

**Legal Studies 132AC**  
**“Immigration and Citizenship”**  
**UC Berkeley Spring 2021**

**Professor Lisa Knox (she/her)**

Spring 2021

9:30 – 11am, TuTh

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Office hours: Friday 8-9 and by appointment (see bCourses for more info)

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**Course Description**

We often hear that America is a “nation of immigrants.” But this representation of the United States does not explain why some are presumed to belong in the United States, and others are not. Why are non-white Latinos and Asian Americans so often considered “alien citizens,” as American citizens who are nonetheless presumed to be foreign? And why are those of European descent assumed to belong, regardless of their citizenship?

This course will examine these questions, among others, through studying how the law of immigration and citizenship historically included some communities and excluded others. In addition to this historical examination, we will also study how contemporary immigration and citizenship law shape who is included and excluded in our national community today.

This course will serve as an introduction to legal studies. Thus, what will be different about the approach of this course, as compared to courses in sociology, political science, or ethnic studies that examine immigration, is the attention to how the law has served to shape both immigrant communities and American national identity.

In addition to scholarly texts, students will learn to read and analyze excerpts of both cases and the statute that governs immigration and citizenship, the Immigration and Nationality Act (INA).

Lastly, this course meets the American Cultures requirement. As a result, the course examines the origins of certain racialized ideas which serve to shape contemporary policy and thought. We will also examine how these racial concepts are bound up in questions of gender and sexuality

## Learning Objectives

Through this course, students will:

- Gain an understanding of the basic legal framework of American immigration law, through study and analysis of the Immigration and Nationality Act, and applicable regulations and caselaw that govern immigration and citizenship;
- Develop an understanding of the ways in which ideas about race, gender, and sexuality have shaped U.S. immigration law and policies, through historical accounts of the specific experiences of Asian-American, European American, Latinx, Native/Indigenous, and Black/Afro-descendant people in the U.S.
- Develop academic skills, including critical reading and analysis, essay composition, and test-taking skills.

## Requirements:

Each of the requirements below must be completed for a passing grade:

1. **a one to two page immigration history (due Feb. 7);**
2. **a midterm (in class on Mar. 9);**
3. **a two to three page reaction paper (due Apr. 8);**
4. **a final exam; and**
5. **participation in discussion section and lecture.**

**Immigration history** : The immigration history should be 1-2 pages, double-spaced with 1-inch margins and a 12-point font. *You can write your personal immigration history, or you can ask another person the questions and write about their history.*

Think about where you consider yourself to be “from,” and if people ask you where you are from, how you answer and why, and how it makes you feel when asked this. If you are not an indigenous person, where did your family immigrate from and in which generation - you, your parents, your grandparents, your great-grandparents, etc.?

If you can't find that out, what does it mean to you that you don't know this history? What impact, if any, has that had on your ability to live in the U.S. and experience the rights and privileges of legal and social membership?

**Reaction paper** : The reaction paper should be 2-3 pages, double-spaced with 1-inch margins and a 12-point font. Each response must be written in paragraph form.

Choose one of the reading assignments or video clips assigned. How is this material related to the themes of this course? How does it relate to your life or experiences? Did the material change your perspective or thinking in any way? If so, how?

**Midterm and Final Exam**: The midterm will be an “in-class” exam that students will

complete during the scheduled March 9 lecture, that covers materials from lectures through the week of February 22.

The final exam will be a take home, open book exam that consists of short-answer and essay questions. It will cover material from the entire semester, with an emphasis on new material learned after the week of February 22.

More information about the exams will be made available on bCourses, and will be discussed during section and/or lecture. A review handout and review sessions will be made available prior to the exams.

**Participation:** Your grade for participation is determined by the quality and consistency of your contributions to class. This means regularly taking part in section and lecture discussions, (whether in real time via Zoom or through written discussion on bCourses), participating in small group exercises, and any other forms of participation required by your GSI.

**Grading:**

Personal Immigration History (pass/fail)	10%
Reaction Essay (pass/fail)	5%
Section and Lecture Participation	20%
Midterm	30%
Final Exam	35%
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TOTAL:	100%

**Grading Policy:** Course grades will be determined by the total points earned on all of the components listed above. For the pass/fail components, students who complete the assignment will receive full points, while those who do not complete the assignment will receive zero points.

You are welcome to request a meeting with your GSI if you have questions about your exam, however grade adjustments are limited to computational errors.

The deadline for changing your P/NP grading option is the last day of classes. For more information on P/NP grading options see: <https://ls.berkeley.edu/advising/academic-progress/grades/passednot-passedgrades>

**Course Materials:** The course materials will be made available on bCourses. I may amend or modify certain readings by posting those online on the bCourses page. We will also post announcements, lecture slides, and other materials to the bCourses website. You are expected to check bCourses regularly.

Some of the materials and resources are best accessible through the link indicated on the syllabus and should be viewed online, generally law review and news media stories.

## LECTURE AND READING SCHEDULE

### Welcome and Introduction

#### Tuesday, January 19, class 1:

##### Readings

1. Look at two newspaper articles from the New York Times, the Washington Post or Los Angeles Times, for stories about immigration between December 25, 2020 - January 19, 2021). Please prepare 1-2 questions or observations about what you read to share in class 1 or 2.
2. Ibram X. Kendi, "Am I an American?", The Atlantic, <https://www.theatlantic.com/ideas/archive/2019/07/am-i-american/594076/>

Watch trailer in class for documentary *Change the Subject* =

<https://www.library.dartmouth.edu/digital/digital-collections/change-the-subject>

### Module 1: Race and the Origins of Modern U.S. Immigration Law

In this module, we will start by reviewing key concepts of critical race theory as a framework for examining how racial categorizations shape law generally. We will then utilize this framework to examine the racialized origins of U.S. immigration law. In particular, we will discuss how immigration law evolved to exclude Native Americans and those of Chinese descent from the rights and privileges of citizenship.

#### Thursday, January 21, class 2:

*What is critical race theory? How is it relevant to the study of immigration law?*

1. Derrick Bell, *Space Traders*. <https://whgbetc.com/the-space-traders.pdf>
2. Richard Delgado & Jean Stefancic, Critical Race Theory, An Introduction, (2012); Introduction and Chapter 1.
3. Peggy McIntosh, White Privilege: Unpacking the Invisible Knapsack, <https://www.racialequitytools.org/resourcefiles/mcintosh.pdf>

#### Tuesday, January 26, class 3, Origins of Federal Immigration Law

*How did ideas of race and ideas of racial superiority shape the emergence of federal immigration law? How does the legal classification of former slaves and Native Americans as "immigrants" tell us about the early conception of citizenship in the U.S.?*

1. Victor Romero, "Overview and History of U.S. Immigration Law," in Everyday Law for Immigrants (2009): 5 – 23.
2. Leti Volpp, "Indigenous as Alien," UC Irvine Law Review (2015): p. 289-300, 321-end.

**Thursday, January 28, class 4, Origins of Federal Immigration Law & Chinese Exclusion**

*Why is the Chinese Exclusion Act a significant development in federal immigration law? What does the experience of Chinese immigrants, and early deportation policies, tell us about the role of race in determining the legal limits of citizenship?*

1. César Cuauhtémoc Garcia Hernández, "Introduction," in Migrating to Prison (2019): 1-17. (Relevant to origins of federal immigration law)
2. Erika Lee, "The Chinese are Coming. How Can We Stop Them?" in At America's Gates: Chinese Immigration During the Exclusion Era, 1882-1943 (2003): 23-46.
3. Optional: Read poems written by Angel Island detainees about their detention experience, from the book Island.

Film clip in class: "Becoming American: The Chinese Experience":

<http://www.pbs.org/wgbh/americanexperience/films/chinese-exclusion-act/#part01>

**Tuesday, February 2, class 5, Chinese Exclusion, continued**

1. Erika Lee, "Race, Class, Gender, and Citizenship in the Enforcement of the Exclusion Laws," in At America's Gates: 77-109.
2. Ekiu v. United States (1892).
3. Fong Yue Ting v. United States (1893).
4. <https://www.statueofliberty.org/discover/passenger-ship-search/> Take a look under "passenger search" to see what, or who from your family you may find.

**Module 2: Defining "Alien"**

This module will continue our examination of the development of federal immigration law, and will focus on how certain racial groups came to be included in the legal rights and privileges of citizenship, while others came to be excluded and labeled as "aliens" under the law. We will examine the emergence of naturalization law, and how explicit racial restrictions limited acquired citizenship to those legally classified as white. We will then study the experience of Japanese Americans imprisoned during World War II, and examine how shifting political and social norms around race have been used to justify legal restrictions on the rights of citizenship. Finally, we will look at the Bracero program as an example of how the intersection of race and class shaped the racialization of Latino immigrants.

**Thursday, February 4, class 6, Racial Restrictions on Naturalization (I):**

*How did naturalization laws explicitly and implicitly impose racial and gender-based restrictions on citizenship? How did shifting social norms on race impact eligibility for citizenship? What is the common knowledge test, and what does its use say about how*

*law constructs race?*

1. Ozawa v. United States (1922) (excerpted in Haney Lopez at 176-179).
2. United States v. Thind (1923) (excerpted in Haney Lopez at 179-182).
3. Appendix A: The Racial Prerequisite Cases, in Haney Lopez at 163-167.
4. Ian Haney Lopez, "Racial Restrictions in the Law of Citizenship," "The Prerequisite Cases," and "Ozawa and Thind," in White By Law: the Legal Construction of Race (2006): 27-34, 35-55, 56 – 77.

Film clip in class: "Race: The Power of an Illusion"

### **\*Personal Immigration History Due February 7**

#### **Tuesday, February 9, class 7, Racial Restrictions on Naturalization, cont.:**

*How did ideas of class and property ownership intersect with race to shape legal access to citizenship? What is a "performative model" of race? How did legal definitions of whiteness encourage immigrants to adapt this model and seek assimilation?*

1. Laura Gómez, "Manifest Destiny's Legacy: Race in America at the Turn of the Twentieth Century," in Manifest Destinies: The Making of the Mexican American Race (2007): 138-147.
2. John Tehranian, "Performing Whiteness: Naturalization Litigation and the Construction of Racial Identity in America," 109 Yale L.J. 817 (2000)(excerpt).
3. Moustafa Bayoumi, "Racing Religion," The New Centennial Review (2006)(excerpt).
4. Optional: *In re Rodriguez*, 81 F. 337 (1897)

#### **Thursday, February 12, class 8, Japanese Internment**

*How did the development of legal notions of race and citizenship pave the way for the Supreme Court to legally affirm imprisonment of U.S. citizens? What does this say about conceptions of citizenship in the U.S.?*

1. Mae Ngai, "The World War II Internment of Japanese Americans and the Citizenship Renunciation Cases," in Impossible Subjects: 175-201.
2. Civilian Exclusion Order No. 33.
3. Charlie Savage, NY Times, Korematsu, Notorious Supreme Case on Japanese Internment, is Finally Tossed Out, <https://www.nytimes.com/2018/06/26/us/korematsu-supreme-court-ruling.html>
4. Optional: Podcast "More Perfect" Season 2, episode: "American Pendulum 1" <https://www.wnycstudios.org/podcasts/radiolabmoreperfect/episodes/american-pendulum-fred> {The podcast explores Fred Korematsu's path to the Supreme Court)

#### **Tuesday, February 16, class 9: The Bracero Program**

*How did the Bracero program reshape the racial and national origins of immigration? What relationships do you see about societal attitudes toward Braceros and current rhetoric attitudes toward immigrants of Central American and Mexican origin? How did*

*class impact the perception of Braceros and their exclusion from the rights of citizenship?*

1. Mae Ngai, “Braceros, ‘Wetbacks,’ and the National Boundaries of Class,” in Impossible Subjects: 96-126.
2. David Bacon, The American Prospect, “[Growers Sue to Roll Back Farm Workers’ Wages](https://prospect.org/labor/growers-sue-roll-back-farm-workers-wages/),” <https://prospect.org/labor/growers-sue-roll-back-farm-workers-wages/>
3. Malia Wollan, The New York Times, “65 Years Later, A Memorial Gives Names to Crash Victims,” <https://www.nytimes.com/2013/09/04/us/california-memorial-names-crashes-forgotten-victims.html>
4. Look at “Bittersweet Harvest” National Museum of American History interactive website on the Bracero Program, at <http://americanhistory.si.edu/bracero/introduction>

Film clips: “Harvest of Loneliness” (stream from Kanopy) 1 hour

### **Thursday, February 18, class 10: Family-Based Migration and National Origin Quotas**

*Why did national origin quotas emerge? How did the quotas impact the racial composition of immigrant communities in the US? How did those quotas reinforce existing legal and social ideas of race and whiteness?*

1. Mae Ngai, The Johnson-Reed Act of 1924 and the Reconstruction of Race in Immigration Law, in Impossible Subjects: 21 – 55. (Quotas)

## **Module 3: Admission and Exclusion**

This module will examine the modern legal framework for immigration, the Immigration and Nationality Act of 1952. We will discuss what legal avenues exist for admission to the U.S., including the legal distinction between immigrant and non-immigrant admissions. We will also look at how notions of gender and sexual orientation, as reflected in the definition of “family”, have been codified in federal immigration law. Finally, we will discuss the development of a quasi-judicial legal framework for deportation and removal.

### **Tuesday, February 23, class 11: Admissions - Family-Based Immigration Today**

*How does federal immigration law define “family”? What types of families are protected and privileged under existing immigration laws? How does this framework impact LGBTQ and family structures that differ from dominant social norms?*

1. Victor Romero, “Immigration Law Basics,” in Everyday Law for Immigrants: 25- 29 (top); Victor Romero, “Immigration Law Basics,” in Everyday Law for Immigrants: 35 (bottom “Diversity Visa Lottery Winners”) – 43 (top).
2. Bill Ong Hing: Promoting Family Values and Immigration,” in Deporting Our Souls: Values, Morality and Immigration Policy (2006): 118-140.
3. Cecilia Munoz, The Myth of Chain Migration, Politico, Jan. 26, 2018\_ <https://www.politico.com/magazine/story/2018/01/26/myth-chain-migration-trump-family-immigration-216536>

**VIDEO CLIP – John Oliver on legal immigration and the GOP:**

<https://lawprofessors.typepad.com/immigration/2019/09/john-oliver-on-legal-immigration-and-gop-positions.html> [Note/warning - coarse language (swearing)]

**Thursday, February 25, class 12, Admissions (immigrant and nonimmigrant visas)**

*How do federal immigration policies serve to limit admission of non-white immigrants and non-immigrants? How does the notion of “chain migration” reinforce the historical link between whiteness and access to citizenship?*

1. Karthick Ramakrishnan, “How the GOP made family reunification a dirty word” CNN.com, Jan. 16, 2018, <https://www.cnn.com/2018/01/16/opinions/trumps-other-ugly-words-ramakrishnan/index.html>
2. Jamelle Bouie, “The Fight for White America,” Slate.com, Feb. 1, 2018, <https://slate.com/news-and-politics/2018/02/the-nativist-blueprint-for-trumps-immigration-plan.html>
3. What’s Behind the U.S. Legal Immigration Slowdown? | Fortune, <http://fortune.com/2019/05/21/donald-trump-immigration-backlog/>
4. Proclamation Suspending Entry of Aliens Who Present a Risk to the U.S. Labor Market Following the Coronavirus Outbreak, whitehouse.gov, <https://www.whitehouse.gov/presidential-actions/proclamation-suspending-entry-aliens-present-risk-u-s-labor-market-following-coronavirus-outbreak/>

**Tuesday, March 2, class 13 – REVIEW SESSION**

**Thursday, March 4, class 14: Finish Admissions; Grounds of Removal/ Immigration Court, Federal Immigration Power**

*What are the historical and legal origins of deportation under federal immigration law? How the idea of the “illegal alien” emerge, and how has it been used to dehumanize and criminalize noncitizens? How does this concept reinforce and perpetuate race and class as a basis for exclusion?*

1. Daniel Kanstroom, “Introduction,” in *Deportation Nation: Outsiders in American History* (2007): 1-20.
2. Victor Romero, “Immigration Law Basics,” in *Everyday Law for Immigrants*, 43- 53; Victor Romero, “Immigration Procedure Basics,” in *Everyday Law for Immigrants*, 59-77.
3. Mae Ngai, “Deportation Policy and the Making and Unmaking of Illegal Aliens,” in *Impossible Subjects: Illegal Aliens and the Making of Modern America* (2004):56-90

**Tuesday, March 9, class 15**

**NO READING FOR CLASS: \*IN-CLASS MIDTERM\***

**Module 4: Criminalizing Non-Citizens**

This module will examine how federal immigration law and policy has increasingly served to criminalize non-citizens who are deemed undesirable. We will discuss the policy origins of mass immigration detention, and its connection to the rise of mass incarceration in the criminal legal context. We will then examine the legal framework that criminalizes unlawful entry and re-entry, as well as the evolution of harsher legal consequences for non-citizens who are convicted of crimes. Finally, we will examine the creation of Immigration and Customs Enforcement and the evolution of into the country's largest law enforcement agency.

### **Thursday, March 11, class 16, Crimmigration, Part I:**

*Why are immigrants detained? How does race play into who is detained, and how they are treated in detention? Who detains them, and under what conditions? What are the legal and economic incentives that encourage detention?*

1. Freedom for Immigrants, A Short History of Immigration Detention,” <https://www.freedomforimmigrants.org/detention-timeline>
2. Jack Herrera, Prism, “Immigrants Stage a Hunger Strike for Black lives insides ICE detention facility,” <https://www.prismreports.org/article/2020/6/12/immigrants-stage-a-hunger-strike-for-black-lives-inside-ice-detention-facility>
3. Press Release, “Detained immigrants launch hunger strike urging Gov. Newsom to protect lives of Black immigrants, others in ICE detention amid COVID-19 threat,” <https://www.centrolegal.org/detained-immigrants-launch-hunger-strike-urging-gov-newsom-to-protect-lives-of-black-immigrants-others-in-ice-detention-amid-covid-19-threat/>
4. Optional: Podcast: “We are Just Money to Them”: The Impact of COVID-19 Inside Otay Mesa Detention Center”, <https://www.detentionresistance.org/voices-of-transborder-resistance/episode/3f6e88f5/we-are-just-money-to-them-the-impact-of-covid-19-in-otay-mesa-detention-center>

### **Guest Speaker: Formerly detained immigrant /organizer**

### **Tuesday, March 16, Class 17**

*What is an aggravated felony? How has the definition of an aggravated felony, and the consequences of an aggravated felony, changed over time? How has that impacted Black and Brown immigrant communities, in particular Latinx immigrant communities?*

1. Bill Ong Hing, “Deporting Our Souls,” in Deporting Our Souls: 52-117.

### **Film in class: “Sentenced Home”**

### **Thursday, March 18, class 18, Crimmigration**

*What does Immigration and Customs Enforcement do? Why was it created, and how was its creation influenced by the post-9/11 political climate? What is the Abolish ICE movement, and what are its goals?*

2. Optional: Podcast - Hiroshi Motomura and Azadeh Shashahani. on #AbolishIce:

The Meanings of a Movement

Spotify:

[https://open.spotify.com/episode/4RimTmEMC2BLZwHX3Cv2P2?si=glROr\\_yaQ4yXfS3--s0cZA](https://open.spotify.com/episode/4RimTmEMC2BLZwHX3Cv2P2?si=glROr_yaQ4yXfS3--s0cZA);

iTunes: <https://podcasts.apple.com/us/podcast/tempest-tossed/id1416146764>;

Tempest Tossed website: [www.tempesttossed.com](http://www.tempesttossed.com)

**\*SPRING BREAK! March 22, 2020-March 26, 2020\***

**Tuesday, March 30, class 19: Finish/Review Prior Discussion of Admissions; Grounds of Removal/ Immigration Court, Federal Immigration Power**

***No New Readings***

**Thursday, April 1, class 20, Immigration Control, Crime and Removal, Crimmigration**

*What is the distinction between inadmissibility and deportability? How do criminal convictions and arrest impact each? How do ideas of race and the racialization of Latinx immigrants impact the narrative of undocumented immigration as fueling violent crime? How do those same ideas allow family detention to emerge?*

1. INA sections 212 and 237. (<https://www.uscis.gov/legal-resources/immigration-and-nationality-act>)
2. Bort, Ryan “There’s No Correlation Between Undocumented Immigration and Violent Crime” <https://www.rollingstone.com/politics/politics-news/study-undocumented-immigration-violent-crime-834842/>
3. Optional: Ingrid Eagly, Steven Shafer, Jana Whalley, Detaining Families, California Law Review excerpt, 785-795 (2018). [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3175027](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3175027)

## **Module 5: Federalism and Immigration**

This module will examine the contemporary role of states and localities in immigration policy and enforcement. We will review conservative frameworks that see states and localities as entities that can extend the enforcement of existing immigration laws and funnel noncitizens into the deportation system, as well as progressive frameworks that seek to use state and local legislation to limit cooperation and mitigate the impacts of federal immigration law on noncitizens. We will also examine how implicitly and explicitly racialized notions of who should be able to access the rights of citizenship impact these different approaches.

**Tuesday, April 6, class 21 – Federalism**

*How have states and localities helped enforce federal immigration laws? Why are they*

*motivated to do this? What did Arizona's 2010 immigration law do, and why? Why did the 9<sup>th</sup> Circuit Court of Appeals allow some parts of the law to stand, while striking down others?*

1. Kris Kobach, "Reinforcing the Rule of Law: What States Can and Should Do to Reduce Illegal Immigration," *Georgetown Immigration Law Journal* (2008) (pages 459-465), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1270124](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1270124)
2. Kevin Johnson, SCOTUS Blog, "Online symposium: The debate over immigration reform is not over until its over," June 27, 2012, <https://www.scotusblog.com/2012/06/online-symposium-the-debate-over-immigration-reform-is-not-over-until-its-over/>
3. Optional: Supreme Court Decision (Arizona v. US) on Immigration Law, interactive feature, NY Times, June 26, 2012. See <http://www.nytimes.com/interactive/2012/06/26/us/scotus-immigrationlaw-analysis.html>
4. Optional: Stella Burch Elias, The New Immigration Federalism, 74 Ohio St. L.J. 703 (2013); read intro, and 734-end, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2337662](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2337662)
5. Optional: Huyen Pham & Pham Hoang Van, Subfederal Immigration Regulation and the Trump Effect, 94 N.Y.U. L. Rev. 125, 126 (2019); read intro. and 145-157, and conclusion, <https://www.nyulawreview.org/wp-content/uploads/2019/04/NYULawReview-94-1-PhamVan.pdf>

**Thursday, April 8, class 22, DACA and State Limits on Immigration Enforcement**

*How do we reconcile the popularity of programs like DACA, with the increased detention and deportation of immigrants seen as "criminal" or undesirable? Why do some states seek to extend rights to noncitizens, while others seek to limit them?*

1. *Plyler v. Doe* (1982) (excerpt).
2. Jose Antonio Vargas, "My Life as an Undocumented Immigrant," *NY Times*, June 26, 2011, [http://www.nytimes.com/2011/06/26/magazine/my-life-as-an-undocumented-immigrant.html?\\_r=1](http://www.nytimes.com/2011/06/26/magazine/my-life-as-an-undocumented-immigrant.html?_r=1)
3. Jazmine Ulloa, "How California's Trust Act shaped the debate on the new 'sanctuary state' proposal," *Los Angeles Times*, <https://www.latimes.com/politics/la-pol-ca-trust-act-sanctuary-state-immigration-20170910-htlstory.html>
4. Film clip: CALIFORNIA LATINO LEGISLATIVE CAUCUS, Sacramento Bee, Latino lawmakers thank ex-Gov. Pete Wilson for accidentally sparking pro-immigrant movement, NOVEMBER 01, 2019, <https://www.sacbee.com/news/politics-government/article236908208.html> (3 min.)
5. Optional: Podcast - Analysis of DACA oral argument and interview with Luis Cortes, DACAmented lawyer who worked on the case (starts at about 04:00) <https://strict-scrutiny.simplecast.com/episodes/here-come-the-generals>

**\*Reaction paper due April 8\***

## Module 6: Political Asylum and the Global Refugee Crisis

This Module will examine who is legally eligible to apply for asylum, and how current policies serve to limit who is actually able to do so. It will also look at the legal requirements for an individual to be granted asylum, and how those requirements act to exclude Central American, Black/Afro-descendant and other immigrants racialized as non-white. It will also examine how contemporary social and political norms around race and sexual orientation serve to exclude indigenous and LGBTQ immigrants from protection.

### Tuesday, April 13, class 23, Current Issues in Asylum and Border Control

*Who is legally eligible to apply for asylum, and who actually is able to do so? How have current asylum laws and policies impacted indigenous, Afro-descendant and LGBTQ migrants? How do ideas of race, particularly as they apply to immigrants of Latino origin, impact asylum policies on the Southern border?*

1. American Immigration Council, "Asylum in the United States," <https://www.americanimmigrationcouncil.org/research/asylum-united-states>
2. Obtaining Asylum in the United States, information from USCIS, available at: <http://www.uscis.gov/humanitarian/refugees-asylum/asylum/obtaining-asylum-united-states>
3. Farida Jhabvala Romero, "'Lost Hope': Tens of Thousands of Asylum-Seekers Face Tough Prospects in US Courts", <https://www.kqed.org/news/11800681/lost-hope-tens-of-thousands-of-asylum-seekers-face-tough-prospects-in-us-courts>
4. Optional: UT Law and Penn Law, Request to Inter-American Commission on Human Rights for Thematic Hearing on Migrant Protection Protocols Program, <https://law.utexas.edu/wp-content/uploads/sites/11/2020/02/2020-02-IC-IACHR-Hearing-Request-MPP.pdf>
5. Optional: AILA Policy Brief: New Barriers at the Border, <https://www.aila.org/infonet/policy-brief-new-barriers-at-the-border>

Film: The Migrant of the Caravan:

[https://m.facebook.com/story.php?story\\_fbid=948352325545858&id=2534054749944189](https://m.facebook.com/story.php?story_fbid=948352325545858&id=2534054749944189)

### Thursday, April 15, class 24, Political Asylum - Particular Social Groups and Contemporary Problems

*What are the legal requirements for an individual to be granted asylum? How do these requirements act to exclude those from racialized groups deemed undesirable? How do immigration policies that exclude African and Latin American immigrants from the asylum process relate to current cultural attitudes towards those regions?*

1. *Matter of A-B-*, 27 I&N Dec. 316 (A.G. 2018)
2. Priscilla Alvarez, CNN, US sets a refugee cap of 18,000 for next year -- a new historic low," September 26, 2019, <https://www.cnn.com/2019/09/26/politics/refugee-cap-historic-low/index.html>
3. Optional: Jeffrey Chase, Crime and Refugee Protection, 12/21/2019, <https://www.jeffreyschase.com/blog/2019/12/21/crime-and-refugee-protection>

4. Optional: Kevin R. Johnson, Trump's Latinx Repatriation, *UCLA Law Review*, Vol. 66, Issue 6 (December 2019); pp. 1487-1492 (Deterring Central American Asylum Seekers), 1496-1504 (Comparing the Old and the New of the New Latinx Repatriation)

### **Guest Speaker: Former asylum seeker**

### **Tuesday, April 20, class 25: Black Immigrants and Asylum**

*How did conceptions of race and citizenship influence Haitian immigration policy? Why have Haitians been treated differently under immigration law from Cubans, despite similarities in their migration histories? How are Black and Afro-descendant immigrants particularly vulnerable to abuses in the asylum and immigration detention system?*

1. Refugees, Racism, and Repatriations: A Critique of the United States' Haitian Immigration Policy, 45 STAN. L. REV. 687, 692 (Feb. 1993).
2. BAJI, Black Immigrants at the Border, <http://baji.org/wp-content/uploads/2020/03/black-lives-at-the-borderfinal-2.pdf>
3. An Open Letter to California's Elected Officials Calling for Accountability and Action to Protect Black Immigrants

## **Module 7: When Citizens Become Non-Citizens**

In our final module, we will examine two legal tools for policing the ever-changing racial boundaries of citizenship: denaturalization and changes in birthright citizenship. We will review the legal framework for denaturalization, as well as policies that have resulted in the systematic targeting of Muslim citizens for denaturalization. This module will include an overview of the post-9/11 political context in which Muslim Americans have been increasingly racialized. Finally, we will examine proposals to eliminate the constitutional guarantee of birthright citizenship. We will place these proposals in the current political context and explore how they attempt to exclude those of Latino descent from notions of citizenship. Finally, we will end by exploring the fragility and malleability of legal and political frameworks for American citizenship, and how the idea of citizenship can be expanded to include the marginalized groups it has historically excluded.

### **Thursday, April 22, class 26: Naturalization and Denaturalization**

*What is denaturalization? How have Muslim-Americans been racialized since 9/11, and how does this fit within the racialized legal and political framework for citizenship?*

1. [Skim] INA s. 312-316; and INA s. 340 [start here, and click through "next document" to get to s. 316; then skip ahead to s. 340]\_ <https://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-9833.html> ]
2. Amanda Frost, Alienating Citizens, 114 Nw. U. L. Rev. 241, 242 (2019),\_ <https://scholarlycommons.law.northwestern.edu/nulr/vol114/iss1/5/>
3. Susan M. Alam, The 9/11 Effect and its Legacy on U.S. Immigration Law, [https://pennstatelaw.psu.edu/file/Immigrants/9\\_11\\_Effect\\_Online\\_Publication.pdf](https://pennstatelaw.psu.edu/file/Immigrants/9_11_Effect_Online_Publication.pdf)

4. Optional: Karen J. Greenberg, "Trump Wants to Take Away Your Citizenship," *The Nation*, March 21, 2019, <https://www.thenation.com/article/trump-wants-to-take-your-citizenship-denaturalization/>
5. Optional: Seth Freed Wessler, "Is Denaturalization the Next Front in the Trump Administration's War on Immigration?," *New York Times*, December 12, 2018, <https://www.nytimes.com/2018/12/19/magazine/naturalized-citizenship-immigration-trump.html>
6. Optional: Civics Practice Test, USCIS - <https://my.uscis.gov/prep/test/civics>

### **Tuesday, April 27, class 27: Birthright Citizenship**

*What is birthright citizenship? Who wants to modify it, how and why?*

1. Joseph Carens, "The Case for Amnesty," *Boston Review* (2009), with responses by Linda Bosniak, Arash Abizadeh, and Carol Swain; Carens replies, <http://bostonreview.net/forum/case-amnesty-joseph-carens>
2. E. Tendayi Achiume, *Migration as Decolonization*, 71 *Stan. L. Rev.* 1509 (2019), <https://www.stanfordlawreview.org/print/article/migration-as-decolonization/>

Film clip in class: Kris Kobach on the O'Reilly Factor.

### **Thursday, April 29, class 28, Migration Theory**

*Why is citizenship so important to ideas of community? How do proposals to limit birthright citizenship speak to ideas on the limits of our national community? How can we reimagine ideas of citizenship to include Latino, Black/Afro-descendant, indigenous and other history marginalized people??*

1. Peter Schuck and Rogers Smith, *Citizenship Without Consent: Illegal Aliens in the American Polity* (1985): excerpt.
2. Gerald R. Neuman, Book Review – Back to Dred Scott? *San Diego Law Review* (1987).
3. Mae Ngai, *Birthright Citizenship and the Alien Citizen*, *Fordham Law Review* (2007), <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=4263&context=flr>
4. California Immigrant Youth Justice Alliance, "First We Abolish ICE: a Manifesto for Immigrant Liberation", <https://06d.b80.myftpupload.com/wp-content/uploads/2018/07/AbolishICE.pdf>
5. Optional: Huq, Aziz "Trump's birthright citizenship proposal, explained by a law professor" <https://www.vox.com/policy-and-politics/2018/10/31/18047896/trump-supreme-court-birthright-citizenship>
6. Optional: Amanda Frost, *The Atlantic*, "The Battle for the Constitution: The Fragility of American Citizenship," October 9, 2019, [https://www.theatlantic.com/ideas/archive/2019/10/fourteenth-amendment-protects-citizenship-politics/599554/?fbclid=IwAR2TDZWCLPprd9FicykasEokRmZ0\\_Qnj7shnOGGrjpcXlnB910t4zODjFUc](https://www.theatlantic.com/ideas/archive/2019/10/fourteenth-amendment-protects-citizenship-politics/599554/?fbclid=IwAR2TDZWCLPprd9FicykasEokRmZ0_Qnj7shnOGGrjpcXlnB910t4zODjFUc)

*\*FINAL EXAM\**

*Take Home, Details TBD*

## **COURSE AND UNIVERSITY POLICIES**

**Accommodations & Disabled Students' Services:** All abilities and disability identities are welcome in our class. UC Berkeley is committed to creating a learning environment that meets the needs of its diverse student body. If you anticipate or experience any barriers to learning in this course, please feel welcome to discuss your concerns with me.

If you have a disability, or think you may have a disability, work with the Disabled Students' Program (DSP) to request an official accommodation. The Disabled Students' Program (DSP) is the campus office responsible for authorizing disability-related academic accommodations..

Students who need academic accommodations or have questions about their accommodations should contact DSP, located at 260 César Chávez Student Center. Students may call 642-0518 (voice), 642-6376 (TTY), or e-mail [dsp@berkeley.edu](mailto:dsp@berkeley.edu)

**Honor Code and Student Conduct:** The student community at UC Berkeley has adopted an Honor Code that states, "As a member of the UC Berkeley community, I act with honesty, integrity, and respect for others." The entire Berkeley Student Code of Conduct can be found at <http://sa.berkeley.edu/code-of-conduct>. The expectation is that you will adhere to this code and that an attitude of honesty, integrity, and respect will shape all your interactions with your classmates and their ideas, as well as your engagements with the materials that we study this semester.

It is important to appreciate that fellow students come from varied backgrounds and experiences, with different levels of interest, knowledge and experiences of immigration. Please review and respect the university's [Principles of Community](#).

Students are particularly encouraged to be mindful of plagiarism and the appearance thereof. Plagiarism is defined as use of intellectual material produced by another person without acknowledging its source

### **On-Line Etiquette**

To make the best of our remote instruction experience, we have the following expectations:

#### Synchronous learning

- Everyone is **strongly encouraged** to join lectures and discussions live from a computer (rather than a cell phone or tablet) to allow for breakout rooms and other functionality. If you are in need of a computer or internet access, you can

apply for a free loaner laptop or Wi-Fi hotspot through the [Student Technology Equity Program \(STEP\)](#).

- Ensure that you are using your Berkeley authenticated Zoom account (associated with your berkeley.edu email). Unauthenticated accounts will not be able to access our sessions. The best way to access the full functionalities of Zoom is to download the Zoom app to your computer: <https://zoom.us/support/download>. You can access Zoom directly through bCourses (from the homepage, click on the Zoom tab).
- Ensure that Zoom shows your name and, if you want, your preferred gender pronouns.
- **Mute your audio** when not speaking to avoid disruptions from background noise.
- To ask a question or share a comment, use the “raise hand” function or physically raise your hand and wait to be recognized before unmuting your mic. You can also use chat.
- Avoid multitasking during lectures and discussion sections! Focus on the material and our collective conversation.

### Video

- We encourage you to **turn on your video** during lecture and section. We believe this will help build community, foster engagement, and replicate a professional setting. If you can't turn on video, please engage in the course in other ways, such as through the chat.
- You are very welcome to add a Zoom background to mask your surroundings. Just ensure that it is not distracting or inappropriate.
- Please let your GSI know if your situation prevents you from using video.

### Zoom Chat

- You can use chat for any questions. During lecture, GSIs will oversee the chat questions. You can also privately message professors and GSIs. But be aware that while professors are lecturing, it may take them some time to see private messages.
- Ensure professionalism in language at all times, both verbally and in the chat.
- Once class begins, the group chat is only for class content. You are encouraged to share comments, questions, and links to content that are relevant to the lecture material in the chat.
- In all course-related interactions, including the chat, students must be respectful and considerate of each other.

### Asynchronous learning

- All video lectures, all lecture slides, and some discussion sessions will be posted to bCourses. They are **not to be shared** with anyone outside of the class.

### Communication

- bCourses is the hub for class readings, assignments, announcements, and extra materials. You should check bCourses regularly. Indeed, please first

- check bCourses and the syllabus if you have questions about class logistics and materials.
- Check your berkeley.edu email regularly for announcements and class communication. Because we are not meeting in person, it is more important than ever to stay on top of written communication.
  - Realize that instructors and GSIs are getting many more emails than usual. They will try to respond in a timely manner, but please be patient.

## STUDENT RESOURCES

Student Learning Center offers writing support, peer tutoring, and other academic resources. <http://slc.berkeley.edu>

Basic Needs Center provides financial, food, housing and other basic needs support and services. <https://basicneeds.berkeley.edu>

Disabled Students' Program provides a wide range of resources to ensure equal access to educational opportunities, including assessment, advising, note-taking services, and academic accommodations. <http://www.dsp.berkeley.edu>

The PATH to Care Center provides affirming, empowering, and confidential support for survivors and those who have experienced gendered violence, including: sexual harassment, dating and intimate partner violence, sexual assault, stalking, and sexual exploitation. Confidential advocates bring a non-judgmental, caring approach to exploring all options, rights, and resources. <https://care.berkeley.edu>

Tang Center offers immediate and long-term counseling services to assist students with a variety of concerns about academic success, mental health, life management, and personal development. <https://uhs.berkeley.edu>

Office for the Prevention of Harassment & Discrimination (OPHD) ensures that UC Berkeley provides an environment free from discrimination, harassment, and sexual violence. OPHD takes reports alleging discrimination and harassment on the basis of categories including race, color, national origin, gender, age, sexual orientation/identity, including allegations of sexual harassment and sexual violence. <https://ophd.berkeley.edu>

Center for Student Conduct: Provides full texts of campuswide policies and regulations regarding student rights, including: Privacy and Disclosure of Information from Student Records; Nondiscrimination Policy; Policy on Sexual Harassment and Sexual Violence; and Civility and Respect in an Atmosphere of Academic Freedom. <https://sa.berkeley.edu/conduct/policies>

