. today?

Lecture by Julia Brookins, PhD student, Department of History, University of Chicago

Readings:

“Citizenship and the Constitution: *ius solis & ius sanguinis*” from Aleinikoff, Martin, pp. 9 - 18 & 32 - 34; citizenship under U.S. law

Langston Hughes, “Let America be America Again,” a poem (1938)

<http://www.poets.org/viewmedia.php/prmMID/15609>

Abraham Lincoln, *Gettysburg Address*, November 19, 1863,

<http://libertyonline.hypermall.com/Lincoln/gettysburg.html>

Gerald Neuman, “Limits of the Nation: Birthright Citizenship and Undocumented Children,” in *Strangers to the Constitution*, Princeton, 1996, pp. 165 – 187

Mae Ngai, “Asians and the Rule of Racial Unassimilability,” and “Race, Citizenship, and Conquest,” in *Impossible Subjects: Illegal Aliens and the Making of Modern America*, Princeton, 2004, pp. 37 – 55

Optional reading:

Samuel Huntington, “The Hispanic Challenge,” *Foreign Policy*, March-April 2004, http://www.foreignpolicy.com/story/cms.php?story_id=2495

Claudio Lomnitz, “American Soup,” (a response to Huntington), Boston Review, Feb/March 2005, <http://bostonreview.net/BR30.1/lomnitz.html>

Abraham Lincoln, The Emancipation Proclamation, January 1, 1863, <http://www.nps.gov/ncro/anti/emancipation.html>

Iris Marion Young, “Polity and Difference: A Critique of the Ideal of Universal Citizenship,” in *Ethics*, Vol. 99.

Reference materials:

U.S. Constitution,

<http://www.law.cornell.edu/constitution/constitution.overview.html>

Article 1, Sec. 8, Clause 4 (naturalization);

the Bill of Rights (Amendments 1 – 10) (pay attention to where the words “person” and/or “citizen” are used);

the post-Civil War Amendments 13 (abolition of slavery), 14 & 15 & 16 (defining citizenship and equal protection); and

Amendment 19 (granting women the right to vote)

Supreme Court decisions (all are in Course Documents):

Dred Scott (an escaped slave may be returned to his master from a “free state”),

Plessy v. Ferguson (racial segregation in public accommodations upheld), and

Yick Wo v. Hopkins (the Constitution prevents San Francisco city officials from discriminating against Chinese immigrants)

Week 3, January 20 & 22 –

Tuesday, January 20 – Citizenship and alienage – Who are the “haves” and “have-nots”? While normative (legal) citizenship does not guarantee full participation in society and politics, non-citizens are *per se* disadvantaged regarding respect for their rights. Turning from the “haves” (citizens) to the “have-nots” (aliens/foreigners/immigrants), we will review the basic concepts used by social scientists and human rights experts to describe and categorize persons who are outside of their country of citizenship.

(These readings are a reprise of the assignment for January 8.)

1) a social science perspective on contemporary migration issues:

Castles and Miller (text): Chapter 1: Introduction, pp. 1-19 – **note:** (If the Castles book has not yet arrived at the Sem Coop, you can read this as the “sample chapter” online at the website: <http://www.age-of-migration.com/na/assets/pdfs/sample.pdf>)

2) Are human rights universal, regardless of nationality or immigration status?

Global Migration Group, *International Migration and Human Rights*, (referred to as “GMG text”); Chap. I: Introduction, pp. 1 – 6; Chap. III: The Legal Framework, pp. 13-17

Universal Declaration of Human Rights (in the “Little Red Book”), Article 2; Article 6; Article 13 have particular relevance for this course;

International Covenant on Economic, Social, and Cultural Rights, Articles 1 – 15; start thinking about how these rights apply (or not) to foreigners whether legally present or not; also think about how violations of these rights in migrants’ countries of origin can produce emigration;

International Covenant on Civil and Political Rights, Articles 2 - 25 ; pay particular attention to Article 2 (“all individuals within its territory”)

Additional optional assignment: On Tuesday morning, watch the inauguration of the 44th President of the United States, Barack Hussein Obama.

Think about how the inauguration of this President impacts the historical understanding of citizenship in the U.S. **(Entirely optional, ungraded assignment):** Write a reaction piece, in the form of a Letter to the Editor or blog entry (i.e. an informal, conversational style and around 500 – 750 words) about the above question. Bring your note to class on Thursday, January 22. We may post some of the submissions on the Human Rights Program website.

Thursday, January 22: Statelessness and the true universality of rights

The condition of statelessness: what is at stake for persons who are forcibly deprived of their nationality and the protection of their country of origin? Can children be born stateless? Three examples of statelessness in the modern era are represented in the readings.

Readings:

1) on mass statelessness in Europe in the post-World War I period:

Hannah Arendt, “The Decline of the Nation State and the End of the Rights of Man,” Chap. 9, *The Origins of Totalitarianism*, Harcourt, Inc. 1976, required reading at pp. 276 – 289, but you may want to read the entire chapter pp. 265-302;

2) on the long-term statelessness of the Palestinians –

Rashid Khalidi, “The Palestinians Twenty Years After,” MERIP Middle East Report, No. 146, (May - Jun., 1987), pp. 6-14 (on Chalk; may also be downloaded via JSTOR);

3) on the expulsion of the South Asian community from Uganda in 1972:

Mira Nair, *Mississippi Masala*, 1991, a film starring Sarita Chowdry and Denzel Washington – the principal characters are a South Asian family expelled from Uganda in 1972 who settle in Mississippi; we will see about 15 minutes of key scenes in class.

British Broadcasting Corporation, “Immigration and Emigration: Uganda’s Loss, Britain’s Gain,” from *Legacies: UK History*

http://www.bbc.co.uk/legacies/immig_emig/england/suffolk/article_1.shtml

4) on the refusal of the Dominican Republic to allow the children of Haitian migrants to be registered at birth:

Human Rights Watch, “Illegal People: Haitians and Dominico-Haitians in the Dominican Republic,” April, 2002: <http://www.hrw.org/reports/2002/domrep/>

References:

Inter-American Human Rights Commission, “The Situation of Haitian Migrant Workers and their Families in the Dominican Republic,” Chapter 9, paragraphs 350 – 362 and Conclusions, paragraph 363, in Report on Human Rights in the Dominican Republic, 1999, <http://www.cidh.org/countryrep/dominicanrep99/chapter9.htm>

Week 4 (January 27 & 29: Refugees and asylum seekers

(All College students should make an appointment during 4th or 5th week with their TA; all graduate students should make an appointment with Susan Gzesh – to begin to discuss paper topics – which are due on Thursday, February 12 (week 6).

Guidelines for writing up your paper topic prospectus will be posted on the Chalk site.)

Tuesday, January 27: Introduction to refugee protection

The treatment of Jewish refugees by many nations as they (and other anti-Fascists and persecuted peoples) attempted to flee the Nazis served in part as the inspiration for the post-World War 2 promulgation of the Convention and Protocol for the Treatment of Refugees. What are the internationally recognized rights guaranteed by these instruments? How do contemporary governments allocate “burden sharing” and other responsibilities for refugees among themselves?

Text:

Kartemquin Films, *New Americans*, PBS 2004, “Ogoni refugee story: Nwidor family,” <http://www.kartemquin.com/films/index.html> We will view a 10 minute excerpt from this PBS documentary as an introduction to the topic.

Other required reading:

Nina Bernstein, “City of Immigrants Fills Jail with Its Own,” *New York Times*, December 28, 2008 -

<http://www.nytimes.com/2008/12/27/us/27detain.html?scp=2&sq=&st=nyt>

(See also the interactive map of U.S. detention sites for migrants and refugees at: http://www.nytimes.com/interactive/2008/12/26/us/1227_DETAIN.html)

Jacqueline Bhabha, “Internationalist Gatekeepers: the Tension between Asylum Advocacy and Human Rights,” *Harvard Human Rights Journal*, Vol. 15, 2002, <http://www.law.harvard.edu/students/orgs/hrj/iss15/bhabha.shtml> (sections relevant to the class will be designated by the instructor)

Castles & Miller (course text) in Chap. 8 The State and International Migration: The Quest for Control, pp. 188 – 195;

Castles & Miller - on Age of Migration website – chart on refugee flows in the Middle East and North Africa: <http://www.age-of-migration.com/na/casestudies/7.3.pdf>

Aristide Zolberg, Astrid Suhkre, Sergio Aguayo, “Who is a Refugee?” from *Escape from Violence*, Oxford University Press, 1989, pp. 3 - 33 (on Chalk)

Optional reading:

Human Rights First, “In Liberty’s Shadow: U.S. Detention of Asylum Seekers in the Era of Homeland Security,” (forward by Sigourney Weaver), at http://www.humanrightsfirst.org/about_us/events/Chasing_Freedom/asylum_report.htm;

Gil Loescher, “The Origins of the International Refugee Regime”, from *Beyond Charity: International Cooperation and the Global Refugee Crisis*, (on Chalk)

References:

International treaties:

Convention Relating to the Status of Refugees, done July 28, 1951, 189 UNTS 137, (in the Red Book, pp. 57 - 67)

Protocol Relating to the Status of Refugees, done January 31, 1967, 19UST 6223, (in the Red Book, pp. 68 - 79)

U.S. law:

Excerpts from U.S. statutes governing refugee admissions and applications for political asylum (on the Chalk site)

Additional optional reading: three contemporary case studies:

1) Australia's detention of asylum seekers:

Bowden, Charles, "Outback Nightmares & Refugee Dreams," *Mother Jones*, March- April 2003, pp. 47 - 53; on the Chalk site;

Amnesty International, "Amnesty is concerned over the hunger strike taking place in Baxter detention," December 15, 2004, at:

<http://www.amnesty.org.au/resources/newsroom/news?cid=1&pid=726>

2) U.S. policy towards Haitian refugees – high seas interdiction and detention

Danticat, Edwidge, "A Very Haitian Story," *New York Times*, November 24, 2004, <http://www.pen.org/corefreedoms/100.html>

Sale v. Haitian Centers Council 509 U.S. 155 (1993) - Justice Blackmun's dissenting opinion: the Supreme Court upheld (8-1) the interdiction of Haitian refugees by the U.S. Coast Guard

3) Libya and Italy cooperate to prevent African refugees reaching Europe by sea: :

<http://web.amnesty.org/library/index/engMDE190222004?open&of=eng-LBY>

Thursday, January 29:

Becoming a refugee - human rights and the definition of persecution: How are the rights claims of persons fleeing persecution recognized in other states through the mechanism of political asylum adjudication? Do the rights violations recognized as "persecution" include all violations of human rights norms by the government of a refugee's state of origin? How do foreign policy considerations influence asylum adjudications? What are the cultural assumptions held by receiving states regarding certain cultural practices in states of origin?

Film showing: Fazziya Kassindja case is presented on "Nightline" with Ted Kopple, 1996

Readings:

(from Tuesday - Jacqueline Bhabha, "Internationalist Gatekeepers: the Tension between Asylum Advocacy and Human Rights," *Harvard Human Rights Journal*, Vol. 15, 2002, <http://www.law.harvard.edu/students/orgs/hrj/iss15/bhabha.shtml>)

Coomaraswamy, Radhika, "Different but Free: Cultural Relativism and Women's Rights as Human Rights"

Shweder, Richard, "What About Female Genital Mutilation? and Why Understanding Culture Matters in the First Place," from Engaging Cultural Differences, Richard Shweder, Martha Minow, and Hazel Rose Markus, editors, Russell Sage Foundation, 2002.

United Nations High Commission for Refugees, Guidelines on International Protection: Gender-related persecution, May 2002:

<http://www.unhcr.org/publ/PUBL/3d58ddef4.pdf>

optional reading:

- updates on the Kassindja case: <http://cgrs.uchastings.edu/about/kasinga.php>
- Glendon, Mary Ann, "Universality Under Siege," chapter 12, *A World Made New*, pp.221 – 235;
- Kratz, Corinne, "Circumcision Debates and Asylum Cases: Intersecting Arenas, Contested Values, and Tangled Webs," in Shweder, Minow (above) -
- Sullivan, Donna, "Women's Human Rights and the 1993 World Conference on Human Rights," *American Journal of International Law*, Vol. 88, No. 1, January 1994
<http://www.jstor.org/view/00029300/di981851/98p0543b/0?config=jstor&frame=noframe&userID=80873b7c@uchicago.edu/018dd55340005012747ef&dpi=3>
- European Council on Refugees and Exiles, executive summary of "Position on Asylum Seeking And Refugee Women," December 1997
<http://www.ecre.org/positions/women.shtml#EXECUTIVE%20SUMMARY>
<http://www.ecre.org/positions/women.shtml#EXECUTIVE%20SUMMARY>

Week 5 (February 3 & 5): Migratory workers and human rights

Tuesday, February 3: Migratory workers: guestworkers, unauthorized workers and international protection: Foreign and migratory workers have been part of labor markets since the ancient Hebrews worked on the pyramids and temples of Egypt. In the post-World War II period, and particularly in the last twenty years, the number of people who must leave their homes to work in other countries has increased. Immigration laws of the major industrialized economies provide few options for legal labor migration, with the resulting increase in smuggling and trafficking. In addition, international labor migrations have become increasingly feminized as more women from developing countries seek employment abroad.

Human rights implications: Can the International Labor Organization, through its various instruments and mechanisms, provide protection for these workers? Can the Convention on the Rights of Migratory Workers, which entered into force in 2004, set a new standard for labor rights of migrants?

Required readings:

Castles & Miller; Chapter 5: Migration to Europe, North America & Oceania since 1945, pp. 96 – 107 and chapter conclusions, pp. 121-124; Chapter 8, The State and International Migration: The Quest for Control (partial) pp. 181 – 188; Chapter 10, Migrants & Minorities in the Labour Force, pp.221 - 244;

People's Movement for Human Rights Education, "What are the Human Rights of Migrant Workers?" <http://www.pdhre.org/rights/migrants.html>

Saskia Sassen, "Global Cities and Survival Circuits," in Ehrenreich and Hochschild, *Global Woman: Nannies, Maids, and Sex Workers in the New Economy*, 2002, pp. 254 -274

Optional reading:

Stephen Castles, 2003. "Towards a Sociology of Forced Migration and Social Transformation," *Sociology*, Vol. 37, pp. 13-34;

Lance Compa, "Workers' Freedom of Association in the United States: The Gap Between Ideals and Practice," from James Gross, Ed., *Workers' Rights as Human Rights*,

B) International Labor Organization, on the Hoffman Plastics case and on the case of migratory workers in Spain www.ilo.org/ilo/ex/english/caseframeE.htm

Migratory workers in food-processing: Lance Compa, et al. Chapters VII and VIII from *Blood Sweat and Fear: Workers' Rights in U.S. Meat and Poultry Plants*, Human Rights Watch, 2005
<http://hrw.org/reports/2005/usa0105/index.htm>

Migratory workers in domestic employment: Arlie Hochschild, "Love and Gold," from Ehrenreich and Hochschild, pp.15 -30; (is love a "commodity"?)

Week 6 (February 10 & 12): Mexico-U.S. migration: historical overview and contemporary human rights problems

Tuesday, February 10: Mexico-US migration: Why do Mexicans come to the U.S.? Is economic migration also forced migration?

"poor Mexico, poor United States, so far from God, so near to each other,"

-Carlos Fuentes, *The Crystal Border*, adapting a Mexican saying from the 19th Century ("poor Mexico, so far from God and so close to the United States")

Millions of people live in irregular migration status, forced to leave their countries of citizenship to assure their basic needs and those of their families. The case of Mexican migration to the U.S. provides a striking example. Of an estimated 12 million undocumented immigrants living in the U.S. in 2007, approximately 56% come from Mexico. Some 14% of Mexico's labor force is presently working in the U.S. While economic and social conditions in Mexico force migrants to leave, U.S. law does not allow legal visas for Mexicans working in the U.S. economy. Mexican migrants face increased costs and danger crossing the border illegally, and human rights abuses in the interior of the U.S. have risen as well. Which state is responsible for the human rights of Mexican unauthorized migrants? Do sending and receiving states have an obligation to address the fundamental causes of unauthorized migration? The concept of "forced migration" may contain answers to these questions, through the understanding that there is a moral and legal obligation on sending and receiving states to assist people displaced by factors beyond their control. An expanded definition of forced migration to include so-called "economic migrants" would provide the justification for international cooperation on the reduction of the need to migrate. An assessment of the causes of economic migration as human rights violations could be the basis for the new definition. As the largest binational labor migration in the world, the Mexico-US case can provide an important example.

Readings:

Stephen Castles, "The factors that make and unmake migration policies," *International Migration Review*, Vol. 38, No. 3, 2004

Lance Compa, Solidarity Center AFL-CIO, *The Struggle for Worker Rights in Mexico*, 2004, pp. 2 – 8 (the entire report is on the Chalk site as a .pdf)

Douglas Massey, Jorge Durand, and Nolan Malone, "System Assembly: A History of Mexico-U.S. Migration," in *Beyond Smoke and Mirrors*, 2002, pp.24 – 51

Gallery of retablos (religious paintings) by Mexican migrants, collected by the Mexican Migration Project, Princeton University, Douglas Massey and Jorge Durand, co-directors, view the paintings at: <http://mmp.opr.princeton.edu/expressions/gallery-en.aspx>

Douglas Massey, "March of Folly: U.S. Immigration Policy After NAFTA," American Prospect, March, 1998, <http://www.prospect.org/print/V9/37/massey-d.html>

Optional readings:

Carlos Fuentes, "Rio Grande, Rio Bravo," in *The Crystal Frontier: A Novel in Nine Stories* 1995,

Mae Ngai, excerpt "The Liberal Critique and Reform of Immigration Policy," Chap. 7, in *Impossible Subjects: Illegal Aliens and the Making of Modern America*, 2004, pp. 248 – 264;

UN High Commissioner for Human Rights, "Diagnostic of the situation of human rights in Mexico," http://www.cinu.org.mx/prensa/especiales/2003/dh_2003/index.htm

Thursday, February 12: Mexico-U.S. migration: continued – Ioana Navarette, Consulate of Mexico, Chicago– TBD, speaker from U.S. labor unions or Chicago workers' rights center

Week 7 (February 17 & 19) Do international human rights really make a difference?

Tuesday, February 17: How do international human rights protect the rights of non-citizens – an overview

Upcoming assignment: Prior to this date, the class will be divided into five working groups to develop presentations on human rights and the protection of non-citizens. Each group will be assigned one problem; presentations will be done on Tuesday, February 3 and Thursday, February 5. See the course documents section on the Chalk site for a description of the five problems.

Preparation for group exercise presentations: We will go over the Group Exercise on using human rights agreements to assess conditions for non-citizens. All the materials needed are in the Little Redbook, with the exception of the International Convention on the Protection of the Rights of All Migratory Workers and Members of Their Families, see http://www.unhcr.ch/html/menu3/b/m_mwctoc.htm .

Reading:

GMG (text): review Chap. III: The Legal Framework, pp. 13 – 37 and Chap. IV: Challenges of Protecting the Human Rights of Migrants, pp. 38 – 74, for material which may have relevance to your assigned topic

Objectives:

The objectives of this exercise are to familiarize students with human rights protections in international legal instruments and analyze their efficacy as mechanisms of protection. For the purpose of this exercise, assume that all the treaties and declarations in the Little Redbook are binding on the U.S., Haiti, and the Dominican Republic.

The full versions of the questions are found on the Chalk site under "course documents:"

In brief, the assignments are:

- 1) the denial of birth registration and public education to children born in the Dominican Republic to Haitian parents;
- 2) the impact of a state law (of a U.S. state) which requires state employees to report the undocumented to U.S. immigration authorities on access to education and health services by undocumented immigrants and their children;
- 3) the rights of undocumented children detained by the U.S. government pursuant to removal (deportation) hearings; and
- 4) the impact on labor rights of undocumented workers in the U.S. of the *Hoffman Plastics* Supreme Court decision;
- 5) the indefinite detention of Muslim immigrants in the post-9/11 anti-terrorism sweeps;
- 6) a sixth assignment to be determined

**Thursday, February 19 and
Week 8 Tuesday, February 24 & Thursday, February 26 - Student presentations**

For some ideas about the development of campaigns to protect human rights or protest violations of human rights, see the website of an international coalition of human rights NGOs “New Tactics” – www.newtactics.org See also a short piece by Douglas Johnson, Director of the Center for Victims of Torture and a founder of New Tactics on the Chalk site under “Course Documents.”

From the New Tactics website: “The New Tactics in Human Rights Project, led by a diverse group of partner [international organizations](#), [advisors](#) and [practitioners](#), promotes tactical innovation and strategic thinking within the international human rights community. Strategic and tactical thinking, long used by business and military strategists, is an effective means for the human rights movement to expand options and possibilities of what can be done. Innovative tactics are emerging that may more effectively advance human rights and end persistent human rights problems. Many innovations have been valuable, yet are not well known outside their regions. The New Tactics in Human Rights project promotes the use and sharing of as wide a range of tactics as possible. The project is coordinated by the [Center for Victims of Torture](#) and grew out of its experience as a creator of new tactics and a treatment center that also advocates for the protection of human rights from a unique position—one of healing and reclaiming civic leadership. We hope you will join us and the [New Tactics community](#) in developing, using and promoting strategic and tactical thinking within the broad human rights community.”

Week 9 (March 3 & 5): Terrorism and suspicion of foreigners

Tuesday, March 3: Aliens in times of national security crises: U.S. historical antecedents and the PATRIOT Act Since the passage of the Alien and Sedition Act of 1798, the U.S. government has frequently blamed foreigners for the growth of radical political movements on U.S. soil. From the Palmer Raids of 1920 to the USA PATRIOT Act, U.S. law and law enforcement agencies have enjoyed broad discretion in their treatment of aliens, particularly in times of national political crisis. Today’s class will focus on the history of the use of immigration law as a means of controlling or eliminating perceived threats from foreign-lead radical groups.

Readings:

American Civil Liberties Union, index of materials on the detention of aliens, post 9/11, <http://www.aclu.org/safefree/detention/index.html> and on racial profiling, discrimination and immigrants' rights; link to USA Patriot Act within article - <http://www.aclunc.org/911/profiling.html>

Castles & Miller (text), Chap. 9 "Migration & Security," pp. 207-220

David Cole, *Enemy Aliens: Double Standards and Constitutional Freedoms in the War on Terrorism*, 2003, "Their Liberty, Our Security: an Overview," pp. 17 – 46; "The Course of Least Resistance: J. Edgar Hoover's First Job and the Palmer Raids of 1919-1920," pp. 116- 128;

Susan Gzesh, *America's Human Rights Challenge: International Human Rights Implications of U.S. Immigration Enforcement, post-9/11*, Migration Policy Institute, 2006, pp. 1- 12 and one of two case studies, at http://www.migrationpolicy.org/pubs/Americas_Human_Rights_Challenge_1006.pdf

Optional readings:

Geoffrey Stone, *Perilous Times: Free Speech in Wartime*, 2004 - "The Alien Acts..." pp. 29 – 33; "The Red Scare of 1919-1920," pp. 222-226; "Aliens and Citizens" [World War 2] pp. 285-307;

Two cases of interest:

1) "Los Angeles 8" – deportation charges brought in 1987, case dismissed in 2007:
 Editorial, "A Shameful Prosecution," 2/14/07, *New York Times* (on Chalk) and
 Henry Weinstein, "U.S. loses 20-year attempt to deport 2 immigrants: An immigration judge criticizes federal conduct in the case against the pair, both legal residents, accused of terrorist ties." *Los Angeles Times*, 1/31/07 (on Chalk)

2) Dr. Sami Al-Arian, South Florida professor accused of supporting Palestinian terrorists:

See the website of his support committee which has links to other materials at: <http://www.freesamialarian.com/home.htm>

Optional readings:

Human Rights First, articles on consequences of U.S. counter-terrorism efforts for immigrants and refugees

http://www.humanrightsfirst.org/us_law/immigrants/index.htm

Human Rights Watch, *Presumption of Guilt: Human Rights Abuses of Post-September 11 Detainees* (2002)

<http://www.hrw.org/reports/2002/us911/Index.htm#TopOfPage>

Stanley Kutler, *American Inquisition*, 1982, "If at First: the Trials of Harry Bridges," pp. 118-151

Thursday, March 5: – group exercise

Group exercise: The class will be split into four groups during class, all to work on the same problem regarding international human rights violations and possible enforcement alternatives in the immediate post-9/11 PENTTBOM investigation. The problem will be posted on the Chalk site and emailed to students. Groups should try to meet before Thursday class, but the first half-hour of class will be dedicated to group discussions. Since all groups will be dealing with the same problem, our class discussion will be lead by a panel comprised of one representative from each group. Your basic task is to develop guidelines for the Obama administration with respect to immigration enforcement and national security.

Questions:

- What are the due process protections guaranteed to non-citizens, migrants, and refugees under international human rights law?
- Does international human rights law prohibit national origin or race discrimination in immigration regulation?
- How do due process guarantees protect other fundamental human rights such as the prohibition on “refoulment,” and the prohibition on torture?
- Were there any reasonable alternatives to the mass detentions post-9/11?

References:

International treaties and conventions:

You will want to refer in the “Little Red Book” to the UDHR, ICCPR, and the Convention on the Elimination of All Forms of Racial Discrimination

Websites presenting contrasting perspectives on post-9/11 arrests:

Center for Constitutional Rights website – in the post-9/11 period CCR filed a lawsuit (*Turkmen v. Ashcroft*) in federal court contesting the “sweeps” – for an update on the litigation, see:

http://www.ccr-ny.org/v2/legal/september_11th/sept11Article.asp?ObjID=35KQUuFR0g&Content=96
and

<http://www.ccr-ny.org/v2/reports/report.asp?ObjID=fd2T7ToPtx&Content=697>

(for an update on the *Turkmen* litigation, see:

Nina Bernstein “Held in 9/11 Net, Muslims Return To Accuse U.S.” New York Times, January 23, 2006, p. 1,

<http://select.nytimes.com/gst/abstract.html?res=F00910FA385B0C708EDDA80894DE404482>

Center for Immigration Studies: for an index of studies from a conservative perspective on the balance between national security and immigration enforcement, refer to this organization’s website:

<http://www.cis.org/topics/terrorism.html>

U.S. Department of Justice, Office of the Inspector General, *The September 11 Detainees: A Review of the Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks*, June 2003, <http://www.usdoj.gov/oig/special/0306/>

Week 10 (March 10 ONLY): Media and its uses in the politics of immigration

Tuesday: The New Americans – documentary film-maker Gordon Quinn and documentary subject Hatem Abudayyeh discuss their respective roles making the PBS documentary mini-series *New Americans*, (2004). *New Americans* will be reissued in DVD format with an alternate Spanish language soundtrack in early 2008 and rebroadcast on PBS in spring 2008. see: <http://www.kartemquin.com/films/index.html>

Gordon Quinn (U of C, B.A. 1964), co-founder of Kartemquin Films, executive producer for the *New Americans* series and directed the segment about Hatem and his wife Naima. <http://www.kartemquin.com/> Hatem Abudayyeh is Director of the Arab American Action Network, a community-based advocacy and service organization on Chicago's southwest side, see: <http://www.aaan.org/>