

FORCED MIGRATION

Spring 2024

Course Number:	LS 131
Meeting Time:	Tuesdays and Thursdays, 2 – 3:29 pm
Location:	Wheeler 126
Instructor:	Tilman Jacobs
Office Hours:	Tuesdays and Fridays, 10 am – 12 pm, Law Building 340E North Addition, or scheduled meetings over Zoom
Contact:	tilman@berkeley.edu

Course Description:

In the past century, increasing numbers of people around the world have been forced from their homes by interlinked factors, including persecution, armed conflict, human rights violations, natural disasters, development, and socio-economic deprivation. Are states obligated to provide protection to these “forced migrants” and, if so, what exactly must they do, are there any limits, and what happens if they refuse? Whether in the form of Ukrainians fleeing Russian invasion or diverse groups of migrants at the U.S. southern border, forced displacement and migration will continue to shape politics, economics, and culture in our globalized world for decades to come.

This course will introduce you to key concepts, issues, and legal frameworks around forced migration from legal, sociological, and normative perspectives. Using historical and contemporary examples, interdisciplinary scholarship, legal cases, media depictions of forced migration, and the voices of persons experiencing displacement, we will critically examine narratives about and responses to population displacement in international and domestic contexts.

First, we will establish a basic understanding of the common definitions, categories, causes, legal frameworks, and theories around forced migration. Next, we will complicate this understanding by considering how legal and policy responses to forced migration succeed and fail in addressing the needs of displaced persons. Then, we will take a closer look at the unique ways in which different regions of the world experience and respond to forced migration. Finally, as part of our immersion in this complex phenomenon, you will have the opportunity to identify and write a short paper about a topical issue that interests you and collaborate with classmates on a regional case study.

Materials:

Required Textbooks:

Patricia Hynes, *Introducing Forced Migration* (New York: Routledge, 2021). (Hynes)

Fiddian-Qasmiyeh, E., Loescher, G., Long, K. and Sigona, N. (eds.), *The Oxford Handbook of Refugee and Forced Migration Studies* (Oxford: OUP, 2014). (Fiddian-Qasmiyeh)

Cathryn Costello, Michelle Foster, Jane McAdam (eds.), *The Oxford Handbook of International Refugee Law* (Oxford: OUP, 2021). (Costello)

(Note that all three texts are available for free through the UC Berkeley Library online)

Other readings will be available through bCourses

Learning Goals:

At the end of the course, students will

- Have acquired substantial understanding of:
 - Key definitions and conceptual differences of various forms of human mobility.
 - International norms around refugees and forced migration.
 - The role of migrants' agency and identity differences when assessing the impact of migration and responses to displacement.
 - Legal and policy responses to migration, media narratives, representation of migration issues, and securitization of human mobility.
- Be able to apply frameworks and approaches to a variety of forced migration scenarios and differentiate between the needs and capabilities of different groups in different regions.

Course Requirements:

Class Participation – 25%:

Attendance and Discussion – 15%

This course requires that you make a commitment to the class to be present and prepared. If you cannot make a class for important reasons, please inform me at least one hour before the class begins. You are permitted TWO (2) lecture absences throughout the course, no need to provide a reason and no questions asked. Subsequent absences will negatively impact your grade.

Being prepared requires that you complete all of the week's readings prior to our class meeting as well as engage in the discussion during class by asking questions, making arguments, and sharing critical points. While laptops are permitted to take notes, please try to resist the urge to surf the web, check your email, or chat during class. If you are uncomfortable speaking in class, consider submitting one or more news items (see below) for a more structured form of participation.

A Migration Story Assignment – 5%

Prepare a story from your family's (or your own) migration history, whether within the U.S. or international (250-1,000 words). In telling your story, reflect on what made the migration voluntary or involuntary.

Your migration story is due through bCourses at the end of week 2.

Personal Reflection Paper – 5%

At the end of Part II, please write a short reflection on the course materials and discussions thus far (250-1,000 words). This reflection may be personal, theoretical, or technical, about the subject matter or the course itself. This paper is intended to (a) help you think through the course content, (b) give you an opportunity to articulate your thoughts in writing, (c) provide me with formative feedback, and (d) allow for me to have a more personal exchange with you.

The reflection paper is due through bCourses at the end of week 10.

News Item – Optional

News stories covering issues related to forced migration appear every day. These stories can include political statements and debates, humanitarian emergencies, new studies or reports, new policies or technologies used by or for mobile populations, or achievements by refugees and migrants. We will regularly discuss current events and I will periodically add news items to bCourses for us to discuss in more depth in class. Please check the discussion board!

For extra participation credit, please upload items that you see in the news, blog posts, or other information sources over the course of the semester. While news items need to be in English, I encourage you to suggest short publications from around the world. These items don't have to be connected to the main topic of the weekly session (but they can be). They do not have to be from the week in which we discuss them, but they should be fairly recent. Please upload new ideas to the bCourses discussion board “Current items - suggestions and discussions” at least a day before our class and provide a short paragraph explaining why you believe that this item is worth discussing in class. All course participants may “like” or comment on the suggestions, but be respectful.

Midterm – 15%

The midterm will coincide with the end of Part I and test your understanding of the concepts, legal frameworks, and issues covered in the materials, lectures, and discussions of the first six weeks.

Team Presentation – 25%:

In small groups, you will lead class discussion about a region and present one or more case studies during weeks 11 through 13 of the course. Your goal will be to provide background and analysis of the region, the current social and political context, specific legal issues, current remedies being sought to address forced migration in the region, and at least one illustrative case study. You may rely on the assigned readings for background and utilize substantive points from other course readings and class discussions to contextualize issues in your assigned region, but more research will be necessary for your case study/ies.

The presentation and discussion should run for approximately 30 minutes. You are also encouraged to involve the other members of the class as much as possible. Be prepared both to ask and to receive questions from the audience. Students in the audience should be prepared as well to engage with the material presented, because it will count toward your participation grade.

Assessment will be based on your group effort, so please be fair in your distribution of responsibilities. You will be assessed in terms of organization, clarity and articulation of key points, insight and analysis of issues, contextualization within the broader framework of the class, and creativity in engaging your audience. I will provide a detailed rubric on bCourses.

I will assign groups and regions at random in Week 4, once the class list is final. If you have a strong preference for or against researching one of the regions, or would prefer to work together with or apart from another classmate, please let me know.

Research Paper – 35%:

The primary requirement for the seminar is a research paper (2,500-3,500 words (excluding bibliography and/or footnotes), 12-point font, double-spaced). This is a relatively short paper, so I

recommend selecting a discrete topic that interests you and that you can explore in depth within these parameters.

Research Plan – 5% - due by Friday, April 5.

I encourage you to select a paper topic as soon as possible. Please avail yourself of my office hours if you would like to discuss possibilities. Once you have made your selection, submit a short description through bCourses. You will not receive a separate grade for your research plan, only credit towards your final grade for submitting it on time.

Final Paper – 30% - due by May 10.

Papers will be assessed in terms of (a) understanding of the topic, (b) organization and clarity, (c) integration of research, (d) depth of analysis, and (e) style. I will provide a more detailed rubric on bCourses. Papers are due by midnight, May 10.

Some Resources for Your Research on Issues of Forced Migration:

- Migration Information Source/ Migration Policy Institute www.migrationinformation.org
- UNHCR www.unhcr.org/
- UNHCR refworld www.refworld.org
- The New Humanitarian: Migration www.thenewhumanitarian.org/migration
- Southern Responses to Displacement southernresponses.org/
- Refugee Research Network refugeereseach.net/
- Forced Migration Current Awareness Blog fm-cab.blogspot.com/
- Migration Policy Centre, European University Institute www.migraonpolicycentre.eu
- ReliefWeb reliefweb.int/
- Norwegian Refugee Council www.nrc.no/
- U.S. Office of Refugee Resettlement www.acf.hhs.gov/programs/orr
- U.S. Bureau of Population, Refugees, and Migration www.state.gov/bureaus-offices/under-secretary-for-civilian-securitydemocracy-and-human-rights/bureau-of-population-refugees-and-migration/
- U.S. Citizenship and Immigration Services www.uscis.gov/humanitarian/refugees-asylum
- **Journals:** *Journal of Refugee Studies*, *Refugee Survey Quarterly*, *International Journal of Refugee Law*, *Forced Migration Review*, *Journal of International Development*, *Journal of Human Rights*, *European Journal of Migration and Law*, *International Migration Review*, *Citizenship Studies*, *International and Comparative Law Quarterly*, *Societies without Borders*

Policies

Disability-Related Accommodations:

If you need disability-related accommodations in this class, please meet with me as early in the semester as possible to discuss your requirements. You should also make sure that I receive the official accommodation notice from DSP by the third week of the semester (or as soon as possible after you have been to DSP).

Late Work and Grading:

Requests for extensions on assignments, including those related to DSP accommodations, must be submitted to me via email no less than four (4) hours before the scheduled deadline. Absent a documented emergency, requests submitted later than four hours before the scheduled deadline will not be considered. Unexcused late assignments will receive a reduced grade.

Academic Integrity:

If you plagiarize, cheat, or are otherwise dishonest, the default penalty is a failing grade in the class, and I will have to file an academic dishonesty report.

Use of Generative AI Software:

Generative AI is software, for example, ChatGPT, that can perform advanced processing of text at skill levels that at least appear similar to a human's. Generative AI software is quickly being adopted in legal practice, and many internet services and ordinary programs will soon include generative AI software.

In my class, generative AI software:

- May be used to perform research in ways similar to search engines such as Google, for correction of grammar, and for other functions attendant to completing an assignment.
- May not be used to compose any part of a submitted assignment.
- May not be used for any purpose in any exam situation.
- Never may be employed for a use that would constitute plagiarism if the generative AI source were a human or organizational author.

Course Schedule:

Please note that forced migration often involves traumatic situations and some of the course materials will be troubling. Importantly, you might (*should*) disagree with some of the views expressed in the readings and video clips we will consider, and I encourage you to cast a critical eye on these perspectives, but also on the ones with which you agree. Although not required, I encourage you to meet with me in person or over Zoom to discuss your assignments, the class, or any related topics.

Part I – Categorizations

First, in order to lay a solid foundation for understanding forced migration, we will examine common definitions, categories, causes, legal frameworks, and theories around this complex subject. As we do, you should think about how you conceptualize “forced migration,” and how your conception relates to the ones we read about and discuss.

Week 1

Class 1: Introduction – January 16

We will begin with an introduction to the course and some initial thoughts about forced migration. In particular, think about what distinguishes forced from voluntary migration.

- Jacqueline Bhabha, *Can We Solve the Refugee Crisis?* (Polity Press, 2018) (Chapter 3: “The System at Breaking Point”). (bCourses)
- Skim:
 - Migration Data Portal: <https://www.migrationdataportal.org/themes/forced-migration-or-displacement>
 - UNHCR Figures: <https://www.unhcr.org/en-us/figures-at-a-glance.html>
 - UNHCR Refugee Situations: <https://data2.unhcr.org/en/situations>

Class 2: Instruments, Definitions, and Actors – January 18

Before we dive fully into this subject, let us examine some of the causes and types of displacement, and the principal international instruments and actors involved in forced migration. As we start to explore some of the core international and domestic legal frameworks and processes for addressing forced migration, consider how well they are suited to supporting and protecting the persons affected.

- Hynes, Ch. 1, “Introduction to the study of forced migration.”

Week 2

Class 3: Refugees and Asylum – January 23

What are the underlying assumptions behind the Refugee Convention’s definition of a refugee? What are the advantages and disadvantages of a restrictive and individualized definition? The international instruments take pains to emphasize that asylum is not a political process, but are you convinced?

- Hynes, Ch. 2, “Who is a ‘refugee’ and who is an ‘asylum seeker.’”

Class 4: Displacement and Human Rights – January 25

How does examining human rights, and the ways in which human rights violations do and do not become visible, help us understand forced migration? Do you notice any tension between the values of human rights and the purposes of the Refugee Convention?

- Hynes, Ch. 5, “Mixed movements of people and human rights.”

→ *Migration stories due Friday, January 26*

Week 3

Class 5: Conflict and Crises – January 30

Most large-scale displacement is caused by conflict, so why is it not part of the prevailing legal definition of a refugee? What are the differences between protections for displaced persons under international humanitarian law and refugee law?

- Fiddian-Qasmiyeh, Ch. 25: Sarah Kenyon Lischer, “Conflict and Crisis Induced Displacement.”
- Costello, Ch. 12: Reuven Ziegler, “International Humanitarian Law and Refugee Protection.”

Class 6: Statelessness – February 1

How is the vulnerability of stateless persons different from the vulnerability of refugees? Why is statelessness so hard to define?

- Fiddian-Qasmiyeh, Ch. 23: Alice Edwards and Laura van Waas, “Statelessness.”
- Costello, Ch. 8: Laura van Waas, “The Intersection of International Refugee Law and International Statelessness Law.”

Week 4

Class 7: Internal Displacement – February 6

In most cases, the only difference between a refugee and an internally displaced person (IDP) is the crossing of a national boundary. Is this distinction defensible? What are some of the visible and invisible challenges IDPs face?

- Hynes, Ch. 3, “Who is an ‘internally displaced person?’”
- Costello, Ch. 47: Walter Kälin, “Internal Displacement.”

Class 8: Human Trafficking – February 8

The line between human trafficking and human smuggling has become increasingly blurred in recent decades. Is there a practical way to distinguish between these two exploitative activities? Whom are international laws around trafficking and smuggling designed to protect?

- Hynes, Ch. 4, “Who is a ‘victim’ or ‘survivor’ of trafficking?”
- Fiddian-Qasmiyeh, Ch. 28: Bridget Anderson, “Trafficking.”

Week 5

Class 9: Children and Forced Migration – February 13

Children are especially vulnerable in the context of forced migration. How do the dynamics of agency and responsibility manifest differently in their experiences?

- Hynes, Ch. 6, “‘Children on the move’ and the ‘displaced child.’”

Class 10: Development and Forced Migration – February 15

Unlike other forms of displacement, development-induced displacement requires the balancing of interests and rights. Is there a principled way to balance the public interest in development against the individual interests of the displaced?

- Fiddian-Qasmiyeh, Ch. 26: Christopher McDowell, “Development Created Population Displacement.”
- Michele Morel, “Protection Against Development-Induced Displacement in International Law,” in Satiroglu and Choi (eds), *Development-Induced Displacement and Resettlement* (Routledge, 2015). (bCourses)

Week 6

Class 11: Ecomigration – February 20

We have known about the dangers of climate change, natural disasters, environmental degradation, and overdevelopment for a very long time. How do these phenomena affect human mobility? Has the moment for action finally come?

- Fiddian-Qasmiyeh, Ch. 27: Roger Zetter and James Morrissey, “The Environment-Mobility Nexus: Reconceptualizing the Links between Environmental Stress, (Im)mobility, and Power.”
- Costello, Ch. 46: Jane McAdam, “Displacement in the Context of Climate Change and Disasters.”
- Human Rights Committee, *Ionne Teitiota v. New Zealand*, Communication No. 2728/2016, at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F127%2FD%2F2728%2F2016&Lang=en (Skim paras. 1-8, read paras. 9.1-10). (bCourses)

Class 12: Health and Forced Migration – February 22

Health can be a cause for migration, a vulnerability during migration, and an obstacle to protection. How has an evolving understanding of health and disability changed policies and laws around forced migration? What concerns remain?

- Fiddian-Qasmiyeh, Ch. 33: Mansha Mirza, “Disability and Forced Migration.”
- Fiddian-Qasmiyeh, Ch. 34: Alistair Ager, “Health and Forced Migration.”
- Costello, Ch. 43: Mary Crock, “Protecting Refugees with Disabilities.”

Week 7

Class 13 – Midterm – February 27

Part II – Muddying the Waters

Now we will probe the limits of these legal frameworks and categorizations around forced migration by considering ways in which legal and policy responses succeed or fail in addressing the lived experiences and needs of displaced persons.

Class 14: The Moral Dimension – February 29

Taking a step back, let us consider some key moral arguments for and against admitting refugees and other forced migrants. What are the underlying assumptions? Is there any common ground?

- Hynes, Ch. 7, “Understanding legislative and policy responses and ethical imperatives.”

- Sarah Song, “Refugees and Other Necessitous Migrants,” In *Immigration and Democracy* (Oxford Academic 2018). (bCourses)
- Center for Immigration Studies (CIS), *The Benefits of Revising America’s Refugee Policy* (bCourses)

Week 8

Class 15: Deterrence – March 5

Despite widespread agreement that persons experiencing displacement deserve support and protection, only a small fraction of them are able to find safety in the “global north.” How do we reconcile the notions of liberal democracy that most of these developed countries continue to espouse with their reluctance to allow the arrival of forced migrants?

- Fiddian-Qasmiyeh, Ch. 20: Randall Hansen, “State Controls: Borders, Refugees, and Citizenship.”
- Costello, Ch. 27: Thomas Gammeltoft-Hansen and Nikolas Feith Tan, “Extraterritorial Migration Control and Deterrence.”

Class 16: Narratives about Forced Migration – March 7

Never underestimate the influence of conceptual framing, especially by the media, on popular opinion. How have migration issues come to be viewed as threats to security and what actors promote such perspectives? Think about what types of narrative you find most persuasive.

- Fiddian-Qasmiyeh, Ch. 15: Stephen Scheel and Vicki Squire, “Forced Migrants as ‘Illegal’ Migrants.”
- Fiddian-Qasmiyeh, Ch. 29: Nando Sigona, “The Politics of Refugee Voices: Representations, Narratives, and Memories.”
- Fiddian-Qasmiyeh, Ch. 36: Terence Wright, “The Media and Representations of Refugees and Other Forced Migrants.”

Week 9

Class 17: Gender and Forced Migration – March 12

How are a gender sensitive lens and a focus on individuals’ agency important for understanding human mobility? How are these perspectives neglected in legal processes and policies?

- Fiddian-Qasmiyeh, Ch. 31: Elena Fiddian-Qasmiyeh, “Gender and Forced Migration.”
- Costello, Ch. 3: Adrienne Anderson and Michelle Foster, “A Feminist Appraisal of International Refugee Law.”
- Costello, Ch. 42: Jenni Millbank, “Sexual Orientation and Gender Identity in Refugee Claims.”

Class 18: Encampment – March 14

Millions of displaced persons have lived in “temporary” camps for generations. How is that a solution? On the other hand, if it’s so bad, why does everyone do it? What are the obstacles to policymakers giving displaced persons more control over where they settle?

- Fiddian-Qasmiyeh, Ch. 10: Oliver Bakewell, “Encampment and Self-Settlement.”
- Richard Black, “Putting refugees in camps.” *Forced Migration Review* 2 (1998), 1–4. (bCourses)

Week 10

Class 19: “Durable Solutions” – March 19

Ideally, displaced persons can either integrate into their host communities, resettle in another country, or return to their homes once it’s safe. Unfortunately, many forced migrants remain displaced for years, even decades. What are the obstacles to resolving these situations?

- Fiddian-Qasmiyeh, Ch. 37: Katy Long, “Rethinking ‘Durable’ Solutions.”
- Fiddian-Qasmiyeh, Ch. 38: Lucy Hovil, “Local Integration.”
- Costello, Ch. 59: Marjoleine Zieck, “Reimagining Voluntary Repatriation.”

Class 20: In Search of Better Solutions – March 21

Is it even possible for the global community to provide better solutions for the 110+ million displaced persons in the world? Many scholars and researchers think so. We will discuss how they might work and consider some famous examples.

- Costello, Ch. 25: Madeline Garlick, “The Sharing of Responsibilities for the International Protection of Refugees.”
- Hynes, Ch. 8, “Contemporary issues, the refugee ‘crisis’ and proposed ‘solutions.’”

→ *Reflection Paper due Friday, March 22*

Week 11

Class 21: Open Borders? – April 2

As we return from spring break and try to recall what this course is about, let’s consider the ongoing debate about open borders. What arguments, for or against, do you find most compelling? What role would forced migration play in a world in which borders were open?

- Sarah Song, “Political Theories of Migration,” *Annual Review of Political Science*, 21 (2018): 385-402. (bCourses)
- Bruce Ackerman, *Social Justice in the Liberal State* (1980), pp. 93-94 (§20.2). (bCourses)

Part III – Regional Case Studies

Sometimes the best way to learn something is by teaching about it. You will now have the opportunity to study the unique experiences of and responses to forced migration in your assigned geographical region and explain your discoveries to the rest of us.

Class 22: Regional Case Study – North America – Latin America – April 4

- Costello, Ch. 16 and 17.

Group Presentations

→ *Research plan for final paper due by Friday, April 5*

Week 12

Class 23: Regional Case Study – Europe – Central Asia (Including Russia) – April 9

- Costello, Ch. 19 and 20.

Group Presentations

Class 24: Regional Case Study – Middle East – Africa – April 11

- Costello, Ch. 15 and 18.

Group Presentations

Week 13

Class 25: Regional Case Study – East Asia – South Asia – April 16

- Costello, Ch. 21 and 22.

Group Presentations

Class 26: Regional Case Study – Southeast Asia – Oceania – April 18

- Costello, Ch. 23 and 24.

Group Presentations

Part IV – Wrapping Up

In our final week together, we will take stock and, in the context of global forced migration, think about where we are and where we might (or could) be headed.

Week 14

Class 27: Looking Forward – April 23

Much has changed in the past seventy years; what is being done, and what more can be done, to support and protect the forced migrants of today and tomorrow? You should be troubled by the state of things, but are there any grounds for optimism?

- Jacqueline Bhabha, *Can We Solve the Refugee Crisis?* (Polity Press, 2018) (Chapter 4: “Finding Workable and Humane Solutions”). (bCourses)
- Jeff Crisp, “UNHCR at 70: An Uncertain Future for the International Refugee Regime,” *Global Governance: A Review of Multilateralism and International Organizations*, 26(3), 359-368 (2020). (bCourses)
- Sana Mustafa, “Nothing About Us Without Us: Why Refugee Inclusion Is Long Overdue”: <https://deeply.thenewhumanitarian.org/refugees/community/2018/06/20/nothing-about-us-without-us-why-refugee-inclusion-is-long-overdue>

Class 28: Conclusion – April 25

No Readings