

**REFUGEE & HUMAN RIGHTS CLINIC
SPRING 2012**

**PROFESSOR KAREN MUSALO
ROBIN GOLDFADEN, CLINICAL INSTRUCTOR**

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COURSE INFORMATION¹

Class Meetings: Tuesdays, 3:30 p.m. – 5:40 p.m., 198 McAllister, Room 201

Course Materials

The Course Reader provides material assigned for the Clinic's classroom seminar. Additional material may be provided in class, through the Clinic TWEN website, or via email.

Class Format

This Clinic includes both classroom seminar and fieldwork components. The classroom component is initially intended to help you prepare for and begin your fieldwork. As the semester progresses, the seminar class sessions – along with regular supervision meetings – will complement, support, and reinforce the fieldwork and the lawyering skills you will be developing and refining.

Over the course of the semester, the Clinic will expose you to refugee and human rights law and various forms of advocacy (such as individual client representation, investigation and documentation of human rights abuses, use of the media, and legislative and policy advocacy); encourage you to think critically about the goals, opportunities, and challenges of practicing refugee and human rights law and to consider how the practice of refugee and human rights law fits within broader immigration and human rights movements; offer a structured context in which to develop specific lawyering skills and reflect on the lawyering process; and provide you with the opportunity to present aspects of your fieldwork (e.g., ethical problems, legal issues, challenges in working with a client or expert) for group feedback and discussion.²

¹ The overall approach and many of the specifics reflected in this syllabus are drawn from the syllabus of the International Human Rights Law Clinic, taught and developed by Professor Laurel Fletcher at U.C. Berkeley (Boalt Hall) Law School. The syllabus also borrows from that of Hastings' Civil Justice Clinic.

² The classroom component of the Clinic does not focus on substantive refugee and international human rights law. While your instructors will endeavor to convey the core legal principles you will apply to your

RESPONSIBILITIES, REQUIREMENTS & GRADING

A. General Responsibilities

This semester, you will be working on at least one case or project in the refugee or international human rights area. You will work alone or with a partner or partners and will assume full responsibility for handling all aspects of your case or project. Your supervising attorney will provide you with guidance and support.

Because you are responsible for your case or project, you may need to work in the evenings, over weekends, and possibly during holidays. While we hope that most matters can be scheduled so that your work can be accomplished during regular clinic hours, you must be prepared to dedicate the time that is needed to complete your tasks in a timely, thorough, high-quality manner, as any responsible lawyer would. Depending on the case or project, you may continue some aspects of your work for the Clinic during the exam period.

B. Specific Requirements

Clinic Hours

To fulfill the minimum requirements of the Clinic, you must devote an average of sixteen (16) hours per week to your fieldwork (in addition to the hours spent in and preparing for class).³ There is no maximum number of hours – you are expected to spend as much time as is needed to handle your cases and projects carefully and thoroughly. As deadlines on your cases or projects become imminent, you may have to spend considerably more time than the average minimum number of hours on your fieldwork.

You are strongly encouraged to keep regular Clinic work hours. As discussed in the “Policies & Procedures” memorandum for the Clinic, you are also strongly encouraged to spend at least (8) hours per week in the RHRC office and, if you share a project with a partner, to have at least (4) of those hours entail working directly with that person.

Weekly Timesheets

You are responsible for keeping accurate, contemporaneous records of your weekly fieldwork hours. This will be done via individual Excel spreadsheets kept as Google documents, details of which are provided in your Policies & Procedures memorandum. Please log your time onto the applicable spreadsheet throughout the week and *give a hardcopy of each week’s timesheet to your supervisor at the start of the next week’s class.*

Contact Information & Schedule

Please provide your contact information (telephone numbers and email and mailing addresses) and class schedule by the time of the Clinic Orientation. Forms for this information will be provided.

fieldwork, you will be expected to engage in the outside reading and research needed to acquire the level of substantive legal knowledge required to carry out your fieldwork responsibilities in a competent, thoughtful, professional manner.

³ You must log at least 208 hours (16 hours per week x 13 weeks) of fieldwork over the course of the semester. Fieldwork may extend into the exam period.

Once your schedules are set, we will use Google Calendar to post and share weekly schedules (including classes and other fixed or regular time commitments as well as appointments or meetings that are scheduled later in the semester). Details are provided in the Policies & Procedures memorandum and at Orientation.

On your calendar, also indicate the regular blocks of time when you anticipate working in the office on your Clinic project. **Please ensure that a current version of your Google Calendar is posted by 5:00 PM on January 13, 2012.** Title this calendar “[Last name – RHRC Spring 2012]” and share this calendar with rhrc.uchastings@gmail.com.

Later, once you have received your fieldwork assignment and met any project partners, please share your Google calendar with them as well and modify your calendars to reflect when your regularly scheduled work hours together and team supervision meetings will be.

If any changes occur to your schedule after the Add/Drop period, please be sure to update your calendar immediately. Please keep your calendar current throughout the semester as new events and commitments arise.

Attendance and Participation

In addition to regular weekly clinic classes, RHRC students participate in a number of required supplemental sessions designed to provide grounding in substantive and procedural knowledge and development of skills and aptitude bearing on clinical projects. You are expected to attend these supplemental sessions unless you have specific permission to be absent due to exigent circumstances.

Regular Clinic Classes

The regularly scheduled classroom component of the Clinic will take place on Tuesdays, from 3:30 to 5:40 PM, in Room 201 at 198 McAllister. Assigned readings are listed below on pages 7 through 10. Updates to the assignments and instructions for in-class exercises may be provided in class and through the Clinic’s TWEN site over the course of the semester.

After the first few classes, we will set aside classroom time for “rounds,” which involve focused discussion of cases and projects. These rounds are organized as attorney office meetings, where you and your classmates will report on, and get feedback about, your work. Where relevant, we will also use your fieldwork projects as lenses through which topics examined in class can be further explored, understood, and tested. (See the separate “Rounds” handout for further explanation.) Please think of these rounds as being only one of several avenues for sharing, collaborating, and supporting each other’s fieldwork. We highly encourage members of the Clinic to have ongoing dialogues with one another and provide each other with feedback, whether formally or informally in class, through email, or simply as you come to inhabit a shared space. When you do engage in this dialogue, however, please take care to preserve the confidentiality of client information and work product – while this information and material can be shared with fellow Clinic students, care must be taken that confidential information or material is not improperly disclosed to persons outside the Clinic.

Because the Clinic involves a collective undertaking to learn and teach together, **it is mandatory that everyone attend, prepare in advance for, and actively participate in every class session.** In a group as small as ours, the failure of one or two people to do the reading or to participate in discussion has a negative impact on everyone’s experience. If you absolutely cannot attend a class, you must inform your instructors beforehand and be excused

from that class. In addition, although laptops are not prohibited in the Clinic seminar, we ask you to keep your laptop closed unless there is a specific reason why you need to be looking at something on your screen.

Supplemental Sessions

Please note that you are required to attend a few supplemental sessions outside of regular class. These sessions, which are listed below, can be counted as part of your fieldwork hours during the week in which each takes place. Unless noted below, the date, time, and location for each of these sessions will be announced in class or by email and/or a posting to the Clinic's TWEN site. The Orientation, Direct Representation Procedures Training, Project Assignment Meetings, Law Library Training, and Asylum Law Training will take place early in the semester.

- **Orientation** to the Clinic's office procedures and computer use;
- **Direct Representation Procedures Training** for students who will work with individual clients;
- **Asylum Law Training** addressing substantive legal issues relevant to the fieldwork component of the Clinic;
- **Legal Research Training** session with Law Librarian to learn more about international research techniques and resources (additional legal research training is available from Lexis and Westlaw representatives and can be individually arranged);
- **Immigration Court Observation** to view an individual "merits" hearing at the San Francisco Immigration Court; plan to attend such a hearing well before Assignment 3 is due (assignment & visit guidelines will be available through TWEN);
- **Visit to Immigration Judge's chambers** on *Friday, March 30, at 1:30 PM*, to meet with Immigration Judge Dana Leigh Marks; this visit is *in addition* to your attendance and observation of an individual merits hearing at the Immigration Court for Assignment 3 (***In advance of this visit, please read "Immigration Reforms Result in Fewer Judges, More Prosecutors," "A System at its Breaking Point," "Immigration Judges Found Under Strain," "Immigration judges seek Article I status," and the "Statement of National Association of Immigration Judges Before the Senate Committee on the Judiciary on 'Improving Efficiency and Ensuring Justice in the Immigration Court System,'" pages 377-396 in your Reader.***).

You will also attend the following meetings with your Clinic supervisors:

Supervision Meetings

During the semester, you will have regularly weekly meetings with your fieldwork supervisor (and clinic partner(s), where relevant) to discuss your case/project work. For a given meeting, you may be asked to prepare a memo addressing the fieldwork & research you have undertaken. As the semester progresses, you may also be asked to turn in drafts and other work product at or in advance of the supervision meetings. These meetings are counted as part of your clinical fieldwork hours on your weekly timesheet.

Mid-semester and Final Evaluation Meetings

Mid-semester and final evaluation meetings will be scheduled as we get closer to the times when these meetings will take place. (Mid-semester evaluation meetings will likely be held during the week of February 20 or February 27, and final evaluation meetings will likely be held during the last week of the exam period.) These evaluation sessions are valuable opportunities to exchange frank and constructive feedback with your clinical instructors about your classroom,

writing, and fieldwork performance in each half of the semester. You will be asked to review your Writing Assignments and be prepared to discuss both your strengths and challenges in terms of class participation, written work, and fieldwork. We also ask that you help us constantly improve the RHRC by providing feedback about any aspects of the clinical experience. (More detailed information about these evaluation meetings will be provided later in the semester.)

Writing Requirements

You are responsible for timely completion of various writing assignments throughout the semester. Some of these writing assignments focus on issues raised by the seminar readings while others relate to your clinical fieldwork and your individual goals, challenges, experiences, and observations. The assignments, in order of their due dates, are:

- | | |
|--|---------------------------|
| Assignment 1: A Different Vision of Lawyering | Due: January 10 |
| Assignment 2: Learning Goals & Self-Assessment Memo | Due: January 17 |
| Assignment 3: Observation of Immigration Court | Due: April 2 |
| Assignment 4: End-of-Semester Self-Reflection Memo | Due: April 25 (tentative) |
| Assignment 5: Transition Memo | Due: April 25 (tentative) |
| Assignment 6: Case File (to accompany Transition Memo) | Due: April 25 (tentative) |

The “Writing Assignments” handout provides general instructions and specific guidance for each individual assignment. This information will be posted to the RHRC TWEN site at the beginning of the semester and may be updated as the semester progresses. Please consult these instructions and feel free to ask questions if any clarification or additional information is needed.

Please email *and* hand deliver your assignments by the applicable deadlines in accordance with the instructions provided in the “Writing Assignments” handout and below:

Email	Hardcopies	Format
To musalok@uchastings.edu , goldfade@uchastings.edu , & siuv@uchastings.edu by 10:00 a.m. on the due date (unless a different time is instructed in the Writing Assignments handout or otherwise announced)	Submit 2 printouts in class. If there is no class that day, place printouts in Room 411 mailboxes for Karen & Robin by 5:00 p.m. on the due date, unless otherwise instructed.	11 (Arial) or 12 (Times) pt font, double spaced. <i>Save as: “Assignment 1 - [your last name].” Email subject header: “Assignment [#]”</i>

Grading

We recognize that, as responsible adults, your primary motivation comes from within and from your desire to be the best advocates possible for the clients and other individuals served by the Clinic, rather than in reaction to external incentive structures. We are nonetheless charged with providing you with feedback on the quality of your work, and we also wish to recognize outstanding performance. All aspects of the class and fieldwork are therefore graded. A letter grade will be assigned for the 2 units of academic credit for the class, and a pass-fail grade will be assigned for the 4-unit clinical fieldwork component. The letter grade, however, will reflect your performance in **all** aspects of the course.

Given the importance of lawyers' ability to constructively discuss issues in group settings, **thoughtful, consistent, mutually respectful participation in class discussions and supervision meetings is an especially important part of your work in this course.**

A Note About Effort: Participation in this clinic requires hard work. Ethical obligations of competence and zeal require attorneys to work hard. It is expected that every student in the clinic will fulfill this obligation. It is likely that every student will work harder in this course than in any other course in law school. Even if that happens, not every student will get an "A" or "A-". Simply put, hard work is a minimum requirement of this course. It puts you in position to receive a passing grade. It does not guarantee an "A" or "A-."

- (a) Krieger & Neumann, Jr., "Professionalism," *in* ESSENTIAL LAWYERING SKILLS
- (b) Krieger & Neumann, Jr., "Lawyering as Problem-Solving," *in* ESSENTIAL LAWYERING SKILLS
- (c) Krieger & Neumann, Jr., "Investigating the Facts," *in* ESSENTIAL LAWYERING SKILLS
- (d) Miller, "Teaching Case Theory" (excerpts)

Feb. 7 **WORKING WITH VICTIMS OF TRAUMA**

- Readings: (Reader pp. 151-171)
- (a) Musalo et al., "The Impact of Psychological Factors on Credibility – Demeanor, Consistency and Detail," *in* REFUGEE LAW AND POLICY (excerpts)
 - (b) Lustig, "Symptoms of Trauma Among Political Asylum Applicants: Don't be Fooled"

Guest Speaker: Stuart Lustig, M.D., M.P.H., Assistant Professor and Director of the Child & Adolescent Psychiatry Training Program, U.C.S.F. School of Medicine⁴

Feb. 14 **HUMAN RIGHTS FACT-FINDING + ROUNDS**

- Readings: (Reader pp. 172-226)
- (a) Raoul Wallenberg Institute of Human Rights and Humanitarian Law & International Bar Association, "Guidelines on International Human Rights Fact-Finding Visits and Reports (The Lund-London Guidelines)"
 - (b) Orentlicher, "Bearing Witness: The Art and Science of Human Rights Fact-Finding" (excerpts).
 - (c) Ellsberg & Heise, "Researching Violence Against Women: A Practical Guide for Researchers and Activists" (excerpts to skim)

Optional Supplemental Readings: (available on TWEN)

- (a) FORUM-ASIA & Union for Civil Liberty, "Handbook on Fact-Finding and Documentation of Human Rights Violations"
- (b) World Health Organization, "WHO Ethical and safety recommendations for researching, documenting and monitoring sexual violence in emergencies"

Guest Speaker: Blaine Bookey, CGRS Staff Attorney

Feb. 21 **ISSUES IN INTERVIEWING AND COUNSELING CLIENTS
+ IN-CLASS EXERCISE + ROUNDS**

- Readings: (Reader pp. 227-236)
- (a) Krieger & Neumann, Jr., "What Happens When a Lawyer Counsels a Client," *in* ESSENTIAL LAWYERING SKILLS (excerpts)
 - (b) Krieger & Neumann, Jr., "Preparing for Counseling: Structuring the Options" ("Adapting to the Client's Tolerance for Risk"), *in* ESSENTIAL LAWYERING SKILLS (excerpts)
 - (c) Krieger & Neumann, Jr., "The Counseling Meeting with the Client," *in* ESSENTIAL LAWYERING SKILLS (excerpts)

⁴ Guest speaker to be confirmed.

- (d) Krieger & Neumann, Jr., "Overcoming Special Problems in Counseling," in ESSENTIAL LAWYERING SKILLS (excerpts)

* Midterm Evaluation Meetings will likely be scheduled for the week of Feb. 20 or Feb. 27*

** Please attend an immigration court merits hearing between now and April 2, when Assignment 3 (Immigration Court Observation) is due. You will receive advance guidance about procedures to follow to observe a hearing; assignment instructions will be posted to TWEN. **

Feb. 28 DEVELOPING STRATEGIES / LEGAL THEORIES + ROUNDS

Rounds, with in-depth discussion of legal theories and strategies.

** Spring Break **

Mar. 13 THE ADJUDICATORY PROCESS 1: THE ASYLUM OFFICE

Reading: (Reader pp. 237-276)
Ramji-Nogales, *et al.*, "Refugee Roulette: Disparities in Asylum Adjudication" (excerpts)

Guest Speaker: Vincent Ferri, Quality Assurance & Training Director, S.F. Asylum Office

Mar. 20 USE OF EXPERTS + IN-CLASS EXERCISE + ROUNDS

Readings: (Reader pp. 277-331)
(a) Mauet, TRIAL TECHNIQUES (excerpt)
(b) Rachael Keast, "Using Experts for Asylum Cases in Immigration Court"
(c) CGRS Expert Declarations of Hilda Morales Trujillo and Dr. Tim Carmichael

In-class exercise: *Please read pp. 332-336 of the Reader for the assignment, which involves preparing direct and cross-examination questions you would ask of Dr. Carmichael; **email your questions to Karen & Robin by 12:00 PM (noon) on March 19, the day before class.***

Mar. 27 ETHICS & MEDIA + IN-CLASS EXERCISE

Readings: (Reader pp. 337-376)
Ethical Issues
(a) Lerman & Schrag, "Which rule applies when? A taxonomy of truth-telling problems in litigation," in ETHICAL PROBLEMS IN THE PRACTICE OF LAW (excerpts)
Media Coverage of FGC Case
(b) McCarthy, "No Activism, No Asylum"
(c) Branigin & Farah, "Asylum Seeker Is Impostor, INS Says; Woman's Plea Had Powerful Support"
(d) Murphy, "I.N.S. Says African Woman Used Fraud in a Bid for Asylum"
Media Coverage of Rody Alvarado's Case & Asylum Based on Domestic Violence
(e) Sachs, "Women Newly Seeking Asylum"

- (f) Jelinek, "Gender Considered in New Asylum Rule"
- (g) Sachs, "Reno Voids Denial of Asylum For Guatemalan Battered Wife"
- (h) Oliphant, "Seeking Shelter"
- (i) Sevcik, "Why is the U.S. turning away victims of domestic violence?"
- (j) Swarns, "Ashcroft Weighs Granting of Political Asylum to Abused Women"
- (k) Preston, "New Policy Permits Asylum for Battered Women"
- (l) Soler & Musalo, Op-Ed., "Time to End an Asylum Limbo for Abused Women"
- (m) N.Y. TIMES Editorial, "Asylum for Battered Women"
- (n) Preston, "U.S. May Be Open to Asylum for Spouse Abuse"
- (o) N.Y. TIMES Editorial, "Rody Alvarado's Odyssey"
- (p) THE WASHINGTON POST Editorial, "Fleeing abuse"
- (q) Preston, "Asylum Granted to Mexican Woman in Case Setting Standard on Domestic Abuse"

(Please consult TWEN for any additional material that may be posted for this class.)

In-class exercise: Various role-plays involving "truth" from clients and using media advocacy on behalf of an asylum seeker.

Mar. 30 (Fri.)

SUPPLEMENTAL SESSION – IJ CHAMBERS VISIT

1:30 PM: Meet with Immigration Judge Dana Leigh Marks in her chambers at the Immigration Court (120 Montgomery Street in San Francisco). See page 4 above for reading assignment.

Apr. 2

Assignment 3 due (Immigration Court Observation)
Electronic submission & hardcopy due by 12:00 PM (Noon).

Apr. 3

THE ADJUDICATORY PROCESS 2: IMMIGRATION COURT

Reading: (Reader pp. 377-426)

- (a) Hernandez, "Immigration Reforms Result in Fewer Judges, More Prosecutors"
- (b) Marks, "A System at its Breaking Point"
- (c) Preston, "Immigration Judges Found Under Strain"
- (d) Coyle, "Immigration judges seek Article I status"
- (e) NAIJ, "Statement of National Association of Immigration Judges Before the Senate Committee on the Judiciary on 'Improving Efficiency and Ensuring Justice in the Immigration Court System'"
- (f) TRAC, "Asylum Denial Rate Reaches All Time Low: FY 2010 Results, a Twenty-Five Year Perspective"
- (g) ABA Commission on Immigration, "Reforming the Immigration System: Proposals to Promote Independence, Fairness, Efficiency, and Professionalism in the Adjudication of Removal Cases – Executive Summary" (excerpts) (pp. ES 5-7, 31-34, & 11-15 are recommended but not required)

Apr. 10

CAREERS + FINAL ROUNDS

Guest Speakers: TBA

Final Rounds: Give and receive final feedback regarding fieldwork.

RHRC: Spring 2012 Schedule

Classes are on Tuesdays in Room 201 (198 McAllister) from 1:10 to 3:20 PM, unless otherwise noted.

Jan. 10	Class 1	Introductions / Visions of Lawyering *Assignment 1 due
Jan. 17	Class 2	Interviewing Clients + In-Class Exercise *Assignment 2 due
Jan. 24	Class 3	Impact of Culture / Working with Interpreters + In-Class Exercise
Jan. 31	Class 4	Case Planning & Development + Rounds
Feb. 7	Class 5	Working with Victims of Trauma
Feb. 14	Class 6	Human Rights Fact-Finding + Rounds
Feb. 21	Class 7	Issues in Interviewing and Counseling Clients + In-Class Exercise
Feb. 28	Class 8	Developing Strategies & Theories + Rounds
Mar 13	Class 9	The Adjudicatory Process 1: The Asylum Office
Mar. 20	Class 10	Use of Experts + In-Class Exercise
Mar. 27	Class 11	Ethics & Media + In-Class Exercise
Mar. 30 (Fri.)	<i>Supplemental Session</i>	Visit with Immigration Judge Marks (1:30 PM)
Apr. 2 (Mon.)		*Assignment 3 due
Apr. 3	Class 12	The Adjudicatory Process 2: Immigration Court
Apr. 10	Class 13	Careers + Final Rounds
Apr. 25 (Wed.)		*Assignments 4-6 due (Tentative Deadline)

To Be Scheduled:

- Orientation
- Direct Representation Procedures Training
- Law Library Training
- Asylum Law Training
- Weekly Supervision Meetings
- Immigration Court Hearing Observation (independently scheduled)
- Mid-Semester Evaluation Meetings (likely scheduled for the week of Feb. 20 or Feb. 27)
- Final Evaluation Meetings (likely scheduled for the last week of the examination period)