IMMIGRATION LAW

Vermont Law School
Spring 2022
INT7415

SYLLABUS

Instructor: Professor Jill Rudge (they/she)

jrudge@vermontlaw.edu
Burlington Office: 162 St. Paul St. – (802) 540-0398
South Royalton Office: 190 Chelsea St. – (802) 831-1500

Office Hours: By appointment. Please email or Teams chat to schedule.

Course Description: Welcome to Immigration Law! In this course, you will learn the history and key principles of immigration and citizenship law: authorized versus unauthorized migration; admissions for family, employment, and humanitarian categories of nonimmigrants and immigrants; citizenship and naturalization issues; grounds of inadmissibility and deportability; relief from removal; and mandatory versus discretionary immigration detention. We will place special emphasis on the social justice (and injustice) aspects of our immigration legal system and on humanitarian pathways to status and relief from removal. We will contextualize our study with practice-based simulations, live court observation, and regular discussion of current events, to help us understand and critically evaluate the politicization of immigration and immigrants and its impacts. By the end of this course, you will have developed or deepened your facility with the basics (and not-so-basics!) of immigration law, policy, and practice. I look forward to our thoughtful, respectful discussions.

Course Schedule: Mondays and Wednesdays from 2:10pm to 3:25pm

Debevoise NLT
OR
Microsoft Teams, in the event of a weather, health, or case-related interruption to our regular schedule (you will be notified in advance)

Course Materials:

Required Books:

The statutory and regulatory schema of immigration is complex. Students must engage with and interpret specific provisions of the statute and regulations, and their structural components and cross-references, in order to develop an understanding of the law and its applications. Therefore, students must bring to each class your textbook and supplement, the latter of which contains selections from the statutes, regulations, forms, agency guidance, and other primary sources referenced in class assignments. Students may find it useful to tab or otherwise mark up your supplement for easy reference during class discussions, exercises, and evaluation, much like the Blue Book.

Further to the politicization of immigration referenced above, we should expect ongoing changes to immigration laws and policies in the time to come. I will provide updates to the materials covered in the required books where relevant and important, either in class discussion or on our web courses.

**Required web courses:**

- **Canvas.** You will be receiving an email about your enrollment in Immigration Law from "Instructure Canvas - notifications@instructure.com". Please check your spam folder if you did not receive this message. To access Canvas, visit https://www.vermontlaw.edu/resources. To log in to Canvas, use your VLS username and password.

- **Microsoft Teams.** You will also be added to this course’s Teams page, *ImmLaw Spring 22*, to allow for any necessary virtual classes (like this first week) and to facilitate recording class. The Team can be found at: https://teams.microsoft.com/l/channel/19%3aTWi_o-PHVwRTKRXvqKU8jubir9ULLuw-d0calMM_j0U1%40thread.tacv2/General?groupId=98952509-7241-4399-9fb2-c7eef263bac1&tenantId=8676127a-f6d4-4747-af4c-356f1b6c1610.

Once available, students should promptly review web courses to confirm you have viewing access to all materials, calendar invitations, conversations, and notifications. Please notify me and the VLS IT Help Desk immediately if you encounter any issues. Students should habituate checking the web course pages regularly. There I will post the syllabus, class announcements, immigration news alerts, and professional development opportunities.

Please note I am a practicing attorney based in Burlington, VT, and case, weather, or pandemic-related issues may arise from time to time that require us to pivot to Teams in lieu of in-person class. I will make every available effort to minimize such disruptions. Should they nevertheless arise, I will also make every available effort to give you as much advanced notice as possible via email and the web courses.

**Course Learning Goals:**

Throughout this course, students will:
1. Learn, identify, and apply basic legal concepts, procedures, and rules of immigration law;
2. Understand the constitutional, statutory, and regulatory framework of immigration law;
3. Identify legal issues and key facts, and develop sound legal and policy arguments orally and in writing to address practical immigration problems faced by noncitizens;
4. Develop and employ investigatory, analytical, problem-solving, advocacy, interviewing, and related lawyering skills;
5. Critically examine immigration and related laws’ impact on noncitizens, citizens, and their communities, and consider advocacy strategies to ameliorate these impacts;
6. Critically analyze the sociopolitical context from which immigration laws are born, including race and racism, colonialism and classism, and questions of membership.

**Course Grading:**

Students will earn three (3) credits and a letter grade upon completing this course in accordance with the VLS Student Handbook and VLS Honor Code. Grading is based on performance in the following three areas: *class participation; intake simulation;* and *final examination.*

**Class participation – 20% of final grade.**

*Overview.* We will base our interactive classes on discussion and, sometimes, simulation. Students should come to class on time and prepared to apply concepts from the assigned reading. I will expect full participation from all students and will cold-call to progress discussions. Many assignments will include reading the ‘notes and questions’ sections of the Textbook. We will devote class time to considering these and other questions that ask us to apply concepts from the reading. Be prepared to answer questions and participate meaningfully in these exercises.

Except for the first assignment, whenever a reading assignment includes cases, I will assign one or two students per case to be responsible for leading us through the facts, holding, and discussion of that case. I will notify responsible students two (2) hours before class about which case, or portion of the case, they are responsible for leading.

*This Week in Immigration.* Over the course of the semester, each student will take a turn presenting a topical immigration news issue of your choosing. We will begin presentations the week of January 31st – I will post notice of everyone’s assigned presentation dates after add/drop ends on January 24th. On your assigned “This Week in Immigration” date, each presenter will lead a 10-minute discussion, beginning with the newsflash headline and source (e.g. news outlet, advocacy organization, blog post, etc.), continuing with a summary of the current event or issue, and culminating with questions and comments from the class. No slides or other visuals necessary! If you do employ visuals, please keep them simple (e.g. one or two slides max). Presenters should feel free to provide an update on a previous presenter’s
newspaper but should offer some context (e.g. reference the initial presenter, the date they presented, and a brief overview of what they presented).

Attendance. Attendance, timely arrival, and full participation are required for all classes whether in-person or virtual. For in-person classes, everyone must comply with the VLS COVID-19 Health and Safety Protocols. You may use your laptops, tablets, and other devices as long as they are not distracting from our discussion. For virtual classes, the rebuttable presumption is you will participate from a laptop or desktop computer in a quiet place with video on and microphone off unless you are speaking. If you need to have your camera off, you may request to do so for good reason either before class or, when impossible, as soon as possible after class. I will take attendance at the start of each class. Excessive tardiness, missed classes without authorization, and participation in virtual classes with video off without authorization will be marked as unexcused absences. More than two unexcused absences will result in a lower grade for class participation.

Intake simulation – 20% of final grade. In lieu of a midterm exam, students will devote class time completing a joint intake interview of a simulated asylum seeker. Based on what you learn during the intake simulation, you will each submit to me a legal memorandum evaluating the relative strengths and weaknesses of our potential client’s claim(s) and advising me on whether our imaginary law firm should take the client’s case. We will complete this exercise after spring break; details forthcoming.

Final examination – 60% of final grade. During the exam period, May 6th to May 13th, students will complete a timed, partially open book, in-class exam. I will provide sample materials for students’ reference following spring break, and will host one review session immediately prior to the end of spring classes.

If you would like to request an accommodation, please visit:
https://www.vermontlaw.edu/community/students/academic-success/accommodations.

Assignments:

Class 1: Citizenship. Wednesday January 19th from 2:10-3:35pm on Microsoft Teams.

Homework:

Textbook:

<table>
<thead>
<tr>
<th>pp. 389-391</th>
<th>Ch. Introduction; Intro to Acquisition of Nationality by Birth; Jus Sanguinis Overview and Physical Presence Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>pp. 405-427</td>
<td>Jus Solfi Overview; U.S. v. Wong Kim Ark, 169 U.S. 649 (U.S. 1898); Children of Unauthorized Migrants and Temporary Lawful Visitors</td>
</tr>
<tr>
<td>pp. 479-481</td>
<td>Intro to Significance of Citizenship; Professor Motomura’s book excerpt</td>
</tr>
<tr>
<td>pp. 482-483</td>
<td>Voting and Political Participation</td>
</tr>
<tr>
<td>pp. 498-500</td>
<td>Public Benefits</td>
</tr>
</tbody>
</table>
Familiarize yourself with AILA Link, which can be found at VLS Library Guides > Subscription Databases.

**In class:**

- **Introductions**, icebreakers, and course overview.
- **Lecture and discussion** of the reading.
- **Discuss** textbook notes and questions: p392 Q1; p424 Q2; p426 Q5; p481 Q1.
- **Quick intro** to AILA Link.

**Class 2: Naturalization.** Monday January 24th from 2:10-3:35pm in Debevoise NLT.

**Homework:**

**Textbook:**

<table>
<thead>
<tr>
<th>pp. 432-455</th>
<th>Naturalization Introduction; Demographics; Basic Statutory Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>pp. 460-462</td>
<td>Intro to Loss of Citizenship; Intro to Denaturalization</td>
</tr>
<tr>
<td>pp. 468-469</td>
<td>Intro to Expatriation</td>
</tr>
</tbody>
</table>

**Supplement:**

| INA         | §§ 311-313, 316, 318, 319(a), 334, 337                            |

**In class:**

- **Lecture and discussion** of the reading.
- **Discuss** textbook notes and questions: p439 Q3; pp. 445-456 Q1.

**Class 3: Observe Virtual ImmCourt.** Wednesday January 26th from 12:45-3:25pm on WebEx.

**Homework:**

**Read** “ImmLaw Class 3 – Redacted Memo of Law for Asylum” available on our web courses. This is the legal briefing I submitted for my client, whose final asylum merits hearing you will be observing. **Note: do not create or store a local copy of the file on your computer, and do not share with anyone outside of this course.**

Ensure you have access to the WebEx platform and to the relevant Boston Immigration Judge’s virtual courtroom, pursuant to the instructions I will email you no later than the morning of Wednesday, January 26th.

In class:

- **Observe**, with cameras off, my client’s merits hearing via WebEx.
- **Focus** your attention on how respondents marshal country conditions evidence from their country of origin. How do those conditions measure up to the reported conditions in the United States, on whose behalf the Immigration Judge will be ruling on respondents’ applications for asylum?
- After the hearing, email me your response to the following prompt (informal email format is fine; due close of business Friday, January 28th):

My client hopes that the Immigration Judge will not only grant her relief from removal, but will grant her application for the special form of protection known as asylum—protection we will cover in greater detail later this semester. What makes asylum so powerful is that it offers recipients a pathway to naturalized citizenship and to all of the rights and benefits that citizenship confers. Based on what you have read and what you observed during the hearing, does it seem like this asylum seeker has fair and equitable access to justice—and, consequently, to her pathway to citizenship? Why or why not? Imagine she did not have access to counsel; would your answer change? If so, how? Does the U.S.’s latest human rights report card influence your impression of whether these defensive asylum proceedings were fundamentally fair? Why or why not? How did the parties (the Respondent and the ICE Assistant Chief Counsel) marshal evidence of country conditions to advance their respective arguments, and how do the pertinent conditions in Respondent’s country of origin appear to compare with those of the U.S.?

**Class 4: Fed. Immigration Powers I.** Monday January 31st from 2:10-3:35pm in Debevoise NLT

**Homework:**

**Textbook:**

| pp. 1-7 | Intro to the foundational cases on federal immigration powers |
| pp. 7-10 | Chae Chan Ping v. United States, 130 U.S. 581 (1889) |
| pp. 10-21 | Fong Yue Ting v. United States, 149 U.S. 698 (1893), including notes and questions |
| pp. 22-24 | Wong Wing v. United States, 163 U.S. 228 (1896), including notes and questions |
| pp. 24-27 | Yick Wo v. Hopkins, 118 U.S. 356 (1886), including notes and questions on constitutional limits to immigration powers |

In class:
- **Debrief** asylum hearing from last week and preview future related topics.
- **Discuss** cases, and textbook notes and questions: p21 Q4; p24 Q2.

**Class 5: Fed. Immi. Powers II.** Wednesday February 2nd from 2:10-3:35pm in Debevoise NLT

**Homework:**

**Textbook:**

<table>
<thead>
<tr>
<th>Pages</th>
<th>Read</th>
</tr>
</thead>
<tbody>
<tr>
<td>27-33</td>
<td>Expand on federal immigration powers, focusing on Plenary Power Doctrine</td>
</tr>
<tr>
<td>33-42</td>
<td>Kleindienst v. Mandel, 408 U.S. 753 (1972), including notes 1 and 2 on pp. 40-41</td>
</tr>
<tr>
<td>42-46</td>
<td>Landon v. Plasencia, 459 U.S. 21 (1982), including notes and questions</td>
</tr>
</tbody>
</table>

**In class:**

- **Discuss** cases and textbook notes.
- **Discuss:** How is *Mandel* different from *Chae Chan Ping* and *Fong Yu Ting*? What does *Mandel* tell us about the Plenary Power Doctrine? How is *Plasencia* different from *Mandel*?

**Class 6: Fed. Immi. Powers III.** Monday February 7th from 2:10-3:35pm in Debevoise NLT

**Homework:**

**Textbook:**

<table>
<thead>
<tr>
<th>Pages</th>
<th>Read</th>
</tr>
</thead>
<tbody>
<tr>
<td>66-68</td>
<td>COVID-19 Travel Restrictions</td>
</tr>
</tbody>
</table>

**In class:**

- **This Week in Immigration** presentation.
- **Discuss** case and textbook notes and questions: pp. 63-64 Q3.
- **Introduce** the visa bulletin needed for Wednesday’s assignment.

**Class 7: Agencies, Admissions I.** Wednesday February 9th from 2:10-3:35pm in Debevoise NLT

**Homework:**

**Read** pp. 1-6 of Ch. 1 of *Essentials of Immigration Law, 5th Ed.* (AILA 2020) (located at AILA Link > AILA Books > General Publications)

**Textbook:**

<table>
<thead>
<tr>
<th>Pages</th>
<th>Read</th>
</tr>
</thead>
<tbody>
<tr>
<td>68-77</td>
<td>The Statutory and Regulatory Framework (Statutes, Agencies)</td>
</tr>
<tr>
<td>105-111</td>
<td><em>Skim</em> History and Overview</td>
</tr>
<tr>
<td>111-116</td>
<td>Intro to Admissions of Immigrants and Nonimmigrants</td>
</tr>
</tbody>
</table>
Supplement:
INA §§ 101(b), 201(b)(2)(A), 203(a)


**In class:**

- Discuss the reading and your answers to problems 1 and 2 on pp. 115-116.

**Class 8: Admissions II: Immigrants.** Monday February 14th from 2:10-3:35pm in Debovoise NLT

**Homework:**

**Textbook:**
pp. 116-132 | Immigrant Admissions Procedural Overview; Family-Sponsorship; Charts, Conversion, Aging-Out, and Caps

**Complete problems on priority dates** (1 and 2) and **problems on converting admissions categories** (1 and 2) on pp. 124-125.

**In class:**

- Discuss the reading and your answers to the four assigned problems.

**Class 9: Marriage-Based Imm.** Wednesday February 16th from 2:10-3:35pm in Debovoise NLT

**Homework:**

**Textbook:**
pp. 146-156 | Intro to Immigration Based on Marriage; Sham Marriages; the IMFA; and VAWA

**Supplement:**
INA § 216

**Complete problems** 1, 2, 4 on pp. 105-151.

**In class:**

- **This Week in Immigration** presentation.
- **Discuss** reading and your answers to the problems.
- **Preview** for next week’s guest speaker from the Rio Grande Valley in Texas.
**Class 10: Unauthorized Migrants.** Wednesday, February 23rd from 2:10-3:35pm on Teams

**Homework:**

**Textbook:**
pp. 267-288  | Unauthorized migrants in the United States


**Prepare** some questions for our guest speaker, Pedro Spivakovsky-Gonzalez, Senior Staff Attorney at American Bar Association (ABA) ProBAR in Harlingen, Texas. Your questions can be about law, policy, or practice and should draw from the reading.

**In class:**

- **Discussion and Q&A** with our guest speaker, Attorney Spivakovsky-Gonzalez.

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**SPRING RECESS FEBRUARY 28TH THROUGH MARCH 4TH – NO CLASS**