

Legal Studies 132AC  
Fall 2013  
T/Th 12:30 - 2  
2 Leconte

Professor Leti Volpp  
893 Simon  
(510) 642-0330  
[lvolpp@law.berkeley.edu](mailto:lvolpp@law.berkeley.edu)  
Office hours : M 2 :30 – 4 :00

GSI's

Mary Hoopes

[mary\\_hoopes@yahoo.com](mailto:mary_hoopes@yahoo.com)

Tu 3 – 4 20 Wheeler  
W 8 – 9 215 Dwinelle

Vasanthi Venkatesh

[vasanthi@berkeley.edu](mailto:vasanthi@berkeley.edu)

W 10 – 11 B56 Hildebrand  
Th 4 – 5 243 Dwinelle

## 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 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, 2<sup>nd</sup> 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	September 19
In class Midterm	October 10
Book Review Essay Due	November 7
Court Observation Due	December 5

The personal immigration history will be due the fourth week of class. The midterm will be held in class during the seventh 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 an 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 (Aug. 29)**

#### *Readings*

Thursday, August 29:

1. Look at two newspapers (I suggest the New York Times, along with the Washington Post, Oakland Tribune or Los Angeles Times) for stories about immigration between August 20-28, 2013).

*\*No discussion section meetings this week \**

### **Week Two: Introduction and the Origins of Federal Immigration Law (Sept. 3 and 5)**

#### *Readings*

Tuesday, September 3:

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

Thursday, September 5:

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.
3. Take a look at poems written by Angel Island detainees about their detention experience, from the book Island (skim for your own interest).

### **Week Three: Origins of Federal Immigration Law (cont'd), and Deportation (Sept. 10 and 12)**

#### *Readings*

Tuesday, September 10:

1. Erika Lee, "Race, Class, Gender, and Citizenship in the Enforcement of the Exclusion Laws," in At America's Gates: 77-109.
2. Ekiu v. United States (1892)
3. <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"

Thursday, September 12:

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.

### **Week Four: Racial Restrictions on Naturalization (Sept. 17 and 19)**

#### *Readings*

Tuesday, September 17:

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"

Thursday, September 19:

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).

Guest lecturer: Mary Hoopes

*\*Personal Immigration History Due September 19\**

## **Week Five: The Bracero Program and Japanese American Internment (Sept. 24 and 26)**

### *Readings*

Tuesday, September 24:

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](http://americanhistory.si.edu/exhibitions/small_exhibition.cfm?key=1267&exkey=770)

Film clips in class: “Harvest of Loneliness” trailer; CNN report on Arizona

Thursday, September 26:

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 12:05 pm.

## **Week Six: Japanese American Internment (cont’d) and National Origins Quotas and Repeal (Oct. 1 and 3)**

### *Readings*

Tuesday, October 1

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, October 3:

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.

## **Week Seven: Admissions Today and In class Midterm (Oct. 8 and 10)**

### *Readings*

Tuesday October 8:

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](http://www.fairus.org/site/PageServer?pagename=iic_immigrationissuecenters3e2a)
4. Adams v. Howerton (1982).
5. Julia Preston, "Gay Married Man in Florida is Approved for Green Card," NY Times, June 30, 2013.
6. Nina Bernstein, "Do You Take this Immigrant?" NY Times, June 11, 2010.

Thursday, October 10:

No reading assigned. In class midterm. Material through Thursday, October 3 tested on midterm.

*\*In Class Midterm on October 10\**

## **Week Eight: Admissions Today (cont'd) and Introduction to Removal Grounds and Procedure (Oct. 15 and 17)**

### *Readings*

Tuesday, October 15:

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.
4. National Immigration Law Center Summary and Analysis of the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (focus on Family and Employment-Based Immigration).

Film clip in class: "Homeland Security" episode.

Thursday, October 17:

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.

**Week Nine: The Control of Migration and Crime and Immigration (Oct. 22 and 24)**

*Readings*

Tuesday, October 22:

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).

Thursday, October 24:

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"



**Week Ten: Crime and Immigration (cont'd), and Undocumented Immigration – Focus on Education (Oct. 29 and 31)**

*Readings*

Tuesday, October 29:

Film clip in class: “My Asian Americana,” by Anida Yoeu Ali for White House AAPI “What’s Your Story?”

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

Thursday, October 31:

1. Lawrence Downes, The “Illegal” Trap, *NY Times*, Sept 28. 2012.
2. Listen to This American Life segment on the DREAM Act, available at: <http://www.dreamactivist.org/this-american-life-profiles-a-dreamer/>
3. Look at the Dream Activist.org website, <http://www.dreamactivist.org>.
4. Plyler v. Doe (1982) (excerpt).
5. 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](http://www.nytimes.com/2011/06/26/magazine/my-life-as-an-undocumented-immigrant.html?_r=1)
6. Janet Napolitano Memo on Exercising Prosecutorial Discretion, June 15, 2012

Film: “The Dream is Now”

**Week Eleven: Undocumented Immigration – Focus on Responses (State and Local Control; Federal Enforcement and the Case for Amnesty) (Nov. 5 and 7)**

*Readings*

Tuesday, November 5:

1. Kris Kobach, “Reinforcing the Rule of Law: What States Can and Should Do to Reduce Illegal Immigration,” *Georgetown Immigration Law Journal* (2008)(pages 459-465).
2. Anti Illegal Immigration Laws in States, *NY Times*, April 22, 2012, at <http://www.nytimes.com/interactive/2012/04/22/us/anti-illegal-immigration-laws-in-states.html>
3. Supreme Court Decision (Arizona v. US) on Immigration Law, interactive feature, *NY Times*, June 26, 2012, at <http://www.nytimes.com/interactive/2012/06/26/us/scotus-immigrationlaw-immigrationlaw-analysis.html>

Thursday, November 7:

1. Wayne Cornelius, "Controlling 'Unwanted' Immigration: Lessons from the United States, 1993-2004," Journal of Ethnic and Migration Studies (2005).
2. Joseph Carens, "The Case for Amnesty," Boston Review (2009), with responses by Linda Bosniak, Arash Abizadeh, and Carol Swain, w/ reply by Joseph Carens.
3. National Immigration Law Center Summary and Analysis of the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (focus on Registered Provisional Immigrant (RPI) Status) (already in reading).

*\*Book Review Essay Due November 7\**

## **Week Twelve: Asylum (Nov. 12 and 14)**

### *Readings*

Tuesday, November 12:

1. look at website: Obtaining Asylum in the United States, information from USCIS, available at <http://www.uscis.gov/> (link will be in announcement on bspace)

Film clip: "Well Founded Fear"

Thursday, November 14:

1. Sam Dolnick, "Immigrants May be Fed False Stories to Bolster Asylum Pleas," NY Times," July 11, 2011.
2. Julia Brooks, Martina Bunk, Leila Haddouche, for Humanity in Action, "Navigating the Asylum Process in the U.S.," available at <http://www.humanityinaction.org/knowledgebase/76-navigating-the-asylum-process-in-the-u-s>

Film Clip: "Well Founded Fear"

**Week Thirteen: Focus on Gender Based Asylum; Immigration and the War on Terror (Nov. 19 and 21)**

*Readings*

Tuesday, November 19

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).

Thursday, November 21

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 clip: "How Democracy Works Now"

Film in class: "Out of Status"

**Week Fourteen: Immigration and the War on Terror (Nov. 26)**

*Readings*

Tuesday, November 26:

1. Moustafa Bayoumi, "Racing Religion," The New Centennial Review (2006) (already assigned).
2. Leti Volpp, "The Citizen and the Terrorist," UCLA Law Review (2002).
3. Janet Reitman, "Jahar's World," Rolling Stone, August 1, 2013.

*Thanksgiving November 28 – No Class*

**Week Fifteen: Citizenship: Acquisition and Loss; Focus on Birthright Citizenship (Dec. 3 and 5)**

*Readings*

Tuesday, December 3:

1. "Overview of Amendments" (reform of Germany's Citizenship and Nationality Law).
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, December 5:

1. Peter Schuck and Rogers Smith, Citizenship Without Consent: Illegal Aliens in the American Polity (1985): excerpt.
2. Gerald R. Neuman, Book Review – Back to Dred Scott? San Diego Law Review (1987)
3. Mae Ngai, Birthright Citizenship and the Alien Citizen, Fordham Law Review (2007).
4. Gerald R. Neuman, "The Lost Century of American Immigration Law, 1776-1875," Columbia Law Review (1993): 1833-1840.

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

*\*Court Observation Due December 5\**

*\*FINAL EXAM December 20, 8 am – 11 am\**