



May 20, 2014

Because of the site visits and presentations for the Introduction to the Australian Legal System course, our scheduling will have to be a little flexible. The schedule set out below is our best estimate, but we anticipate having to make some changes to accommodate guest presentations and site visits.

### **ASSIGNED TEXTBOOKS AND MATERIALS:**

- (1) Musalo, Moore, and Boswell, *Refugee Law and Policy: A Comparative and International Approach*, Fourth Edition (Carolina Academic Press.)
- (2) Supplemental materials, posted to ClaraNet for both the Refugee Law and Intro to Australian Legal System courses (see note below on ClaraNet)
- (3) Hypotheticals for use in Refugee Law portion of course; posted to ClaraNet.

We've also posted excerpts from international treaties and U.S. statutes and regulations to ClaraNet. We will not read all of these, but it is helpful to be able to refer to them.

**A NOTE ABOUT THE READINGS:** They are not as long as they look, and we promise they are interesting and even fascinating reading! And you will notice that the reading assignments get much shorter towards the end of the course!

### **HOW TO ACCESS THE SUPPLEMENTAL READINGS:**

We have a course page on ClaraNet, the Santa Clara University School of Law school course pages. You can easily access this by going to <http://www.scu.edu/law/>, and clicking on "ClaraNet" in the links in the maroon bar to the bottom left of the page. Then click on "Main index to course materials and course information," and then click "go" on "Course Reserves Pages by Instructor," then on Abriel, Evangeline" under "Please select instructor." This will bring you to a list of my courses; click on our course. The webpage is not password-protected. Please let me know if you have any trouble accessing the course page.

### **EVALUATION AND GRADING:**

You will have a combined final exam for both the Refugee Law and Intro to Australian Law portions of the course. 75 per cent of your class grade will be based on a three-hour, open-book final examination, and the remaining 25 per cent will be based on class participation. Part of the class participation will be a brief presentation to the class, for which we will assign you a role as legal counsel or judge.

For Introduction to the Australian Legal System, the grade will be based on your response to one essay answer on the final, in which we will ask you to discuss some aspect of Australian law that you have learned about.

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The exam will be given on Friday, June 13, 2014, from 9 a.m. to 12 noon. It will be an open-book, open-notes exam. You will be able to use materials stored on your computer, but will not be able to go on-line during the exam.

The materials in this class lend themselves to vibrant class discussion. Thus, students should be prepared to participate in class. Please read the materials thoroughly and carefully so that you will be prepared for class discussion.

## **CLASS ATTENDANCE**

Regular class attendance is required under the law school regulations. You are permitted to miss ten percent of the class meetings, whether excused or unexcused. Any absences over this ten percent limit will be excused only for compelling emergencies.

## **CLASS SCHEDULE AND ASSIGNMENTS:**

**PLEASE NOTE: As explained above, this is our best estimate of coverage; we will need to adjust the dates depending on progress and to accommodate guest presentations and visits to legal institutions.**

Class 1: Monday, June 2

9-11:10: Introduction to course: course requirements, overview of international refugee law; overview of U.S. refugee systems (Prof. Abriel)

Reading assignments:

- Textbook, 3-4, 19-20, 27-31 (middle), 32 (middle) – 36 (middle); 48-49, 53 (bottom) – 55; 62, 74 (middle) -76, 84 (middle) – 86. 131 (middle) – 135 (top).
- UNHCR, excerpt from State of the World's Refugees 2012 (posted to ClaraNet)
- Before this first class, please browse over the United Nations High Commissioner for Refugees (UNHCR) website, <http://www.unhcr.ch/cgi-bin/texis/vtx/home>, for information on current refugee situations.
- Hypos sets 1 and 2.

11:30 – noon Orientation by UTS.

3-4:30 Overview of the Australian Legal System (Prof. Poynder)

Reading assignment: Overview of Australian Legal System (posted to ClaraNet)

Class 2: Tuesday, June 3

9:00 – 10:00 Overview of Australian refugee programs; Australian overseas refugee processing (Prof. Poynder)

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Reading assignments: supplemental materials posted to ClaraNet, pp. 1-9.

10 15 – noon U.S. overseas refugee processing program; the concepts of persecution; standards and burden of proof in establishing the refugee claim. (Prof. Abriel)

Reading assignments:

Textbook:

- Standard and burden of proof: 169-170, 183-199, 204 (bottom) – 211, 220 (bottom) – 221, 222 (middle) – 225 (middle), 231 (bottom) – 238 (top).
- Persecution: 241-242 (top), 246-250, 252-261, 264-266 (top), 287.

Supplemental materials: 10-40.

Hypotheticals 4 & 5.

AFTERNOON SITE VISIT: Meet at UTS at 2:00 to walk to Federal Court of Australia, for presentation by Registrar Tom Morgan.

Class 3: Wednesday, June 4

9:00 – noon Refugee law: nexus, protected grounds of political opinion, race, and nationality. (Prof. Abriel)

Reading assignments:

Textbook:

- Nexus: 301-302, 308-316, 325 (bottom) – 331 (top), 339-343, 345-348.
- Political opinion: 375-376 (up to anti-Communism), 381-389 (trade union activity), 409-415 (prosecution v persecution); 427-444 (top) (refusal to serve in military); 463-466 (coercive population control).
- Race and nationality: 527-531, 545-549, 570-573 (middle), 591-593.

Supplemental materials pp. 41-49.

Hypotheticals: 7 and 14.

AFTERNOON SITE VISIT: 3:30 – 5:30 Site visit to Legal Aid of New South Wales, for presentation on Australian criminal procedure by Solicitor Simon Etherington.

Reading assignment for site visit: excerpt from “Australian and the United States: Two Common Criminal Justice Systems Uncommonly at Odds,” posted to ClaraNet.

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Class 4: Thursday, June 5

9:00-noon Refugee Law: protected grounds of religion and membership in particular social group.

Readings:

Textbook:

- Religion: 467, 470-471 (notes), 472-474, 494-511, 515-525.
- Membership in a particular social group: 615-620 (top), 621-630, 651-652, 653-661.

Hypothetical 6.

AFTERNOON SITE VISIT: 1:30 – 3:30 Site visit to the Australian Human Rights Commission. Reading assignment for site visit: “Rights and Freedoms, Right by Right,” posted to ClaraNet.

Class 5: Friday, June 6

9:00 – noon Site visit to Downing Centre (Criminal District Court of New South Wales)..

1:30 – 4:00 Refugee Law: complete particular social group; gender-related asylum; grounds of exclusion from refugee status.

Reading assignment:

Textbook:

- Particular social group: 663-669 (UNHCR guidance);
- Gender-related asylum: 689-690 (middle), 696-697 (UNHCR guidelines), 716-726 (top) (Kasinga), 760 (bottom) - 770 (top) (Fisher and notes), 816-820 (UNHCR guidelines).
- Exclusion grounds (qualifications on protection): 821-823 (overview), 850-853 (Rodriguez-Majano).

Hypothetical 8.

Class 6: Monday, June 9

9:00 – noon Complete grounds of exclusion from refugee status.

Readings:

Textbook:

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Exclusion grounds: 855-858 (middle) (serious nonpolitical crimes), 860 (bottom) – 865 (middle) (Aguirre-Aguirre); 870 (bottom) – 871 (middle) (particularly serious crimes), 875 (bottom) – 877 (particularly serious crimes); 889-890 (top); 896 (bottom) – 900 (middle) (firm resettlement); 909-917 (statutory provisions).

Supplemental materials on terrorist grounds pp. 50-73

Hypothetical 9, exercises pp. 888-889 textbook.

Class 7: Tuesday, June 10

9:00 – noon Convention against Torture; the process for asylum, withholding, and CAT claims. (Prof. Abriel)

Reading assignments:

Textbook:

- Convention against Torture: 357-367, supplemental materials posted to ClaraNet.
- The application process: 924-929 (procedure), 933 (bottom) -938 (due process rights), 946-947 (legal representation), 952 (bottom) – 955 (interpretation), 957 (bottom) – 962 (lastor).

Supplemental materials: pp. 74-91.

Hypotheticals 10 & 11.

Afternoon: TBA: EITHER site visit to Aboriginal Legal Services office or presentation and workshop on Australian legal research (you'll need your laptops)

Reading assignment for site visit to Aboriginal Legal Services office: materials posted to ClaraNet.

Class 8: Wednesday, June 11

9:00 – 10:00 Proving the claim under U.S. law (Prof. Abriel)

Reading assignment: textbook 990-1008 (top); 1016-1018 (UNHCR Guidelines); 1019-1024 (top), 1039-1047 (top).

10:00 – noon The Australian asylum application process; other forms of relief under Australian law (complementary protection, appeals to the UNCHR) (Prof. Poynder)

Reading assignment: supplemental materials pp. 92-93.

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Afternoon: TBA: EITHER site visit to Aboriginal Legal Services office or presentation and workshop on Australian legal research (you'll need your laptops)

Class 9: Thursday, June 12

9:00 – noon Trafficking in persons and immigration relief for trafficking victims; other forms of immigration protection under U.S. Law.

Guest speaker: Laura Vidal, from Salvation Army.

Reading assignment: supplemental materials, pp.94-116.  
Hypothetical: 12

Afternoon: Optional review session.

Friday, June 13 FINAL EXAMINATION 9 a.m. – 12 noon.