

FAIR 334C – INTERNATIONAL HUMAN RIGHTS
CLASS QUESTIONS

Rights of Vulnerable Persons: Refugees, IDPs and Stateless Persons

Smith, pp. 210-220, 2020/Smith, pp. 377-387, 2018); Alice Edwards: pp. 539-552

Research the following terms:

Migration; Circular migration; Migration corridors;

Statistics on migrant deaths: <https://missingmigrants.iom.int>

Voluntary migration; economic migrants; migrant workers

Nonvoluntary migration; refugee, asylum seeker, internally displaced persons (IDPs), stateless persons

1. Who is a refugee in ordinary usage? Who is a refugee according to international law? What is international refugee law? What is the role of international refugee law? What are the primary sources of the rights of refugees? Which regional instruments complement the international regime of refugee rights? What is the role of the UN High Commissioner for Refugees (UNHCR)? (Edwards, 539-541; Smith 210-220, 2020/Smith 377-387, 2018)
2. What are the fundamental elements of international refugee law? What is the effect of the absence of a derogation law in the Refugee Convention? In what circumstances may derogations be permitted? What is the relationship between international refugee law and international human rights law? How do these laws intersect? What is the “right to asylum” and who can claim this right? (Edwards, 541-544)
3. How may an individual claim “refugee status”? / What are the grounds for claiming “refugee status”? What is “persecution”? Why, in the author’s view, should we avoid tying the definition of forms of persecution closely to human rights law? What grounds of persecution are recognized by the Refugee Convention? What are the two distinct tests that courts have adopted in defining “membership of a particular social group”? Why, in your view, has “economic or social standing” not been accepted as a ground for refugee status? (Edwards, 545-546)
4. What is *non-refoulement*? What is “direct *refoulement*”? What is indirect or “chain *refoulement*”? What are the relevant provisions of the Refugee Convention on the prohibition of expulsion or return? Is the practice of intercepting asylum-seekers or refugees a violation of the *non-refoulement* principle? Some cases have gone through the Courts in Europe and the Americas. Why has the treatment of these cases influenced the state of the law on the principle of *non-refoulement*? What are the exceptions to the *non-refoulement* principle? What are the distinctions between refugee *non-refoulement* and human rights *non-refoulement*? (Edwards, 547-549)
5. What are the protections afforded to refugees under the Refugee Convention? What are the two specific layers for the structure of entitlement for refugees under the Convention? Note the four categories of attachment and the three types of legal persons. How is recourse to human rights standards permitted in the treatment of refugees? Why do we need to appeal to human rights law in the treatment of refugees? How does refugee status formally come to an end? Why is the Refugee Convention oriented to assimilation and naturalization or local integration? Why has this option become elusive in recent years? What are the best pathways for dealing with refugee issues? (Edwards, 549-552)

The 1951 Refugee Convention and 1967 Protocol: <https://www.unhcr.org/3b66c2aa10>