Immigration and Citizenship Law (L01.3030.001)  
Professor Cristina Rodríguez  
NYU School of Law  
Spring 2006

Class Periods:  Tuesdays, 2:05-3:20  
               Thursdays, 12:05-1:20  
               Vanderbilt Hall 206

Office Hours:  Thursdays, 2:00-4:00, and by appointment  
               Vanderbilt Hall 310C

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Materials:  The primary text for this course is ALENIKOFF, MARTIN, & MOTOMURA, IMMIGRATION AND CITIZENSHIP (5th ed. 2003) (CB). You also should purchase the statutory supplement—the Immigration and Nationality Act (INA). Finally, the 2005 casebook supplement (Supp.) will be posted on Blackboard, under “Course Documents.” Please bring the casebook and the INA to class every day.

Assignments:

Readings:  I will announce the Tuesday reading assignments in class on Thursdays and the Thursday assignments in class on Tuesdays. I also will post this information on Blackboard. In addition to reading the pages as indicated on the syllabus, you are responsible for reading the portions of the INA that correspond to the day’s assignment. I may from time to time post supplemental readings on Blackboard (BB) or distribute them in the form of handouts (H), and I may occasionally make modifications to the reading assignments as listed on the syllabus. I will update the syllabus as the semester progresses to reflect any additions or subtractions in the reading. You are responsible for keeping up to date with all announcements posted on Blackboard.

Casebook Problems and Exercises: Throughout the casebook, the editors have included a number of hypothetical immigration law problems and exercises. I have assigned these problems at various points on the syllabus, and you are responsible for working through them, in addition to doing the reading. The problems are designed to teach you how to read/use the INA, and working through them will help you learn how to work closely with a complex statute. You will not be required to turn in answers to the problems, but I expect you to be able to discuss them when called on. Failure to have thought through a problem will affect your participation grade (see below).
Course Requirements:

Final Exam: Your final grade will be based primarily on an 8-hour, open-book, take-home exam, which you will be able to take at any time during the finals period.

Class Participation: I will factor class participation into your final grade. I will reward high quality participation and penalize poor participation. (Depending on where your exam grade falls on the curve, participation may bump you up or down half a letter grade.) I define high quality participation as being well prepared when called on, having good/right answers to the problems that have been assigned, and voluntarily contributing thoughtful insights to class discussion. I define poor participation as not being prepared when called on, including not having answers to assigned problems, and/or not showing up to class regularly. If you participate only when called on but are prepared at those times, your participation will be satisfactory and will therefore not affect your grade positively or negatively.

On call policy: I prefer to rely on volunteers and strongly encourage all students to participate in class voluntarily (the quality of your participation is more important than the frequency). Though I encourage volunteers, everyone should expect to be on-call every day, i.e., always come to class prepared. If you cannot be prepared, you must email me at least one hour before class. Unless you face serious extenuating circumstances, I do not recommend that you opt out more than twice during the semester.

Course Coverage:

This class is a survey of U.S. immigration law. We will focus primarily on the law governing immigrants, or those who come to the United States to take up permanent residence, not the law regulating nonimmigrants, or those who come to the United States for temporary stays, even if those stays are for prolonged periods, e.g., tourists, students, individuals on temporary work visas. We also will focus primarily on authorized immigration, though the issue of undocumented or illegal immigration will arise periodically, and we will discuss the issue in some detail toward the end of the class. The class will be part constitutional law, part administrative law and statutory interpretation, and part policy and theory, so there should be something for everyone.

In the first part of the course, we will explore different conceptions of citizenship as reflected in American law and consider two major constitutional issues—Congress’ plenary power over immigration and the constitutional rights of non-citizens, or alienage law. In the second part of the class, we will explore the regulation of legal immigration, or the statutory/administrative law governing the grounds and procedures for admissions and deportations. In this part, we will work closely with the text of the Immigration and Nationality Act, though constitutional issues will make an appearance. In Part III, we will cover three discrete topics that involve a mixture of constitutional and statutory law, as well as policy. We will consider the relationship between immigration and national security, with a focus on the intersection of immigration law with
current efforts to prevent terrorism inside the United States. We very briefly will consider asylum law—an area rich enough to be its own course. (Our coverage will only give you a sense of what the law involves, rather than a comprehensive understanding of the field.) And we will conclude by considering the problem of illegal immigration and discussing some of the pending policy proposals for dealing with undocumented workers in the U.S.

Throughout the course, we will consider the major theoretical questions underlying immigration law: What are the different ways of defining citizenship? What defines membership in a political community? How should the rights of citizens and non-citizens differ? Should our conceptions of citizenship and membership change in an age of substantial migration and globalization? When is it appropriate to force non-citizens to leave the United States? Are there any moral constraints on the state’s interest in controlling its borders? How does immigration law intersect with the United State’s role/power in the world?

**Recommended Readings:** The following books will be on reserve in the library. These readings are not required, but I recommend them to students interested in exploring the theoretical, sociological, and policy debates surrounding immigration and citizenship. Feel free to consult me if you’d like guidance on what to read.


**Part I: Foundations of Immigration Law**  
(Weeks 1-4)

**A. Defining Citizenship (Chapter 1)**

1. Citizenship and the Constitution  
(CB: pp. 9-14)

2. *Jus Soli* and *Jus Sanguinus*
3. Naturalization
   (CB: pp. 53-69, 80-84)
   (Problems 1 & 2, p. 60-61)

4. Loss of Citizenship
   (CB: pp.113-22; 124-28; 130-39)

**B. Foundations of Congress’ Plenary Immigration Power (Chapter 2)**

1. History of Immigration to the U.S.
   (CB: pp. 145-70) (read for background)

2. The Chinese Exclusion Case and the Sources of Federal Immigration Power
   (CB: pp. 174-86)

3. From Exclusion to Deportation
   (CB: pp. 189-210)

   (CB: pp. 218-35)

**C. Alienage Law (Chapter 9)**

1. The Rights of Non-Citizens and Public Benefits
   (CB: pp. 1017-46)

2. Immigrants’ Rights after the 1996 Welfare Act
   (CB: 1046-1054; 1061-66)

3. The Rights of Non-Citizens to Vote
   (CB: pp. 1080-89)

**Part II: Admissibility, Deportability, and Removal**
(Weeks 5-10)

**A. Federal Agencies and Courts (Chapter 3)**

1. Federal Agencies
   (CB: pp. 238-46; 248-59)

2. Federal Courts
   (CB: 259-62)
B. Defining Admissibility and Inadmissibility (Chapter 4)

1. The Impact of Immigration on the United States (read for background)  
   (CB: pp. 265-74; 366-74)

2. Admissions Categories  
   (CB pp. 274-90)  
   (Problems 1, 3, & 5, p. 277)

3. Constitutional Limits on Admissions Regulations  
   (CB: pp. 290-302)

4. Family Reunification  
   (CB: pp. 302-322)  
   (Problems 1-4, p. 318)

5. Employment-based immigration  
   (CB: pp. 331-49)

6. Immigration Reform Proposals  
   (CB: pp. 374-92)

7. Nonimmigrants  
   (CB: pp. 392-95) (read for background)

8. Inadmissibility: Crimes, Immigration Control, Fraud  
   (CB: pp. 427-42)  
   (Problem 3, p. 432; Problem 7, p. 442)

9. Inadmissibility: Public Charge  
   (CB: pp. 443-52)

C. Admissions Procedures (Chapter 5)

1. Due Process Requirements  
   (CB: 453-81)

2. Admissions Procedures and Expedited Removal  
   (CB: pp. 483-89) (skim)  
   (CB: pp. 501-09) (skim)  
   (CB: 515-28)  
   (Exercise p. 517-18)
D. Deportability and Relief from Removal (Chapter 6)

1. Constitutional limits on deportability
   (CB: pp. 535-50)

2. Statutory Grounds of Deportability
   (Problems 1 & 2, pp. 553-54)

3. Relief from Deportation
   (CB: pp. 582-600)

E. Removal Procedures (Chapter 7)

1. Removal Proceedings
   (CB: pp. 621-46; 688-96)

2. Detention Pending Removal
   (CB: pp. 696-704) (skim for background)
   (CB: pp. 704-24 (through note 3); pp. 728-29 (note 10); pp. 729-50)

Part III: Selected Topics in Immigration Law
(Weeks 11-14)

A. Immigration and National Security (Chapter 11)

1. Historical Background
   (CB: pp. 1184-92; 1202-09) (skim for background)
   (You should consider Problems 1 & 3 on p. 1211 before reading the
   material on inadmissibility. We will not, however, discuss the answers to
   them until we have read the following two assignments.)

2. Grounds for Inadmissibility and Deportability—Foreign Policy
   (CB: 1209-23)

3. Grounds for Inadmissibility and Deportability—Terrorism
   (CB: 1223-43)
   (Problems 1 & 3, p. 1211)

4. Enforcement and Ethnicity
   (CB: 1243-67)

5. Secret Evidence and Public Access
   (CB: 1267-75; 1279-94 (through note 2))
B. Refugee and Asylum Law (Chapter 8)

1. Definition of Refugee
   (CB: pp. 794-805)
   (CB: pp. 805-19; 820-23; 824-28) (read for background)

2. Introduction to Political Asylum
   (CB: pp. 831-35; 836-41; 847-53; 855-59)
   (Exercise pp. 858-59)

3. Establishing Persecution
   (CB: pp. 863-65; 885-90 (through note 3); 891-900; 905-13; 916-27
   (through note 3); 927-28; 935-45 (through note 3); 946-62)

C. Unauthorized Immigration (Chapter 10)

1. History of Unauthorized Migration
   (CB: pp. 1101-16) (read for background)

2. Interior Enforcement and Employer Sanctions
   (CB: pp. 1130-41; 1141-45 (skim); 1145-51)
   (Problems 3, 4, & 7, pp. 1135-36)

3. Legalization Programs and Proposals for Reform
   (CB: pp. 1151-54)
   (Reading on McCain-Kennedy legislation TBA)

4. The Rights of Undocumented Migrants
   (CB: pp. 1154-70; 1172-82)