REFUGEE AND ASYLUM LAW AND POLICY
FALL 2009
GOLDEN GATE UNIVERSITY SCHOOL OF LAW – LAW 842D

Prof. Glenna MacGregor
Glenna.MacGregorGGU@gmail.com

Prof. Lucia Fiorentino
Lucia.FiorentinoGGU@gmail.com

Assistant Chief Counsels,
Office of Principal Legal Advisor
Immigration and Customs Enforcement
U.S. Department of Homeland Security

Course Description:
This course will focus primarily on U.S. asylum law and procedure. We will explore the statutory and case law framework of U.S. asylum law in detail, with a focus on developing students’ practical skills in the practice of asylum law. Students will become familiar with the asylum process involving U.S. Citizenship and Immigration Service (CIS), U.S. Immigration and Customs Enforcement (ICE), Immigration Courts, the Board of Immigration Appeals (BIA), and the federal courts of review. We will also examine foreign national asylum laws, international refugee protection law and procedure, and significant debates regarding these topics.

Course Administration Details:
Office Hours: TBD
Class meeting time: Wednesdays, 4:30-6:10
Course materials:
Articles and other materials to be assigned throughout the semester

Course Expectations
We expect you to have completed the assigned reading before each class, and to have read and pondered specific questions in assigned “Notes” sections. We also expect you to complete all assignments in a timely manner. Class attendance and participation is required and will be considered as a “push/pull factor” toward your final grade*; more importantly, it is essential to a stimulating and robust learning environment.

Please review the GGU Policy on Student Academic Integrity – http://www.ggu.edu/student_services/student_life/griffin_student_handbook/policy_academic_honesty

* Push points may be given for extraordinary class participation, or a special contribution made to the class by an individual. Push points are awarded in increments of 0.5 points. For example, a “B-” would become a “B”. Pull points may be given for excessive absenteeism or severe lack of class participation. Pull points also are given in increments of 0.5 points. For example, a “B” would become a “B-”.

Course Assessment and Grading
Your grade for the course will be comprised as follows:
Final Exam
The final exam will be a take-home exam. The format of the exam will be short to medium-length essay questions based primarily on a fact pattern provided before the exam. Details on which materials may be consulted during the exam and the length of the exam will be provided a few weeks into the semester.

Mini-Papers
- Court visit and reaction paper: 40%
- Answers to reading notes: 60%

A visit to observe a hearing at the San Francisco Immigration Court located at 120 Montgomery St. is required for this course. We will help each student arrange a visit. After observing a hearing, each student will be required to write a reaction paper about the experience, exploring how the hearing relates to themes and legal issues discussed in the class. The paper should be 1-2 type-written pages long and should be e-mailed to the instructors within one week of observing the hearing.

Each reading assignments includes various “Notes” sections, which are comprised of questions meant to provoke thought and discussion about the readings. At the second class, we will ask students to sign up for two assigned “Notes” sections over the course of the semester. Students are required to prepare 1-2 page responses to their assigned section, and to e-mail their completed assignment to the instructors no later than 6:00 PM on the Tuesday before the class where we will be discussing the assigned reading. For example, if a student is completing an assignment for reading assigned for the September 23rd class, the response must be e-mailed to us by September 24th at 6:00 PM.

In-Class Exercise
During the course, we will engage in an in-class exercise in which students will be given a mock “alien file,” or A-file, and assigned to prepare a legal theory and hearing questions as either counsel for the respondent or the government. Students will engage in a mock hearing, with a guest respondent and Immigration Judge. More details on this exercise will be distributed later in the semester. The grade for this exercise will be comprised of the written legal theory (1-2 pages), prepared hearing questions, and participation in the exercise.

In-Class Participation
As stated above, we expect you to attend and participate in class discussions.

Miscellaneous
As adjunct professors at Golden Gate University School of Law, we are in no way representing the views, policies, or positions of the U.S. Government, where we are employed. Although our instruction reflects our experiences and expertise gained as practitioners of immigration law, in part for the federal government, the views and impressions we share are solely our own.

Throughout this course, we will use the term “alien” to refer to any person who is not a citizen or national of the United States. This term is not meant pejoratively and merely reflects the language of the Immigration and Nationality Act (INA) and relevant regulations, case law, and prevailing practice.

COURSE OUTLINE AND SYLLABUS
August 19: Introduction to Refugee and Asylum Law: International Paradigms
RLP: 3-4; 19-37; 48-54; 85-86
Review INA § 208 (8 USC 1158) and § 241(b)(3) (8 USC 1251(b)(3)); 8 CFR § 1208 (sections 1-31)

August 26: Introduction to U.S. Asylum Law: Domestic Paradigms
RLP: 65-83; 945-949
Notes: 1 and 4 (pp. 83-84)
Visit http://trac.syr.edu/immigration/reports/judgereports/ and compare various IJs in SFR

September 2: Standards of Proof
RLP: 157-88; 193-215 (please focus especially on p. 210-15); Appendix, p. 227-28
Notes: 3 (p. 171); 1, 2 (pp. 187-88); 3* (p. 205)

September 9: Defining Persecution
RLP: 229-59; 265-76; 282-90
Notes: 2, 3 (p. 233); 2* (p. 238-39); 3* (p. 250-51); 1 (p. 259); 2 (p. 286)
Dinu v. Ashcroft, 372 F.3d 1041 (9th Cir. 2004)

September 16: The Nexus Requirement and Torture Convention
RLP: 291-307; 312-23; 329-35; 349-54
Notes: 1* (p. 296); 2* (p. 297); 1, 2 (p. 334)

September 23: Protected Grounds: Particular Social Group
RLP: 619-25; 627-37; 666-81
Notes: 1, 2, 3 (pp. 623-24); 1, 2, 3, 5* (pp. 644-46); 1*, 4, 7 (p. 656-57)
Group 3: 657-66; Santos-Lemus v. Mukasey, 542 F.3d 738 (9th Cir. 2008)

September 30: Protected Grounds: Political Opinion
RLP: 367-68; 384-90; 402-08; 419-37; 445-455; 458-61
Notes: 2* (p. 388); 5* (pp. 400-02) apply this question to *Grava v. INS*, below
*Fedunyak v. Gonzales*, 477 F.3d 1126 (9th Cir. 2007)
*Oehave v. INS*, 254 F.3d 859 (9th 2001)
*Grava v. INS*, 205 F.3d 1177 (9th 2000)

**October 7: In-class Exercise**
RLP: 1017-18; 1021-26; 1034-42; 1079-89; 1090-91; 1158-60; 1103-10

**October 14: Protected Grounds: Race, Nationality, Religion**
RLP: 463; 467-71; 492-99; 503-10; 525-27; 554-64; 583-96
Notes: 2* (pp. 509-10); 5 (p. 558); 2* (pp. 595-96)

**October 21: Gender-Related Claims**
RLP: 723-726; 743-52; 758-67; 797-817
Notes: 3*, 6 (p. 764-65); 1-10 (pp. 813-17)

**October 28: Bars to Relief; Proving the Claim**
RLP: 831-833; 859-875; 880-88; 896-905; 909-10; Statutory Appendix, 917-25
Notes: 2 (p. 885); 1*, 2* (pp. 896-97)

**November 4: Rights of Asylum-Seekers/Benefits of Relief/Misc. Procedural Issues**
RLP: 929; 932-39; 945-60; 974-82; 1000-1003; 1012-1013
Notes: 2 (p. 979)

**November 11: Overseas Refugee Processing and Foreign Domestic Protection Paradigms/Policy Discussions**
RLP: 51-54; 54-57; 57-60; 62-64; 144-45; 146-50; 1123-35; 1143-50; 1151-55
Notes: 2* (p. 54); 1* (p. 60); 2* (p. 1128); 2 (pp. 1148-49)
Guest speaker – Emily Arnold-Hernandez, Executive Director, Asylum Access

**November 18: Course Review**