

U.S. IMMIGRATION LAW
Professor David Abraham

University of Miami
School of Law
Office Hrs: Tues. 11am – 12pm; 6pm – 7pm
Wed. 2pm – 3pm
Fall 2006
(and by appointment)
Tel. 284-5535, Room 285

The casebook for this course is T. Aleinikoff, D. Martin, and H. Motomura, *Immigration & Citizenship: Process and Policy* (5th ed. 2003) and the core of your readings will come from it ("Text").

In addition to the Text, we will in the course of the semester be reading and using material in the Statutory Supplement ("Supp"), *Immigration and Nationality Laws of the United States, 2005*. With each day's Text readings, you should make sure to read carefully the relevant sections of the INA (or other statute) discussed in the case law or policy materials. A twelve-week subscription to *The New York Times*, will be made available to you at a deep discount, and is required. (Important immigration issues are reported daily.) A subscription form is in the back of this syllabus for your use.

There will be much discussion in class. Attendance is vital. Even occasional failure to attend can (and will!) have significant deleterious consequences. Class participation -- which involves quality, responsiveness, acuity, fluency, and general thoughtfulness -- will determine a significant part of your grade. In addition to a final exam, there **may** be one or two brief written assignments during the course of the semester.

Our initial reading and discussion assignments are listed here. We will probably move slowly at the beginning but should catch up soon. In the meantime, keep up with your reading. Please note that the syllabus is subject to modification as we progress through the material and that revisions in the material as well as in the scheduling of coverage are possible.

Note also that this class meets on **Monday and Wednesday, 5:30pm – 6:50pm in Rm. 309** and that the syllabus is laid out on a weekly rather than daily basis. In other words, we will have 2 sessions per week, and, if at all possible, you should be prepared at the start of the week for the entire week. Make sure that you are in a position to be prepared on all days. When you have the opportunity to reread a statute or to read ahead in the casebook, do so. The reading becomes

more difficult as the semester proceeds.

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Mon & Wed

Aug. 21, 23

FOUNDATIONS

Introduction to the Course

Text, pp. 145-210: Sources of the Federal Immigration Power: *Chinese Exclusion Case (Chae Chan Ping)*; *Fong Yue Ting* Exclusion and Deportation as Principles

Begin, and for next week:

Text, pp. 1-34, 53-89: Citizenship: Concept; Jus Soli; Jus Sanguinis; Naturalization

Text, pp. 210-237: A Brief History of Immigration and Migration

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Aug. 28, 30

continue-- Text, pp. 1-34, 59-89: Citizenship: Concept; Jus Soli; Jus Sanguinis; Naturalization

Text, pp. 210-237: A Brief History of Immigration and Migration

begin-- Text, pp. 238-265: Federal Agencies: The Departments of Justice, State, Labor and Others
(chart)

INA (Immig. & Naturalization Act) §103-104 (Supp. pp. 48-53) Admin. Procedures Act (APA) §551,
553 (Supp. pp. 527-530)

**** NO CLASS MONDAY, SEPT. 4 ****

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Wed, Sept. 6

ADMISSION AND EXCLUSION (inadmissibility): Substantive Procedures

Text, pp. 265-290 Categories (Family, Employment, others)

INA §101(b), 201, 203(a), 203(b)
(Supp. pp. 41-43, 55-59, 63-71)

INA §101(a)(27)(A)-(D) (Supp. Pp. 30-31)

Before class, outline in writing your answers to the Problems on p. 277.

Mon, Sept. 11

ADMISSION AND EXCLUSION (inadmissibility): Substantive Procedures

Text, pp. 265-290 Categories (Family, Employment, others)

INA §101(b), 201, 203(a), 203(b)
(Supp. pp. 43, 55-59, 63-71)

INA §101(a)(27)(A)-(D) (Supp. 30-31)

Text, pp. 290-302
(Family Admissions Categories Validity; *Fiallo v. Bell*)

INA §101(b), 203(a) (Supp. pp. 41-43, 63-64)
INS Form I-130 (Supp. pp. 958-963)

Text, pp. 302-330
(Marriage; Siblings *Bark*; *Dabaghian*; *Young*)

INA §216 (Supp. pp. 207-213)

Before our next class, outline in writing your answers to the Problems on pp. 318.

Wed & Mon

Sept. 13, 18

complete

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Text, pp. 302-330 (Marriage; Siblings *Bark; Dabaghian; Young*)

INA §216 (Supp. pp. 207-213)

EMPLOYMENT

Text, pp. 331-64 (Labor and Certification; *Information Industries*)

INA §203(b), 212(a)(5) (Supp. pp.64-71, 122-124)

ETA (Labor Dept) Form 750 (Supp. pp. skim 976-985)

INS Form I-140 (Supp. pp. 969-975, skim)

INA §216A (Supp. pp. 213-217, skim) 8 C.F.R. §204.5(h)-(k) (Supp. pp. 626-636)

begin

NON-IMMIGRANTS

Text, pp. 392-422 (Nonimmigrant Visas: Student/Scholar Visas; Entrepreneurs; Some Others)

INA §101(a)(15), 212(e), 214(a),(b),(d) (Supp. pp. 19-20, 138, 180-181, 190-192)

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Wed & Mon
Sept. 20, 25

complete

Text, pp. 392-422 (*Nonimmigrant Visas: Student/Scholar Visas; Entrepreneurs; Some Others*)

INA §101(a)(15), 212(e), 214(a), (b),(e) (Supp. pp. 19-20, 138, 180-181, 190-192)

begin topic

EXCLUSION GROUNDS:

(now also called "inadmissibility") Text, pp. 427-42 (Exclusion, Overview)

INA §212(a),(b),(d),(g)-(i) (Supp. pp. 109-141)

INA §221(g),(h),(i) (Supp. pp. 246-247)

optional case

Text, pp. 542-47, 1203-1208 (Security and the Constitution, *Kleindienst v. Mandel*)

Text, pp. 504-505, 1209 (Consular Reviewability, *Pena v. Kissinger*); Brazilian Handout

INA §212(a)(3) (Supp. pp. 109-121)

Text, pp. 443-451 (Public Charge/Health; *Matter of Kohama*)

INA §212(a)(4) (Supp. pp. 121-122)

INA §213A(a) (Supp. pp. 174-176)

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Wed & Mon
Sept. 27, Oct. 2

Complete

Catch up and complete work to this point. Read ahead.

PAROLE

Text, pp. 506-509

INA §212(d)(5)(a), 212(i) (Supp. pp. 135-136, 141)

ADMISSION AND EXCLUSION (INADMISSIBILITY): Procedures

Immigrant and Non-Immigrant Admission Procedures and Documents Text, pp. 483-504

INA Form I-94, I-551 (Supp. pp. 919-921)

Expedited Removal Text, pp. 522-535

INA §235 (Supp. pp. 257-264)

ADJUSTMENT OF STATUS

Text, pp. 515-522 (Adjustment of Status, *Jain v. INS*, specials)

INA §245(a)-(i) (Supp. pp. 336-340)

INA Form I-485 (Supp. pp. 986-944, skim)

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Wed & Mon

Oct. 4, 9

Wed

Oct. 11

*This week we depart some from our procedural and statute-based examination of the law. Between the law pertaining to **admission**, which we have been discussing, and the law pertaining to the substance and procedure of **removal/deportation**, on which we will be spending a lot of time, we turn to the topic of*

THE CONSTITUTIONAL PROTECTION OF LAWFULLY PRESENT AND OF UNAUTHORIZED ALIENS

I. Legal Aliens: Benefits and Political Participation

Text, pp. 1016-62 (*Graham, Diaz, Mow Sun Wong, Abreu*, notes)

Public Employment Text, pp. 1069-80 (*Cabel v. Chavez-Salido*)

Voting and Campaign Contributions Text, pp. 1080-92

II. Unauthorized ("Illegal" Aliens): Background and Impact Text, pp. 1096-1116

Controlling the Flows Text, pp. 1117-47 (articles and *Collins Foods*)

Public Benefits and Protections? Text, pp. 1154-1182 (*Plyler v. Doe*, Prop. 187, *Hoffman Plastics*, notes)

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Complete Last Week's Work

"Entry" vs "Admission" Text, pp. 429-431 (*Volpe, Fleuti*)

DEPORTATION/"REMOVAL" AND RELIEF FROM REMOVAL

Constitutionality of the Deportation Power Text, pp. 1193-1202, 535-550 (*Harisiades, Bugajewitz, American-Arab Anti-Discrimination Committee, notes*)

Grounds for Deportation §237 (Supp. pp. 270-279)

begin

Text, pp. 550-562 (excludability, non-inspection, maintaining status, document fraud, crimes and moral turpitude, *Goldeshtein v. INS*)

Text, pp. 563-76 (drugs and felonies, *Flores-Arellano, Guerrero-Perez*)

Text, pp. 577-81 (plea bargains)

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Mon, Wed, & Mon
Oct. 23, 25, 30

continue and conclude

Grounds for Deportation §237 (Supp. pp. 270-279)

Text, pp. 550-62 (excludability, non-inspection, maintaining status, document fraud, crimes and moral turpitude, *Goldshtein v. INS*)

Text, pp. 563-76 (drugs and felonies, *Flores-Arellano, Guerrero-Perez*)

Text, pp. 577-81 (plea bargains)

RELIEF FROM REMOVAL (formerly CANCELLATION OF REMOVAL AND RELIEF FROM DEPORTATION):

Text, pp. 609-619 (voluntary departure, *Matter of Arguelles*; deferred action; stays)

INA §101(f) (Supp. pp. 44-45) ("good moral character")

INA §240B (Supp. pp. 300-303) (voluntary departure)

Wed
Nov. 1

Text, pp. 582-608 (cancellation of removal; "exceptional and extremely unusual hardship", *Gonzalez-Recinas*; discretion; spouse abuse; waiver of exclusion grounds in deportation, *Po Shing Yeung* registry; private bills; estoppel)

INA §240A (Supp. pp. 294-300) (cancellation of removal; adjustment of status)

INA §212(h) (Supp. p. 140) (waivers...)

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Mon & Wed
Nov. 6, 8

DEPORTATION/REMOVAL **PROCEDURE I:**

Constitutional Background Text, pp. 621-625 (in "deportation": *Yamataya v. Fischer*)

Text, pp. 453-473 (in "exclusion": *Knauff v. Shaughnessy*, *Shaughnessy v. Mezei*)

Text, pp. 473-482 (current doctrine: *Landon v. Plasencia*, notes)

Removal of Non-Criminal Aliens

INA §239 (Supp. pp. 284-286) (Initiation; Notice to Appear)

I-862 (Sample Notice to Appear, Supp. pp. 1078-1079)

INA §240 (Supp. pp. 286-294) (Proceedings; *read carefully*)

Text, pp. 625-68 (notice; arrest; hearings; decisionmakers; counsel, *Aguilera-Enriquez*; evidence; 4th and 5th Amendments; Motions to Reopen/ Reconsider)

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Nov. 13, 15

Continue and Conclude Removal of Non-Criminal Aliens

DEPORTATION/REMOVAL PROCEDURE II:

Expedited Removal of Criminal Aliens
Text, pp. 522-534 ("E.R." of *certain arriving* aliens)

INA §235(b)(1)(A) (Supp. pp. 258-259)

INA §242(e) (Supp. p. 323) (no judicial review?)

Text, pp. 688-695 ("E.R." of aliens with *criminal convictions*)

INA §239(d) (Supp. p. 286)

INA §236 (Supp. pp. 266-268) (apprehension/ detention of criminal aliens)

INA §238 (Supp. pp. 280-284) ("E.R." of *aggravated felons*)

Read Ahead for Next Topic: Detention

INA §241 (Supp. pp. 304-316) (basic detention)

Text, p. 729 (detention *pending* removal proceedings, cases)

Text, pp. 696-728 (detention *after* removal proceedings, *Zadvydas*)

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Mon, Wed, Mon
Nov. 20, 22, 27

We will continue with and conclude our discussion of (1) the "E.R." of criminal aliens and (2) pre- and post-hearing detention. After that, we move to our last topic, "Refugees and Asylum," for which the following is our reading.

REFUGEES AND POLITICAL ASYLUM

Refugees

Text, pp. 790-830

(Overview and overseas programs)

INA §101(a)(42) (Supp. p. 36)

INA §207 (Supp. pp. 87-90)

INA §209 (Supp. pp. 98-99)

Political Asylum and Non-refoulement (Withholding)

Text, pp. 831-58 (political asylum standards; *Salim*; *Stevic*; *Cardoza-Fonseca*) **(241(b)(3))**

INA §208 (Supp. pp. 91-98)

INA §241(b)(3) (Supp. pp. 309-310) (*non-refoulement*, formerly §243(h))U.N. Convention Relating to the Status of Refugees, Arts. 1A(2), 33 (Supp. p. 881)

Nov. 29

Complete and Review