

University of Houston Law Center
Immigration Law and Policy 5389
Fall, 2014

Professor Michael A. Olivas

Required text: T. Alexander Aleinikoff, David A. Martin, Hiroshi Motomura, & Maryellen Fullerton, *Immigration and Citizenship: Process and Policy* (West 7th ed. 2012 and addendum). Unless I suggest otherwise, bring this book to class every day.

Schedule and seating chart: We meet Tuesdays and Thursdays, 10:30a-11:45p, in xxx. Our first class is Tuesday, xx, and class will continue through Thursday, xx, a scheduled makeup day in the event we need additional time. I have some conflicts due to longstanding professional obligations, and I will announce them well in advance. I will pass around a seating chart during our second class, Thursday, xxx. **As an experiment, I will not allow any electronic devices or word processors in class; I will evaluate this policy midway through the semester. Therefore, do not purchase e-formats of the casebook, unless you are prepared to print out copies of the book for class.**

About the course: This course addresses four broad questions:

- who is a citizen of the United States, and why does it matter?
- who else comes to this country as an immigrant or a visitor, lawfully or unlawfully?
- when and why can noncitizens in the United States be forced to leave?
- who has the authority to answer the three questions above?

These questions will prompt us to examine the history of immigration to the United States, categories of immigrants, immigration outside the law, refugees and asylum, the constitutional aspects of immigration law, the federal agencies that apply immigration and citizenship laws, and state and local involvement with immigration and immigrants.

More generally, this course is an opportunity to learn and apply general principles of constitutional law and administrative law in a substantively focused setting, to learn to read complex, technical statutes, and to analyze the interaction between statutes and the Constitution.

This course covers a very broad range of topics from the practical and technical to the conceptual and policy-oriented. I hope that you become comfortable in each of these three roles:

- advising individuals, families, and businesses about practical immigration problems (e.g., how to get a green card, or other versions of “I have this friend . . .”);
- litigating statutory and constitutional issues in the trial and appellate courts; and
- advising federal, state, or local government officials about the implications of proposed changes to law or policy.

Office hours: My office is in the Multipurpose Suite (MPS), on the second floor, across from the elevator that leads to the Subway shop. My office hours are M/Tu/Th 1:00 p-3:00 p, and other times and days by arrangement in advance. My office phone is 713-743-2078, and my email address is molivas@uh.edu .

Class discussion, preparation, and attendance: This class will be discussion-oriented, although the sheer amount and complexity of materials require me to lecture, although I will not simply read the materials to you. I'll try to frame issues so that we can discuss them as you might in a law-office or other practice situation, instead of your just acquiring pure information. To make the most of this approach, every class hour needs to be a cooperative conversation, and the vast majority of us must be ready to participate on any given day. My student evaluations are almost always split between those who say I lecture too much and those who say I lecture too seldom.

On some days, you might not feel ready to be called on, or maybe you won't be able to attend at all. I want our classroom to be a safe space where you have control over when you participate fully, while also insuring enough group participation to keep discussion lively. I am not looking for perfect answers, just your willingness to engage in informed discussion. However, to measure class participation, I will adjust grades by raising or lowering exam scores by one increment, depending upon the quality of participation. You will be allowed five absences, for any reason. There is no need to alert me or to explain yourself for missing as many as five classes. Anyone exceeding this number will have his or her participation grade lowered. Please leave a cushion in case of sickness, transportation difficulties, inclement weather, a midweek rock and roll concert out of town, etc. (In the event Van Morrison comes to town, we will not have class that evening, and it will not count as an absence.) I will divide the class into two halves, one of which I will call upon on the Tuesday classes, and the other on Thursdays. Anyone sitting in those sections and attending class must be prepared on their days.

E-mail list: I have set up an email listserv for distributing information relating to the course and/or the subject matter. It uses your UHLC email, so check it regularly for assignments and communications.

Outside reference sources: the essentials for practice, plus some help with this course:

- Two highly useful websites, with current news and links to government, law firm, and NGO websites are: *Bender's Immigration Bulletin* (Daily Edition) <<http://www.bibdaily.com>>; and ImmigrationProf Blog <<http://lawprofessors.typepad.com/immigration>>.
- Two key newsletters to keep you current on recent developments: *Interpreter Releases* (available on Westlaw) and *Bender's Immigration Bulletin* (available on Lexis/Nexis).
- The Migration Policy Institute, a think tank in Washington, D.C., has an excellent website for immigration-related information, on not only the United States but also immigration issues around the world: <http://www.migrationpolicy.org/>
- The standard one-volume reference—detailed and more for practice than for study—is Ira Kurzban, *Immigration Law Sourcebook* (American Immigration Lawyers Ass'n 12th ed. 2010).
- The most detailed, comprehensive reference source is the multi-volume Charles Gordon,

Stanley Mailman, & Stephen Yale-Loehr, *Immigration Law and Procedure* (on Lexis/Nexis).

- Excellent short summaries of immigration law include Richard A. Boswell, *The Essentials of Immigration Law* (American Immigration Lawyers Ass'n 2d ed. 2009); and Kevin R. Johnson, Raquel Aldana, Bill Ong Hing, Leticia Saucedo, and Enid F. Trucios-Haynes, *Understanding Immigration Law* (Lexis/Nexis 2009)

Final exam and grading: The final exam is scheduled for xxx, from xx. It is “closed book,” i.e., you may not consult any materials during the exam. Your final grade will be your exam grade, subject to any class participation adjustment described above. Any accommodations or rescheduling of this final will need to be arranged with the Office for Student Services in advance of the exam date. You will be able to type the exam or to handwrite it. I will provide blue books to those who wish to write their exams.

Reading assignments: Here are the reading assignments for the first few weeks, in T. Alexander Aleinikoff, David A. Martin, Hiroshi Motomura, & Maryellen Fullerton, *Immigration and Citizenship: Process and Policy* (West 7th ed. 2012) (“AMMF”).

Each assignment has questions to help you read efficiently (even if we won't always address all of them in class). *Unless I clearly say otherwise, please assume that the next class will cover the next assignment.* [Note: these questions are designed to help you read and think through the material, but I will not always ask them in class or discuss them.]

1) Week One: [Ch. One] AMMF 1-36: *history of immigration to the United States*

We will spend about one-half of the first class discussing family immigration histories.

What milestones and trends in the history of U.S. immigration and citizenship law do you find most surprising? Most disturbing? Most encouraging?

What factors have most shaped the immigration policy of the United States? Of these factors, which are less influential than they were a century ago? Which have become more influential in recent years?

If the Pennsylvania model (in Susan Martin's phrasing) emphasizes the mutual agreement between the would-be immigrant and the United States, what is (or should be) the content of the agreement?

2) Week Two: [Ch. Two] AMMF 37–50: *citizenship by birth: jus sanguinis*

How would you draft a gender-neutral statute for nonmarital children?

AMMF 50–80: *citizenship by birth: jus soli*

Does *Wong Kim Ark* persuasively distinguish the treatment of Indians in *Elk v. Wilkins*?

Why isn't it logical, as Chief Justice Fuller asserts in his *Wong Kim Ark* dissent, that birthright citizenship rules can't confer citizenship on children who aren't be eligible to naturalize?

If *jus soli* were eliminated for a child of undocumented parents, what would be the practical consequences? What would such a change say about what it means to be a U.S. citizen?

Are the arguments for *jus soli* citizenship for a child of undocumented parents the same as for a child of lawfully present tourists, or are they different arguments?

Week Three: AMMF 80–105: *dual nationality and the concept of citizenship*

What are the practical consequences of allowing or forbidding dual nationality? Does it matter how dual nationality would be acquired?

Can it be conceptually consistent to favor a strong national sense of citizenship and at the same time strongly favor allowing dual nationality?

AMMF 105–26, 131–33: *naturalization*

How if at all would you change the current naturalization test?

Should it be easier or harder than current law (or about the same) to naturalize?

Week Four: [Ch. 3] AMMF 162–87: *early constitutional immigration law, part 1*

What if anything is wrong with the reasoning and outcome in *Chae Chan Ping*? Are there parts of the decision that make sense as policy or as constitutional law today?

In *Fong Yue Ting*, why does Justice Gray treat deportation and exclusion alike? Is this correct?

Why do Justices Brewer, Field, and Fuller object to the 1892 Act? How do they distinguish *Chae Chan Ping*?

AMMF 188–201: *early constitutional immigration law, part 2*

Is *Chae Chan Ping* consistent with *Yick Wo*?

* * * [Following weeks' assignments to be distributed]

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