

Legal Studies 132AC
Spring 2012
Tu/Th, 2:00– 3:30 pm
Goldman School of
Public Policy, room 150

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Tues 4-5 pm, Thurs 4-5 pm

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Wed 9-10 am, Wed 3 – 4 pm

IMMIGRATION AND CITIZENSHIP SYLLABUS

Course Description

We often hear that America is a “nation of immigrants.” But this representation of the United States does not explain why some are presumed to belong in the United States, and others are not. Why are Mexicans the prototypical “illegal alien”? Why are Latinos and Asian Americans so often considered “alien citizens,” as American citizens who are nonetheless presumed to be foreign? And why are European Americans assumed to belong? This course will examine these questions, among others, through studying how the law of immigration and citizenship historically included some communities and excluded others through both explicit racial bars and formally neutral requirements. In addition to this historical examination, we will also study contemporary immigration and citizenship law, and its role in shaping the borders of our national community today. Thus, our focus will be on both the history of immigration and citizenship law, and on contemporary debates in the field.

While we will frequently foreground questions of race in the class, we will also spend considerable time on a comprehensive overview of the major facets of American immigration law and policy. These topics will include admissions, substantive grounds for removal (exclusion and deportation), the treatment of undocumented immigrants, asylum and refugee policy, and the law of citizenship.

This course will serve as an introduction to legal studies. Thus, what will be different about the approach of this course, as compared to courses in sociology, political science, or ethnic studies that examine immigration, is the attention to how the law has served to shape both immigrant communities and American national identity. In addition to scholarly texts, students will learn to read and analyze excerpts of both cases and the statute that governs immigration and citizenship, the Immigration and Nationality Act (INA).

Lastly, this course meets the American Cultures requirement. As a result, the course examines the origins of certain racialized ideas which serve to shape contemporary policy and thought. Ideas about race are often bound up in questions of gender and sexuality, and we will thus look at how racial concepts intersect with assumptions about normative families and behavior. We will study how immigrant communities and national identity have been made through immigration and citizenship law, with the direct experiences of specifically racialized groups integrated into the course structure. When possible, we will contemplate how racialization happens in a comparative frame, across communities.

Requirements

Course requirements include a one-two page personal immigration history, a two-three page observation of Immigration Court in San Francisco, a midterm, a three-four page book review essay, a final exam, and participation in discussion section. Some details about particular assignments:

Court Observation

For this assignment, you are to observe two hours of proceedings at Immigration Court at 120 Montgomery Street in San Francisco. You may do this on any day between Monday – Thursday, either for a session that begins at 8:30 am or at 1:00 pm, as fits with your schedule. Obviously, other than during spring break, you should not plan to observe court during a Tuesday or Thursday afternoon session. We encourage you to do your court observation early in the semester, for two reasons. First, the experience will enrich your learning in the remainder of the course. Second, we don't want to flood the court with an entire class of observers the week your observation is due. We will be posting an online sign up for the court observation.

Book Review

Students will review the following book (available on bspace) for their book review essay:

Ian Haney Lopez, White By Law: The Legal Construction of Race (2006, 2nd ed.).

More information about each of the assignments will be made available on bspace under “Resources” or during section and lecture.

Grading

Personal Immigration History (pass/fail)	5%
Section Participation	10%
Midterm	20%
Court Observation (pass/fail)	10%
Book Review Essay	25%
Final Exam	30%
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TOTAL:	100%

Significant Dates

Personal Immigration History Due	February 2
In class Midterm	February 23
Book Review Essay Due	April 7
Court Observation Due	April 26

The personal immigration history will be due the third week of class. The midterm will be held in class during the sixth week of class and will cover weeks one to six of the course. The book review essay will be due during week eleven. The court observation will be due the final class meeting. The final exam will cover material from the entire semester, with a slight emphasis on new material learned after the midterm.

Course Materials

All course materials will be made available on bspace and in a reader available at Copy Central, 2560 Bancroft Way.

Schedule

Week One: Welcome and Introduction (Jan 17 & 19)

Readings

Tuesday, January 17:

1. Victor Romero, "Overview and History of U.S. Immigration Law," in Everyday Law for Immigrants (2009): 5 – 23.

Thursday, January 19:

2. Gerald R. Neuman, "The Lost Century of American Immigration Law, 1776-1875," Columbia Law Review (1993): 1833-1840.

**No discussion section meetings this week **

Week Two: The Origins of Federal Immigration Law (Jan 24 and 26)

Readings

Tuesday, January 24:

1. Erika Lee, "The Chinese are Coming. How Can We Stop Them?" in At America's Gates: Chinese Immigration During the Exclusion Era, 1882-1943 (2003): 23-46.
2. Erika Lee, "The Chinese Respond to American Exclusion," in At America's Gates: 111-145.

Thursday, January 26:

1. Erika Lee, "Race, Class, Gender, and Citizenship in the Enforcement of the Exclusion Laws," in At America's Gates: 77-109.
2. Ekui v. United States (1892)
3. Eithne Luibheid, Entry Denied:Controlling Sexuality at the Border (2002): 1, 3 – 16.
4. <http://www.ellisland.org/>

Take a look under "passenger records" to see what you may find.

Film clip in class: "Becoming American: The Chinese Experience"

Week Three: Deportation and Racial Restrictions on Naturalization (Jan 31 and Feb 2)

Readings

Tuesday, January 31:

1. Daniel Kanstroom, "Introduction," in Deportation Nation: Outsiders in American History (2007): 1-20.
2. Fong Yue Ting v. United States (1893).
3. Mae Ngai, "Deportation Policy and the Making and Unmaking of Illegal Aliens," in Impossible Subjects: Illegal Aliens and the Making of Modern America (2004): 56-89.

Thursday, February 2:

1. Ian Haney Lopez, "Racial Restrictions in the Law of Citizenship," "The Prerequisite Cases," and "Ozawa and Thind," in White By Law: the Legal Construction of Race (2006): 27-34, 35-55, 56 – 77.
2. Ozawa v. United States (1922) (excerpted in Haney Lopez at 176-179).
3. United States v. Thind (1923) (excerpted in Haney Lopez at 179-182).
4. Appendix A: The Racial Prerequisite Cases, in Haney Lopez at 163-167).

Film clip in class: "Race: The Power of an Illusion"

Personal Immigration History Due February 2

Week Four: Racial Restrictions on Naturalization and the Bracero Program (Feb 7 and 9)

Readings

Tuesday, February 7:

1. Laura Gómez, "Manifest Destiny's Legacy: Race in America at the Turn of the Twentieth Century," in Manifest Destinies: The Making of the Mexican American Race (2007): 138-147.
2. In re Rodriguez (1897)(excerpt).
3. John Tehranian, "Performing Whiteness: Naturalization Litigation and the Construction of Racial Identity in America," 109 Yale L.J. 817 (2000)(excerpt).
4. Moustafa Bayoumi, "Racing Religion," The New Centennial Review (2006)(excerpt).

Thursday, February 9:

1. Mae Ngai, "Braceros, 'Wetbacks,' and the National Boundaries of Class," in Impossible Subjects: 96-126.

Look at "Bittersweet Harvest" National Museum of American History interactive website on the Bracero Program, at http://americanhistory.si.edu/exhibitions/small_exhibition.cfm?key=1267&exkey=770

Film clips in class: "Harvest of Loneliness" trailer'; CNN report

Week Five: Japanese American Internment (Feb 14 and 16)

Readings

Tuesday, February 14:

1. Mae Ngai, "The World War II Internment of Japanese Americans and the Citizenship Renunciation Cases," in Impossible Subjects: Illegal Aliens and the Making of Modern America (2004): 175-201.
2. Civilian Exclusion Order No. 33.

Thursday, February 16:

No readings assigned.

Film in class: "Rabbit in the Moon." Please note, this film is 84 minutes long, and the screening will thus begin at 2:05 pm.

Week Six: National Origins Quotas and Repeal, and In Class Midterm (Feb 21 and 23)

Readings

Tuesday, February 21:

1. Mae Ngai, The Johnson-Reed Act of 1924 and the Reconstruction of Race in Immigration Law, in Impossible Subjects: 21 – 55.
2. Mae Ngai, "The Liberal Critique and Reform of Immigration Policy," in Impossible Subjects: 227-264.

Thursday, February 23:

No readings assigned.

In class Midterm.

In class Midterm February 23

Week Seven: Admissions Today (February 28 and March 1)

Readings

Tuesday, February 28:

1. Victor Romero, "Immigration Law Basics," in Everyday Law for Immigrants: 25-29 (top).
2. Bill Ong Hing: Promoting Family Values and Immigration," in Deporting Our Souls: Values, Morality and Immigration Policy (2006): 118-140.
3. "Chain Migration," Federation for American Immigration Reform, October, 2002; http://www.fairus.org/site/PageServer?pagename=iic_immigrationissuecenters3e2a
4. Adams v. Howerton (1982).
5. Nina Bernstein, "Do You Take this Immigrant?" NY Times, June 11, 2010.

Thursday, March 1:

1. Victor Romero, "Immigration Law Basics," in Everyday Law for Immigrants: 30 – 43 (top).
2. Look at Diversity Visa Lottery Instructions, available at: <http://travel.state.gov/pdf/DV-2012%20instructions.pdf>
3. Yascha Mounk, "Losing (but Loving) the Green Card Lottery," NY Times, May 19, 2011.

Film clip in class: Homeland Security episode.

Week Eight: Introduction to Removal Grounds and Procedure and The Control of Migration (March 6 and 8)

Readings

Tuesday, March 6:

1. Victor Romero, "Immigration Law Basics," in Everyday Law for Immigrants, 43-58.
2. INA sections 212 and 237 (just skim).
3. Victor Romero, "Immigration Procedure Basics," in Everyday Law for Immigrants, 59-77.
4. Chimamanda Ngozie Adichie, The Line of No Return, NY Times, Nov 29, 2004.

Thursday, March 8:

1. Stephen Macedo, "The Moral Dilemma of U.S. Immigration Policy: Open Borders vs. Social Justice," in Debating Immigration (Carol Swain, ed., 2007).
2. Joseph Carens, "Aliens and Citizens: The Case for Open Borders," in The Rights of Minority Cultures (Will Kymlicka, ed., 1995).

Week Nine: Crime and Immigration (March 13 and 15):

Readings

Tuesday, March 13:

1. INA section 212(a)(2), section 237(a)(2) (already assigned in previous session; just skim).
2. “Old Crimes Come to Haunt Legal Immigrants,” Washington Post, Aug. 2, 2008.
3. Bill Ong Hing, “Deporting Our Souls,” in Deporting Our Souls: 52-117.

Film clip in class: “Alliance for Justice: The Case of Jesus Collado”

Thursday, March 15:

Film in class: “Sentenced Home” (no reading)

Spring Break – No class March 27 or 29

Week Ten: Immigration and the War on Terror (March 20 and 22)

Readings

Tuesday, March 20:

1. Mary Beth Sheridan, “Immigration Law as Anti-Terrorism Tool,” The Washington Post, June 13, 2005.
2. Moustafa Bayoumi, “Arab America’s September 11,” The Nation, Sept. 25, 2006.

Film in class: “Out of Status”

Thursday, March 22:

1. Moustafa Bayoumi, “Racing Religion,” The New Centennial Review (2006) (already assigned).
2. Leti Volpp, “The Citizen and the Terrorist,” UCLA Law Review (2002).

Week Eleven: Introduction to Asylum (April 3 and 5)

Readings

Thursday, April 3:

1. look at Obtaining Asylum in the United States, information from USCIS, available at <http://www.uscis.gov/> (link will be in announcement on bspace)
2. David Ngaruri Kenney and Philip Schrag, Asylum Denied: A Refugee's Struggle for Safety in America (2008) (excerpt).

Film Clip: Well Founded Fear

Tuesday, April 5:

1. In re Kasinga (1996).
2. Charles Piot, "Representing Africa in the Kasinga Asylum Case," in Rogaia Mustafa Abusharaf, ed. Female Circumcision: Multicultural Perspectives (2007): 224-233.
3. Leti Volpp, "Blaming Culture for Bad Behavior," Yale J. Law and Humanities (2000).
4. Jon Feere, "Open Border Asylum: Newfound Category of 'Spousal Abuse Asylum' Raises More Questions than it Answers," Center for Immigration Studies Backgrounder (2010).
5. Karen Musalo, "Toward Full Recognition of Domestic Violence as a Basis for Asylum," American Constitutional Society Posting (2010).

Book Review Essay Due April 5

Week Twelve: State and Local Control of Immigration; Asylum and Refugees (cont'd) (April 10 and 12)

Readings

Tuesday, April 10

For this class session, you are to attend part of a conference at UC Berkeley School of Law. During our regularly scheduled class time you will listen to a panel of experts discuss the program Secure Communities. You are welcome to attend the entire conference, which will also address litigation against the state of Alabama, as well as the topic of state and local control of immigration more generally.

Readings TBA.

Thursday, April 12

1. David Ngaruri Kenny and Phil Schrag, Asylum Denied (excerpt)

Film Clip: Well Founded Fear

Week Thirteen: Undocumented Immigration: Focus on Education and Responses (April 17 and 19)

Readings

Tuesday, April 17:

1. Jose Antonio Vargas, My Life as an Undocumented Immigrant, NY Times, June 26, 2011, available at: http://www.nytimes.com/2011/06/26/magazine/my-life-as-an-undocumented-immigrant.html?_r=1
2. Look at the Dream Activist.org website, <http://www.dreamactivist.org>.
3. Watch “Freedom University: Secret School for Undocumented Students” <http://www.cnn.com/video/?%2Fvideo%2Fbestoftv%2F2011%2F12%2F01%2Fpkg-gutierrez-freedom-university.cnn#/video/bestoftv/2011/12/01/pkg-gutierrez-freedom-university.cnn>
4. Skim: Daily Californian on California DREAM Act.

Guest Lecture: Sin Yen Ling, Asian Law Caucus, attorney for Steve Li

Thursday, April 19:

1. Kris Kobach, “Why Arizona Drew a Line,” NY Times, April 28, 2010.
2. “Room for Debate: Will Arizona’s Immigration Law Survive?” NY Times, April 26, 2010.
3. Wayne Cornelius, “Controlling ‘Unwanted’ Immigration: Lessons from the United States, 1993-2004,” Journal of Ethnic and Migration Studies (2005).
4. Joseph Carens, “The Case for Amnesty,” Boston Review (2009), with responses by Linda Bosniak, Arash Abizadeh, and Carol Swain, with reply by Joseph Carens.

Week Fourteen: Citizenship: Acquisition and Loss; Focus on Birthright Citizenship (April 24 and 26)

Readings

Tuesday, April 24:

1. “Reform of Germany’s Citizenship and Nationality Law,” German Embassy, London.
2. Civics Questions for the New Naturalization Test from the U.S. Citizenship and Immigration Services, USCIS (2009).
3. Yaser Hamdi v. Donald Rumsfeld, Settlement Agreement (2004).
4. Margot Sanger-Katz, “Blitzkrieg: The Department of Justice is Still Storming the Country Looking for Geriatric Ex-Nazis,” Legal Affairs, (2009).
5. Petition to Strip John Walker Lindh of his Citizenship

Thursday, April 26:

1. Peter Schuck and Rogers Smith, Citizenship Without Consent: Illegal Aliens in the American Polity (1985): excerpt.
2. Marc Lacey, “On Immigration, Birthright Fight in U.S. is Looming,” New York Times, Jan. 5, 2011.

James Ho, "Birthright Citizenship and the Fourteenth Amendment," Wall Street Journal, Jan. 5, 2011.

Film clip in class: Kris Kobach on the O'Reilly Factor.