

# SYLLABUS

## ASYLUM LAW-SPRING 2015

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### Professors:

Geoffrey A. Hoffman, Director-Immigration Clinic & Clinical Assoc. Professor

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Susham M. Modi, Adjunct Professor & Clinical Supervising Attorney

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### Class time and location:

Time: 4:00p-6:00p Wednesday Location: TBD

Office Hours: 10:00 – 12:00 Fridays TU-II Rm 55 (Hoffman) and Rm 59a– (Modi)

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### Course Materials

Main Text: Regina Germain, Asylum Primer (AILA 2010, 6<sup>th</sup> ed.)

As a resource only: Deborah Anker, Law of Asylum in the United States (West 2014 ed.)

Immigration and Nationality Act online: <http://www.law.cornell.edu/uscode/text/8/chapter-12>

*Further Materials will be provided throughout semester-via email*

### Course Overview

This course will provide you with the fundamentals of asylum and refugee law in the United States, the policies underlying asylum and refugee law, and the federal agencies that implement and enforce those policies.

### Seminar Class

This is a seminar course. As such, we wish to emphasize this is principally a discussion class. You will be expected to participate on a daily basis in each class session. The goal for each class is for the reading to be the “jumping off point” for each discussion. We will assume you have all done the reading and thought deeply about it. Either Professor Hoffman or Professor Modi (or both) will lead the discussion and provide questions as topics for the conversation. Each student will be expected to comment on the day’s topic so we should not need “to call on” students.

**Attendance and Participation:** We will take attendance and expect you to come to class prepared and ready to participate. To this end, please bring the text, Asylum Primer, and any related supplementary materials we provide with you to each class. Also you may be required to look up provisions of the Immigration and Nationality Act (INA).

**Reservation of Right to Increase/Decrease Grade:** You are on notice that the professors have reserved the right to increase or decrease any final grade by a half-letter depending on the student's performance in class. In past years, grades have been affected depending on whether students are engaged and routinely add to the discussion. Therefore, attendance and participation may significantly affect your final grade. Your grade will also be determined by your performance on a final exam.

**Final Exam:** There will be a closed final exam at the end of the semester. The final will consist of two multi-part essay questions. Because this is a 2-credit course, you are expected to spend two hours on the final exam. However, we will provide you with a total of 3 hours, so everyone has enough time on the exam. The exam will be closed to notes and all other materials. Your grade will be determined 100% by your final exam grade with the stipulation above regarding reservation of right to increase/decrease letter grade based on class participation.

### **List of Topics By Week and Reading Assignments**

#### **Week 1 Overview of Asylum and Refugee Law (Jan. 21)**

We will lead discussion of basic elements of an asylum case; withholding; and relief under the Convention Against Torture; overview of fundamentals of immigration law

Read: Asylum Primer, Chapter 1, pages 1-21

Handout to be provided by email: *Preparing and Presenting an Asylum Case in Immigration Court* (by Robert Etnyre, Esq.)

#### **Week 2- From the Perspective of an Asylum Seeker and the Lawyer (Jan. 28)**

***FILM SHOWING: Chasing Freedom; class discussion and movie presentation***

Immigration and Customs Enforcement, *Revised Parole Guidance Fact Sheet*, December 2009 <http://www.ice.gov/news/library/factsheets/credible-fear.htm>

Human Rights First, *Asylum Legal Representation Program*  
<http://www.humanrightsfirst.org/asylum/probono/probono.aspx>

#### **Week 3: The Refugee Definition (Feb. 4)**

READ: Asylum Primer: Chapter 2, pp. 23-40 (U.S. Asylum Law) and Chapter 2, pp. 41-44

INS v. Cardoza-Fonseca, 480 U.S. 421 (1987)  
<http://supreme.justia.com/us/480/421/case.html>

INS v. Elias-Zacarias, 502 U.S. 478 (1992)  
<http://supreme.justia.com/us/502/478/case.html>

## **Week 4: Nexus and Grounds For Persecution (Feb. 11)**

### **Nexus and Political Opinion**

Matter of S-P-, 21 I & N Dec. 486 (BIA 1996)  
<http://www.usdoj.gov/eoir/vll/intdec/vol21/3287.pdf>

Matter of Mogharrabi, 19 I&N Dec. 439 (BIA 1987)  
<http://www.usdoj.gov/eoir/vll/intdec/vol19/3028.pdf>

### **Race, Religion, Nationality:**

Asylum Primer: Chapter 2, pgs. middle of page 44-50

Matter of S.A., 22 I. & N. Dec. 1328 (BIA 2000)  
<http://www.usdoj.gov/eoir/vll/intdec/vol22/3433.pdf>

## **Week 5: The Grounds of Persecution: Social Group/Gang/Gender (Feb. 18)**

### **Particular Social Group**

Asylum Primer: Chapter 2, pgs. middle of page 50-66

Matter of Acosta, 19 I&N Dec. 211, (BIA 1985)  
<http://www.usdoj.gov/eoir/vll/intdec/vol19/2986.pdf>

### **Gang-Related Claims**

Excerpt from The Law of Asylum in the United States by Deborah Anker: Chapter 5, pgs. 473-483.

Matter of M-E-V-G-, 26 I&N Dec. 227 (BIA 2014) (review again relating to gang cases)  
<http://www.justice.gov/eoir/vll/intdec/vol26/3795.pdf>

Matter of S-E-G-, 24 I&N Dec. 579 (BIA 2008)  
<http://www.justice.gov/eoir/vll/intdec/vol24/3617.pdf>

MOST RECENT PRECEDENT: Matter of M-E-V-G-, 26 I&N Dec. 227 (BIA 2014)  
<http://www.justice.gov/eoir/vll/intdec/vol26/3795.pdf>

### **Gender-Based Harm**

*Gatimi v. Holder*, 578 F.3d 611 (7th Cir. 2009)(Posner, J.)

Asylum Primer: Chapter 2, pgs. page 66 - 71  
*Matter of A-T-*, 24 I&N Dec. 617 (A.G. 2008)  
*Matter of R-A-*, 24 I&N Dec. 629 (A.G. 2008)

MOST RECENT PRECEDENT: Matter of A-R-C-G-, 26 I&N Dec. 388 (BIA 2014)  
<http://www.justice.gov/eoir/vll/intdec/vol26/3811.pdf>

Tahirih Justice Center, *Precarious Protection: How Unsettled Policy and Current Laws Harm Women and Girls Fleeing Persecution*, October 2009, pages 5-21

[http://www.tahirih.org/site/wp-content/uploads/2009/10/tahirihreport\\_precariousprotection.pdf](http://www.tahirih.org/site/wp-content/uploads/2009/10/tahirihreport_precariousprotection.pdf)

### **Week 6: The Grounds of Persecution: Gang/Gender-Based Harm Continued (Feb. 25)**

Tahirih Justice Center, Various Documents and Fact Sheets on Gender Based Harm

[http://law.psu.edu/file/Smoot\\_Material.pdf](http://law.psu.edu/file/Smoot_Material.pdf)

New York Times, *Asylum Granted to Mexican Woman in Case Setting Standard on Domestic Abuse*, by Julia Preston, August 12, 2010

<http://www.nytimes.com/2010/08/13/us/politics/13asylum.html>

Tahirih Justice Center, *Voices of Courage, Stories of Justice*

WATCH: <http://www.vimeo.com/5115451>

### **Week 7: Bars to Asylum (Feb. 28)**

Asylum Primer: Chapter 2, middle of Page 116 – middle of Page 149 (Ineligibility for Asylum and Withholding of Removal)

### **Week 8: Adjudicating Asylum Claims - Burden of Proof, Testimony, Credibility and Corroboration (Mar. 4)**

Asylum Primer: Chapter 2, middle of page 90 – middle of page 116

Matter of S-M-J, 21 I&N Dec. 722 (BIA 1997)

<http://www.usdoj.gov/eoir/vll/intdec/vol21/3303.pdf>

### **Week 9: Going to the Asylum Office- Applying for Affirmative Asylum (Mar. 11)**

Asylum Primer: Chapter 3: pages 166-174 (Asylum and Withholding of Removal Procedures)

Asylum Primer: Form I-589 Instructions & Application for Asylum and Withholding of Removal, pages 583-608

### **Week 10: SPRING BREAK MARCH 16-21: NO CLASS**

### **Week 11: Going to Immigration Court- Defensive Asylum (Mar. 25)**

Asylum Primer: Chapter 3: middle of page 177- page 202 (Defensive Procedures)

Asylum Primer: Chapter 4, pages 291-319 (Convention Against Torture)

*Matter of J-E-*, 23 I&N Dec. 291 (BIA 2002)

<http://www.justice.gov/eoir/efoia/bia/Decisions/Revdec/pdfDEC/3466.pdf>

### **Week 12: Asylum and Children / Family Detention (Apr. 1)**

Excerpt from The Law of Asylum in the United States by Deborah Anker: Chapter 5, pgs. 483-488 and power point to be provided.

Migration Policy Institute, *US Detention of Asylum Seekers and Human Rights*, By Bill Frelick, March 1, 2005 <http://www.migrationinformation.org/Feature/display.cfm?id=296>

Human Rights First, *U.S. Detention of Asylum Seekers: Seeking Protection, Finding Prison*, Executive Summary (pages 1-12)(2009) <http://www.humanrightsfirst.org/wp-content/uploads/pdf/090429-RP-hrf-asylum-detention-report.pdf>

Executive Office for Immigration Review, Immigration Court Practice Manual, Chapter 9, [http://www.justice.gov/eoir/vll/OCIJPracManual/ocij\\_page1.htm](http://www.justice.gov/eoir/vll/OCIJPracManual/ocij_page1.htm)

### **Week 13: Practicing Immigration Law (Apr. 8)**

Executive Office for Immigration Review, *At A Glance*, September 2010

<http://www.justice.gov/eoir/press/2010/EOIRataGlance09092010.htm>

Executive Office for Immigration Review, Immigration Court Practice Manual, Chapters 4 and 6 [http://www.justice.gov/eoir/vll/OCIJPracManual/ocij\\_page1.htm](http://www.justice.gov/eoir/vll/OCIJPracManual/ocij_page1.htm)

## **Asylum Policy and Reform**

### **Week 14: The Politics of Asylum (Apr. 15)**

Stanford Law Review, Jaya Ramji-Nogales, Andrew Schoenholtz, Philip Schrag, Refugee Roulette: *Disparities in Asylum Adjudication*, Vol. 60, 2008; pages 372-390

[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=983946](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=983946)

New York Times, *Big Disparities in Judging of Asylum Cases*, May 31, 2007

<http://www.nytimes.com/2007/05/31/washington/31asylum.html>

TRAC Immigration: *Asylum Denial Rate Reaches All Time Low: FY 2010 Results, a Twenty-Five Year Perspective*, September 2010 <http://trac.syr.edu/immigration/reports/240/>

Center for Immigration Studies: *The Uses and Abuses of the Asylum System*, By David North, September 6, 2010

<http://www.cis.org/North/AsylumUsesandAbuses>

**Week 15: Reform and Considerations for the Future (Apr. 22) LAST CLASS**

**Human Rights First, *Blueprint for Obama Administration Provides Recommendations for Repairing the U.S. Asylum System* <http://www.humanrightsfirst.org/wp-content/uploads/pdf/081204-ASY-asylum-blueprint.pdf>**

Migration Policy Institute, *Climate Change and Migration: Sorting through Complex Issues without the Hype*, By Carolina Fritz, March 2010  
<http://www.migrationinformation.org/feature/display.cfm?ID=773>

Discussion of Related Career Opportunities

FINAL EXAM: 05/06/15 6-8pm. This is a 2-question final, for which you will have 3 hours to complete.

LOCATION: TBD