

May 15, 2018

SANTA CLARA UNIVERSITY SCHOOL OF LAW
COMPARATIVE ASPECTS OF SOCIAL JUSTICE: FORCED MIGRATION
AND INTERNATIONAL ENVIRONMENTAL LAW

May-June 2016

Profs. Abriel, Poynder and Dwyer

CLASS SCHEDULE AND ASSIGNMENTS
UPDATED May 15, 2018

PLEASE NOTE:

This is still my best estimate of our schedule. I am waiting on confirmation for a couple of site visits, which may require modifying the schedule, and we may also need to modify it depending on our progress through the material.

Sunday, May 20, 2018, 4 p.m.

Orientation and group dinner. Meet at UTS Law Faculty. We will walk to Darling Harbour and take the ferry to Circular Quay to have dinner on the Rocks (ferry trip and dinner are on Santa Clara.)

Class 1: Monday, May 21.

9-11:00: Introduction to course: course requirements, overview of international refugee law; the international definitions of refugee. Current issues in refugee processing in the United States.

11 – 12: Overview of the Australian Legal System (Prof. Poynder)

12:30 Welcome lunch with UTS faculty and students.

1:15 Tour of UTS; distribution of wifi passwords.

Reading assignment: Units 1, 2, and 3 Refugee Law Materials (I know this looks long, but there are a lot of charts and white! The other reading assignments will not be this long!)

Class 2: Tuesday, May 22

9:00 – 10:30 Overview of U.S. protection system; U.S. overseas refugee programs; U.S. on-shore refugee programs (asylum and withholding); the concept of persecution. (Prof. Abriel)

10:30 – noon Overview of the Australian protection system; Australian overseas refugee processing (Prof. Poynder)

Reading assignment: Units 4 and 5, Refugee Law Materials.

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Class 3: Wednesday, May 23

9 – noon Standards and burden of proof in establishing the refugee claim; nexus; discretion.
(Prof. Abriel)

Reading materials: (1) Units 6 and 7, Refugee Law Materials; (2) Hypothetical Set 4.

WEDNESDAY EVENING: possible group dinner.

Class 4: Thursday, May 24

9:00 – noon Protected grounds of religion, race, nationality, and political opinion.
(Prof. Abriel)

Reading materials: (1) Units 8 and 9, Refugee Law Materials; (2) Hypotheticals Sets 6 and 7.

AFTERNOON: Site visit to Australian Human Rights Commission.

Class 5: Friday, May 25

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

FRIDAY EVENING: VIVID Sydney begins! Tentative plan: dinner at Prof. Abriel's apartment.

SATURDAY, May 26 – optional trip to the Blue Mountains and the Featherdale Wildlife Park.

Class 6: Monday, May 28

9:00 – noon Protected ground of membership in a particular social group. (Prof. Abriel)

Reading materials: (1) Unit 10, Refugee Law Materials; (2) Hypothetical Set 8.

Afternoon: Visit to Federal Circuit Court of Australia, Judge Manousaridis' courtroom, to observe immigration appeal. Hearing starts at 2:15, and the judge will likely invite us to meet with him before the hearing, so I don't know the exact time yet.

Class 7: Tuesday, May 29

9:00 – noon Grounds of ineligibility for relief. (Prof. Abriel)

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Reading materials: (1) Unit 11, Refugee Law Materials; (2) Hypothetical Set 9.

Tentative: Afternoon: Workshop on Australian legal research with UTS Professor Christopher Croese (you'll need your laptops)

Class 8: Wednesday, May 30

9:00 – 11:00 The Convention against Torture; application processes for asylum, withholding, and Convention against Torture claims; proving the claim. (Prof. Abriel)

11:00 – noon Proving the claim under Australian law. (Prof. Poynder)

Reading materials: (1) Units 12 and 13, Refugee Law Materials; (2) Hypothetical Sets 10 and 11.

SITE VISIT: Meet at 1 p.m. to talk to Office of the Legal Services Commissioner for a meeting with the Commissioner, John MacKenzie.

Class 9: Thursday, May 31

9:00 – noon The development of Environmental Law: National and International Regimes. (Prof. Dwyer) Topic includes a general introduction to international environmental law including the fundamental principles and rules of international environmental law and the legal and institutional framework in which they have developed and are implemented. A case study will be considered in relation to the International Convention for the Regulation of Whaling to highlight the key players and tensions. The International Whaling Convention initially allowed killing tens of thousands of whales, but now only allows several hundred takes and only by aboriginal hunters for subsistence whaling.

Immediately after class: brief meeting with interns.

Class 10: Friday, June 1.

9:00 – noon Environmental Protection in Australia: Federal Governance (Prof. Dwyer). Introduction into how environmental law-making power in Australia is divided among the States, Territories and Federal Government. The history of Australia is relevant here. Whilst the Commonwealth Constitution does not contain an express environmental law-making power in favour of the Federal Government, the Federal Government still exerts considerable influence over environmental matters. Key High Court decisions in this fascinating area will be considered. In a more practical sense, the Federal government can influence the States and Territories by supplying funding on terms and conditions. The modern notion of 'co-operative federalism', and the governance processes it establishes, is also considered.

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FRIDAY NIGHT: Optional Aussie Rules Football game at the Sydney Cricket Grounds.

SATURDAY NIGHT: Tentatively scheduled – dinner with Prof. Poynder.

SUNDAY: optional group trip – whale watching.

Class 11: Monday, June 4

9:00 – noon Environment Protection and biodiversity in Australia: Environment Protection and Biodiversity Conservation Act 1999 (Cth) (Prof. Dwyer)

Overview of biodiversity, how it is defined, why it is important. The key provisions in the overarching federal legislation, the Environment Protection and Biodiversity Conservation Act 1999 (Cth), are considered and in particular the protection of biodiversity is highlighted. More specifically the seminar will consider the protection of endangered species, the issue of standing, enforcement of environmental law and key cases. In particular, indigenous peoples and local communities have an important role in the management of biodiversity. The value of Indigenous Knowledge (IK) is an evolving subject of national and international law. Indigenous peoples have repeatedly claimed that they have fundamental rights to IK because it is necessary to their cultural survival. This right is increasingly being recognized in international law. These rights include many non-material and material values bundled into “traditional resource rights”

Class 12: Tuesday, June 5 – One more class on Refugee Law!

9:00 – noon Other forms of protection: immigration relief for victims of trafficking in persons, crime, and environmental disaster. (Prof. Abriel)

Reading materials: (1) Units 14 and 15, Refugee Law Materials; (2) Hypothetical Set 12.

Class 13: Wednesday, June 6

9:00 – noon Energy and Climate Change (Prof. Dwyer)
Introduction to climate change law and activities from across the globe to reduce carbon emissions.

Class 14: Thursday, June 7

9:00 – noon Environmental Justice (Prof. Dwyer)

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Environmental justice is an important part of the struggle to improve and maintain a clean and healthy environment in an inclusive manner. For too long the pursuit of environmental protection or the impact of environmental degradation was at the expense of those least able to speak up for themselves. Many may have traditionally lived, worked and played closest to the sources of the environmental degradation or protection proposals and for this they have paid the greatest price. Indeed, environmental justice has its roots in indigenous rights. This seminar will also consider the concepts of environmental justice in the USA and look at the ramifications for Australia including the rise of the concept of “social licence.”

Afternoon: Optional review session.

Friday, June 8 FINAL EXAMINATION 9 a.m. – 12 noon.

Evening: gala farewell dinner!