

## **INTERNATIONAL REFUGEE LAWS**

***Responsible Faculty Instructor:***

**Somil Kumar** [somil.kumar@jgu.edu.in]

Assistant Professor

Credits: 4

Credits Type: Law

Cross-registration: No

Pre-requisites: International Law core course completed

### **COURSE DESCRIPTION (COURSE VISION):**

The course is an elective course aimed at providing students an overview of international law and select regional or domestic laws related to the protection of refugees, asylum seekers and internally displaced persons. The course begins with a primer on general international law followed by sessions focused on unpacking key basic conceptions such as refugees, asylum seekers internally displaced persons and what is meant by protection for these classes of persons. Beyond a general idea, the course aims to provide a detailed overview of various human rights and refugee rights that comprise protection standards. To do so, the course will cover international and regional human rights laws and laws concerning the protection of refugees and asylum seekers to provide students with an overview of the legal system. The course will refer to case laws from regional and international courts to unpack key legal developments.

The course will also overview the institutions involved in refugee protection including international bodies such as the Office of the United Nations High Commissioner for Refugees (UNHCR), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the European Court of Human Rights (ECHR), the International Organisation for Migration (IOM) and other key institutions. The course will also provide a general overview of domestic

laws integration of refugees and asylum seekers' rights focusing on laws in the European Union, New Zealand, and India. Other than referring to these institutions individually, the course aims to provide an understanding of the complimentary nature of protection that exists across international, regional and domestic laws for refugees and asylum seekers.

The course will also focus on refugee and asylum seeker protection in India. Unlike other jurisdictions which have a clearly defined body of asylum/refugee law, India's refugee policy consists of several disparate executive and judicial decisions. The absence of a formal body of refugee law also means that general knowledge about the refugee populace is low. Despite these factors, India has a relatively large population of urban refugees. The course will explain under what laws or institutional arrangements refugees in India are protected, how Refugee status is determined and provide a critique of the overall system.

Through the various sessions of the course, aside from overviewing the legal system and institutions, where necessary, the course will aim to cover critiques of the laws and institutions. In this context, the course will refer to key recent developments such as the so-called migration crises in North America and Europe, the issue of climate change induced migration, and the general weakening of laws protecting refugees and asylum seekers within the broader context of anti-migration sentiments globally.

Primary materials for the course include the 1951 Refugee Convention, the International Covenant on Civil and Political Rights, the Global Migration Compact, the Global Compact on Refugees, the European Convention on Human Rights as well as key documents related to the Refugee Status Determination process within the UNHCR. In addition to these, the course includes the Immigration and Foreigners Act 2025, various Ministry of Home Affairs Notifications and Orders, as well as judgments of the Supreme Court related to asylum seekers and refugees in India. Secondary materials will include reference textbooks by well-respected experts and authors on refugee laws and human rights laws and an illustrative list has been provided below.

**TEACHING METHODOLOGY:**

The course will be a combination of in-class lectures, seminar style discussions, references to various international, regional and domestic case laws as well as anonymized case studies of Refugee Status Determinations to allow students to develop a practical knowledge of the legal system, in particular the refugee status determination process. With relevant University authorization, the course will include guest lectures from those practicing refugee law or working in the policy or governance space dedicated to protection of refugees and asylum seekers. In addition, through the internal assessments, students will have a chance to engage in research-based writing and presentation on specific issues or areas within refugee/asylum seeker rights and protections.

**INTENDED LEARNING OUTCOMES:**

By the end of the course students should have an understanding of refugees, asylum seekers, internally displaced persons – this includes not just the legal definitions but the broader political and socio-economic context within which these classes of persons exist. Further, students should have an understanding of the various international, regional and selected domestic laws that govern the status of refugees, asylum seekers and internally displaced persons as well as their human rights protections. Students should further be able to correlate these laws to various international, regional and domestic institutions and develop an understanding of the complimentary nature of refugee/asylum seeker protections under these regimes. Students should be able to not just develop an analytical or technical understanding of laws and institutions but are also expected to develop critiques for both legal standards and institutions.

**READING LIST (indicative list and subject to additions):****Primary Sources**

1. UN Convention Relating to the Status of Refugees (28 July 1951) 189 UNTS

2. Protocol Relating to the Status of Refugees (4 October 1967) 606 UNTS 267
3. Convention Governing the Specific Aspects of Refugee Problems in Africa (10 Sept 1969) 1001 UNTS 45
4. Cartagena Declaration on Refugees (22 Nov 1984) OAS/Ser.L./V/II.66, doc. 10, rev1
5. UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171
6. Council of Europe Parliamentary Assembly Recommendation 773 (1976) On The Situation of De Facto Refugees
7. European Convention on Human Rights
8. Global Compact on Refugees and Global Compact on Migration
9. Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, UNHCR (2011)
10. Guidelines on International Protection No. 11: *Prima Facie Recognition of Refugee Status*, UNHCR (2015)
11. Mohd. Salimullah & anr. v Union of India I.A. No. 38048 of 2021 in W.P. (civil) 793 of 2017
12. Teitiota vs New Zealand, 2020, HRC

### Secondary Sources

1. Thomas Gammeltoft-Hansen, *Access to Asylum International Refugee Law and the Globalisation of Migration Control*, CUP 2011
2. Jane McAdam, *Climate Change, Forced Migration and International Law*, OUP 2012
3. Cathryn Costello, Michelle Foster and Jane McAdam (eds.), *The Oxford Handbook of International Refugee Law*, OUP 2021
4. Jane McAdam Complementary Protection in International Refugee Law Oxford: OUP 2007

5. Vincent Chetail, Francisco Maiani and Philippe de Bruycker (eds.), *Reforming the Common European Asylum System: The New European Refugee Law System* (Brill-Nijhoff) 2016
6. S. Irudaya Rajan and Sumeetha M. (eds.), *Handbook of Internal Migration in India*
7. B. S. Chimni, 'Third World Approaches to International Law: a Manifesto', 8 *International Community Law Review* (2006) 3
8. Antony Anghie, 'Imperialism, Sovereignty and the making of International Law Cambridge (2004)
9. B.S. Chimni, *International Law and World Order: A Critique of Contemporary Approaches*, CUP (2017)
10. National Human Rights Commission, "Refugees in India: A national survey of refugee communities' access to education, healthcare and livelihoods", July 2024, available at [https://nhrc.nic.in/sites/default/files/Refugees\\_in\\_India.pdf](https://nhrc.nic.in/sites/default/files/Refugees_in_India.pdf)
11. Antony Anghie, "Rethinking International Law: A TWAIL perspective", *EJIL* (2023) vol 34, no. 1, pp 7-112
12. Selin Kul, "Reconsidering the Refugee Regime: A TWAIL Approach", in Charalampos Efstathopoulos and Hakan Mehmetcik, (eds.) *Good International Citizenship and Non-Western International Relations*, Palgrave Macmillan (2025)
13. Vincent Chetail, "Third World Approaches to International Law", in Vincent Chetail (ed.), *Elgar Concise Encyclopedia of Migration and Asylum Law*, Edward Elgar (2025)
14. BS Chimni, "The Geopolitics of Refugee Studies: A view from the South", *Journal of Refugee Studies*, Vol 11, no. 4, 1998
15. Naresh Kumar, "Refugees, Asylum Seekers and Stateless Citizens", in S. Irudaya Rajan (ed.), *The Routledge Handbook of Refugees in India*, Routledge (2022)
16. Samuel Berhanu Woldemariam, Amy Maguire and Jason von Meding, 'Forced Human Displacement, the Third World and International Law: A

TWAIL Perspective' (2019) 20(1) Melbourne Journal of International Law 248

17. Aishwarya Birla, "Evaluating the Indian Refugee Law Regime: How Has the Judiciary Responded to Refugee Claims in Light of International Law Obligations, and How Can It Do Better?", International Journal of Refugee Law, Volume 35, Issue 1, March 2023, pp. 81–100
18. Roshni Shanker, "Constitutionalizing Protection for Refugee Women and Girls in South Asia", International Journal of Refugee Law, Volume 36, Issue 1-2, March/June 2024, pp 43-59
19. Hamsa Vijayaraghavan and Saie Shetye, "LGBTIQ+ refugees in India: RSD and the implications of legal developments in the country of asylum", Journal of Refugee Studies, August 2025, available at <https://doi.org/10.1093/jrs/feaf053>
20. Anubhav Datt Tiwari, "The illegalisation of Rohingya refugees in India: a (non)citizenship crisis promoted by law and policy", Journal of Ethnic and Migration Studies, 50(19), 4905–4923
21. C Thouez, "Strengthening Migration Governance: The UN as "Wingman"" (2018) Journal of Ethnic and Migration Studies, pp.1-16
22. G Loescher, 'Refugees and Internally Displaced Persons' in JK Cogan, I Hurd, and I Johnstone (eds), The Oxford Handbook of International Organizations (OUP 2016)
23. A. Betts and L. Kainz, "The History of Global Migration Governance", Refugee Studies Centre, Working Paper Series No. 122, July 2017, available at: <https://www.rsc.ox.ac.uk/publications/the-history-of-global-migration-governance>
24. M Bradley, 'The International Organization for Migration: Gaining Power in the Forced Migration Regime' (2017) 33 Refuge 97-106
25. Jane McAdam, The Emerging New Zealand Jurisprudence on Climate Change, Disasters and Displacement, 3(1) Migrat. Stud. 131 (2015)

26. BS Chimni, “Global Compact on Refugees: One Step Forward, Two Steps Back”, International Journal of Refugee Law, 2018, Vol 30, No 4, pp 630–634
27. Aleinikoff, T.A., ‘The Unfinished Work of the Global Compact on Refugees’, International Journal of Refugee Law (2018) Vol 30, No 4, 611–617
28. James C Hathaway, “The Global cop-out on Refugees”, International Journal of Refugee Law, Volume 30, Issue 4, December 2018, pp 591-604
29. Appleby, K., ‘Strengthening the Global Refugee Protection System: Recommendations for the Global Compact on Refugees’, Journal on Migration and Human Security, volume 5 Number 4 (2017), 780-799
30. Nalepa, M., ‘EU migration policy changes in times of crisis. Discourses surrounding EU migration policies during the ‘refugee crisis’ – A discursive institutionalist Analysis’, Malmo Institute for Studies of Migration, Diversity and Welfare (2018), Working Paper Series no. 4
31. Sigona, N., ‘The contested politics of naming in Europe’s “refugee crisis”’, Ethnic and Racial Studies (2018) 41:3, 456-460
32. Obiora Chinedu Okafor, “Cascading toward “De-Solidarity”? The Unfolding of Global Refugee Protection”, TWAIL Review (2019) available at <https://twailr.com/cascading-toward-de-solidarity-the-unfolding-of-global-refugee-protection/>
33. Christiana Essie Sagay, “Transnational Labour Mobility and Issue-Linkages in the Global Compact for Safe, Orderly and Regular Migration: A TWAIL Analysis”, TWAIL Review (2025), Issue 5, pp 120-148, available at <https://twailr.com/christiana-essie-sagay-transnational-labour-mobility-and-issue-linkages-in-the-global-compact-for-safe-orderly-and-regular-migration-a-twail-analysis/>

**WEEKLY READING PLAN (WEEKLY OUTLINE):**

A draft weekly plan (subject to additions and changes) is provided below:

MODULES	WEEK(S)
<b>MODULE 1: INTRODUCTION &amp; BASICS OF INTERNATIONAL LAW</b> <ul style="list-style-type: none"> <li>This module will cover basic introductions and cover basics of international law such as sources of law, types of legal instruments, enforcement mechanisms, general theories, basics of human rights laws and critiques of international law that will be relevant to the rest of the course.</li> </ul>	1-2
<b>MODULE 2: OVERVIEW OF INTERNATIONAL REFUGEE LAW AND LAW PROTECTING ASYLUM SEEKERS</b> <ul style="list-style-type: none"> <li>This module will cover the various treaties and conventions such as the 1951 Refugee Convention, the International Covenant on Civil and Political Rights and other associated treaties/international agreements. The focus will be on the meanings of key terms as well as detailing the nature and scope of protections for refugees and asylum seekers. This section will also cover recent developments such as the Global Compacts on Migration and Refugees and highlight the shift in protection from refugee laws to human rights laws as well as from binding laws to political declarations.</li> </ul>	3-5
<b>MODULE 3: OVERVIEW OF REGIONAL TREATIES AND COMPLIMENTARY PROTECTION FOR REFUGEES AND ASYLUM SEEKERS</b> <ul style="list-style-type: none"> <li>This module will cover several regional treaties, agreements and political declarations as well as selected domestic legal systems with a view to understanding their significant role in the protection of refugees and</li> </ul>	6-7

<p>asylum seekers. This module will refer to regional human rights treaties from Europe, South America and Africa as well as other relevant agreements or political declarations to highlight how they advance or hinder the cause of refugee and asylum seekers' protection.</p>	
<p><b>MODULE 4: ROLE OF INTERNATIONAL AND REGIONAL INSTITUTIONS</b></p> <ul style="list-style-type: none"> <li>This module will cover the role of various institutions such as the UNHCR, OHCHR, ECHR, IOM and other related organizations. Aside from detailing the role and work of each organization, the module will consider their <i>inter se</i> relationships as well as the different legal/regulatory/governance spaces that these organizations occupy.</li> </ul>	8-10
<p><b>MODULE 5: PROTECTION OF REFUGEES AND ASYLUM SEEKERS IN INDIA</b></p> <ul style="list-style-type: none"> <li>This module will cover the lack of statutory laws in India governing refugees and asylum seekers while referring to laws governing immigration and foreigners. Before the passage of recent laws and notifications, this module will focus on the legal system that has been created in the absence of ratification for the 1951 Refugee Convention and other relevant international instruments. The module will overview the statutes, various executive notifications and judicial decisions that govern protection standards in India. In addition, the module will look at the <i>ad-hoc</i> arrangement between India and the UNHCR under which refugees and asylum seekers remain in India.</li> </ul>	11-12
<p><b>MODULE 6: LOOKING TO THE FUTURE OF PROTECTION – CRITICAL APPRAISAL OF INTERNATIONAL REFUGEE AND</b></p>	13

<b>HUMAN RIGHTS LAWS AND INSTITUTIONS</b>	
<ul style="list-style-type: none"><li>• This module will seek to summarize and contextualize the earlier modules through a critical examination and will look ahead to potential changes to these regimes going forward.</li></ul>	
<b>REVISION WEEK</b>	Week 14