

Topics in Public Law: U.S. Immigration Law (PSC 367)

Professor Law

Office Hours T/Thur 3-4:30 PM and by appointment

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This course is designed to provide an overview of American immigration law and policy. The United States is often referred to as “a nation of immigrants” and indeed many scholars have referred to the story of immigration as literally, the story of America. Yet, this country has often had an ambivalent relationship with immigrants (or aliens) and we, as a country, have struggled when deciding whom to admit, how many of them, for how long, and for what purpose. These decisions collectively constitute the body of law and public policy known as immigration.

As we will learn, immigration policy, which is codified by law, reflects many considerations, among some of these are economic (how will immigrants help or hurt this country economically), political (how can we help our political allies and embarrass our political enemies abroad, how can we appease or can we afford to ignore domestic and international interest groups), cultural (will new immigrants assimilate and acculturate and add to the vibrancy of our nation, or will they dilute the national polity), and humanitarian (what is our duty as a civilized nation to people fleeing persecution). Each presidential administration and generation of policy makers has had to take all these issues into account although they have chosen to place different emphasis on the criteria. As we will see in the readings and lectures in this class, to a large extent, immigration law and policy is shaped by domestic politics, or more precisely, the political alignments and battles among Congress, the Presidency, the courts, interest groups, ethnic groups, and foreign governments. After the passage of a piece of legislation created by Congress, often the courts are called upon to interpret and apply the law. Immigration policy decisions (and subsequent legal decisions) have been contentious because at stake in immigration law and policy are decisions about the character and content of who we are as a nation.

We begin the course by reviewing immigration policy since 1965. 1965 is an appropriate starting point because the passage of the Immigration Act of 1965 marks a watershed piece of legislation where a sea change in immigration policy whereby the previously discriminatory national origins system was scrapped in favor of the more neutral preference system that is the precursor of the system we have in place today. To this end, the Reed Ueda book provides a nice historical overview since 1965.

The second part of the course focuses on how we decide who gets in to the country and who is barred or must leave the country if they are found. These are the entry/exit provisions of immigration law, or the categories that are available under the current system to enter and remain in the U.S. We will also take a look at the grounds for exclusion (preventing someone from entering the country), deportation (expelling someone who is already in the country), and removal (the new term for deportation after the 1996 change in the law).

The final section of the course focuses on the question of rights. What kinds of rights and protections to persons have based on their immigration classification (undocumented, alien, lawful permanent resident, citizen)? Also, what role do courts play in ensuring those rights?

Texts and Readings

There are three required texts available at the bookstore: *Post War Immigrant America* (by Reed Ueda), *Immigration Stories* (eds. David Martin and Peter Schuck) and *Asylum Denied* (by David Kenny and Phillip Schrag). There are additional required readings that will be posted on Blackboard. Readings found on Blackboard are preceded by *** on the syllabus below.

Requirements

Your final grade will be calculated as follows:

Midterm Exam	10/22	30%
Research Paper	11/3	35%
Cumulative Final	11/19	35%

Attendance: *You are allowed 3 absences. By the fourth absence you automatically fail the class. I take attendance at every class. Absences that are true family or medical emergencies will be excused only if official documentation is provided (ie. Doctor's note, police report, funeral notice/program etc.)*

**Grading criteria

I use a standard curve: **A 90-100, B 80-89, C 70-79, D 60-69, F below 60**

Administrative Policies

- 1) There will be no make-up exams for un-excused absences. Excused absences for a make up exam require official documentation. If you miss an exam and have a legitimate reason for doing so, it remains your responsibility to contact me as soon as possible to arrange a make-up.
- 2) Any academic dishonesty such as plagiarism or cheating (eg bringing a crib sheet into the exam) or otherwise defined by the University Student Handbook will not be tolerated and will result at the very minimum in a zero for the assignment and possibly in a grade of "F" for the course AND immediate referral to the university administration for further disciplinary action. Plagiarism includes but is not limited to:
 - a) Turning in someone else's work as your own.
 - b) Using text (even one sentence), music, images, graphics, text from a website, or other electronic files without proper attribution to the source or without quotation marks where appropriate.
 - c) Taking someone else's words and/or ideas and slightly altering or paraphrasing them without proper quotation marks and attribution.

I expect all my students to be clear on the definition of plagiarism as outlined in the Student Handbook because I will not accept "I didn't know that was plagiarism" as an excuse. I strongly suggest you review the university policy on academic dishonesty in the Student Handbook. When in doubt, cite it. Academic dishonesty robs others of the efforts of their work and is also unfair to your fellow students who did the assignment in good faith.

- 4) If you are having difficulty in the class, come see me at my office hours at the earliest sign of difficulty, not toward the end of the quarter. If you are not pleased with your performance on an assignment or unclear about the readings, come see me as soon as possible so that we can talk about some study skills and test taking strategies. I can't do much to help you if you come see me only at the end of the quarter.
- 5) Students with learning disabilities should let me know as soon as possible so we can make appropriate arrangements for test taking and other assignments.
- 6) A hardcopy of the paper should be turned in at the beginning of class on the due date. **Do not email me the paper**, I will delete it and considered your paper not turned in.
- 7) Basic decorum: please turn off all electronic devices and leave them off.—this includes texting in the middle of class. If you go to the restroom, please take all your stuff with you and do not further disrupt my class a second time.

Topics and Reading Assignments

Week One : Introductory Lecture on the politics of immigration and beginning the history of immigration policy in U.S.

In order to understand the system we have today, we need to understand how our current immigration system came about. The Reimers book provides an historical/political overview of the system of a immigration admissions we have in the U.S. today. Pay particular attention to how our current system (the post '65 system) is different to the past selection systems this country has used. What criteria did we used to use to choose immigrants? What criteria do we use now? Why did we change?

Read: Reed Ueda, *Post War Immigrant America*, Chapters 1-2 and *Immigration Stories*, Introduction.

Week Two : History of policy continued—From national origins to the preference system.

Why did we switch from national origins to the preference system? Is the preference system an improvement over national origins? Why or why not? What were the political changes that allowed the 1965 reforms to come about? How has immigration post 1965 differed from pre-1965 in terms of the kinds of immigrants that arrive in the U.S. today?

Read: Reed Ueda, *Post War Immigrant America*, Chapter 3-5

Week Three: Basis for federal immigration power and an introduction to the immigration bureaucracy

Where in federal law is the authority to regulate immigration? Who has this authority? What are the government agencies involved in making and administering immigration policy and law? What is the role of the courts in immigration law? How is the role and mission of the federal courts different from the immigration bureaucracy?

Read: *Immigration Stories*, Chapters 1 and 13 and ***Anna Law, *The Immigration Battle in American Courts*, Chapter 1 and excerpt of Chapter 2.

Week Four : The legal immigration admissions system— The Family, Employees, Refugees/Asylees, Nonimmigrants, Investors, Diversity categories of permanent immigrants

What criteria has this country used in picking immigrants in the past? Are these good priorities in deciding whom to let into the country? Which criteria should be given the most weight? To what extent should we allow investors and diversity immigrants since these two tracks deviate from the philosophy and rationale of our family and employer based system? Should same-sex partners have petitioning privileges? What are the benefits and drawbacks of admitting temporary immigrants into the country?

Read: *Immigration Stories*, Chapters 3, 4, and 9.

Week Five : Deportation and Exclusion: who gets in and who gets to stay and why must they leave?

What is the difference between deportation and exclusion? Should there be other grounds of exclusion that are not already in place? How have the grounds for exclusion and deportation changed over time?

Read: *Immigration Stories*, Chapter 5 and 7.

Week Six : Continuing deportation and exclusion-- Grounds for deportation and exclusion and who corrects mistakes in the immigration bureaucracy

What about the balancing of equities—should immigrants with strong ties to the U.S. via U.S. citizen family and children be allowed to stay even though they are deportable? Should aliens who are poor be excluded? If the government thinks the alien is a terrorist or national security threat, should they have to disclose their evidence in open court? Who in the immigration bureaucracy is responsible for catching mistakes?

Read: ***Anna Law, *The Immigration Battle in American Courts*, Chapter 5. Also, *Asylum Denied*, Chapters 1, 2, 3 and 4.

Week Seven : Asylum and refugee status

What is the difference between refugees and asylees? Why do we take in refugees when we have plenty of poor people in this country already? What constitutes “persecution?” What is the relationship between U.S. refugee policy and U.S. foreign policy?

Read: *Asylum Denied*, Chapters 5, 6, 7. (Optional: Although highly recommended, especially if you are writing a paper on asylum: *Immigration Stories*, Chapter 10.)

Week Eight : The rights of aliens in the U.S.

What kinds of rights do aliens who are non-citizens have in the U.S.? Why do they have to have rights? Why do undocumented aliens come to the U.S.? If they are here, why should undocumented aliens have any rights.? Isn't their presence in this country in violation of the law to begin with? What role have the federal courts played in protecting alien rights?

Read: *Asylum Denied*, Chapters 8, 9, and Epilogues.

Week Nine : The rights of aliens

What rights to aliens have? Why should be concerned about the civil rights and liberties of aliens?
How do we balance concerns for civil liberties and civil rights with national security?

Read: *Immigration Stories*, Chapters 2 and 12.

Week Ten : How should we treat aliens after 9/11? What should post 9/11 immigration reform consider? What have been the benefits and consequences of our immigration policy post 9/11? What role (if any) have federal courts played in Post 9/11 immigration policy?

Read: *Immigration Stories*, Chapters 13 and 6 and ***Anna Law, *The Immigration Battle in American Courts*, Chapter 7.

Final Exam is Thursday, 11/19, 8:45-11:00 in the classroom we always have class in.