IMMIGRATION AND NATIONALITY LAW: PROBLEMS AND STRATEGIES
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INTRODUCTION

The four authors of this book love immigration law. We have devoted our professional careers to working and teaching in this ever changing, always challenging area of law. Together we have more than 100 years of experience in the field. Three of us continue to practice law as our main occupation. All of us teach a variety of courses in the immigration law field, from introductory survey courses to advanced seminars or clinical courses. We agreed to write this book because we are equally committed to sharing our knowledge and helping others enter this field. To give you a sense of who we are and what we bring to this book we include our biographies at the end of this introduction.

Over our years of practice, many people have asked us, “Is there a book I could read to learn more about immigration law? I really would like to handle some immigration cases but there is no one at my firm/school/company who knows anything about this field.” While we could have recommended many great treatises, traditional academic casebooks, and continuing legal education materials, none of those materials both introduced the reader to the legal concepts and revealed the experience of practicing immigration law. To be a great advocate in this field you need to know more than the statutory provisions and key cases. You have to understand the many government agencies involved and how to navigate the wide variety of adjudications that are central to the U.S. immigration system. Accordingly, this book is designed for both law students and attorneys.

We hope you will actively engage with this book. We have created hypotheticals or problems that ask you, from a variety of legal roles, to learn how to solve common immigration problems. In one problem you may be a government inspector assessing the qualifications and criteria for admission to the United States. In another problem you may be in-house corporate counsel facing simultaneous strategic employment, immigration, and corporate planning issues. By working through these problems you will observe the immigration process from initial sponsorship to the United States, to seeking admission at the border, to finding and maintaining status and securing permanent resident status within the United States. The text then moves you through the complex issues of determining whether a person is inadmissible or barred from securing status or entering the United States. We then explore the removal process and which categories of people and what type of behavior can subject a noncitizen to expulsion. We continue with an examination of the forms of relief from removal and asylum and other humanitarian protections. We close with the ultimate goal of many immigrants — naturalization. If you engage in the problems, we believe you will come out of the study of the materials in this book understanding the substance and process that make immigration law so challenging and rewarding.

We have many people to thank and each of us has contributed to the list of acknowledgments below. Each of us feels lucky to be in this field. Remarkable people have mentored and inspired us over the years. We hope to continue that tradition through this book.

Lenni B. Benson

As a lawyer and friend, I thank Roxana Bacon and Nancy-Jo Merritt: two of the
INTRODUCTION

smartest and most determined immigration analysts, litigators, and reformers in a field of many fierce and talented people. Roxana also generously helped me my find my first opportunities to teach in the field and I have been doing so part or full time since 1987. As a full time professor, I appreciate the guidance and support that I received from my friends and constant mentors: Hiroshi Motomura, Margaret Taylor, and Mary Crock. I am also grateful for the resources and support supplied by the administration, staff, and students of New York Law School. Russell Wheeler, my research partner for a report written for the Administrative Conference of the United States, helped me study the removal adjudication system and inspired me with his many abilities to objectively assess procedures and volumes of data. I also benefitted from the hundreds of NYLS alumni who regularly share stories from practice. I am particularly grateful to my parents, Bernard and Ramona Benson, and my family, John, Max, Lily, Sheila, and Harry Wellington. My family and our bull dog Maisie shared our kitchen with drafts of these chapters for many years. I thank them for their patience, good humor, and the necessary long walks.

Lindsay A. Curcio

I am delighted to have the opportunity to work on this book with my co-authors, who are valued friends. I thank my parents, Terry and Orlando Curcio, who gave me an interest in travel, genealogy, and books. It came in handy. I am especially grateful to Arthur DiVittis, Jr., who is my partner in life as well as in many creative projects. Thank you to the students and alumni of New York Law School. I remember with gratitude the late Dr. Martin de Maat from The Second City. Heartfelt thanks to those who have provided me with support and inspiration: Brian S. Schick, Esq., Stuart J. Reich, Esq., Lewis Tesser, Esq., Frances Berger, Esq., Nancy Katz, Rock Albers, Esq., Elaine Witty, Esq., Clayton Cartwright, Esq., Michael Rothmel, Esq., Thomas C. Sanchez, Esq., Bill Pardue, Joan Fabian, Fred and LaVonn Schlegel, Terry Brathwaite, Camille Mackler, Esq., Suzanne McCoy, and Randy Larson.

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Stephen Yale-Loehr

I thank Maury Roberts, former chairman of the Board of Immigration Appeals and editor of Interpreter Releases, who taught me so much about immigration law. I also thank the many immigration lawyers and professors around the country who took time out of their busy schedules to help me learn immigration law. I thank my parents Ray and Joan Loehr, my wife Amy, and our children Liz, Jon, and Alex, for their support and encouragement. I have learned a lot from them about character, aspirations, and perseverance, and hope that some of those values have found their way into this book.
INTRODUCTION

BIOGRAPHIES:

Lenni B. Benson

Lenni Benson grew up in rural Arizona on a citrus farm but managed to ignore all immigration issues until she graduated from Arizona State College of Law in 1983. She became a member of a corporate law firm in Phoenix, Arizona. Roxana Bacon joined the firm in 1984, bringing a large number of immigration clients, from corporations to refugees, to the firm. Lenni practiced in the firm’s litigation and corporate departments before specializing in immigration in 1986. She continued to practice with Roxana Bacon through a number of firms until Lenni ended her full time practice in 1994 as a partner in the Los Angeles office of Bryan Cave, LLP, an international law firm with offices in eight countries.

In 1994, Lenni joined the faculty of New York Law School in Manhattan, New York. She teaches civil procedure, administrative law, immigration, and nationality law. She has been an adjunct professor at Columbia Law School for several years. She has served in leadership or board positions in the following organizations: the American Immigration Lawyers Association (AILA); the American Immigration Law Foundation (now the Immigration Policy Center); the Center for Human Rights and Constitutional Law Foundation; the ABA Section on Administrative and Regulatory Law Immigration subcommittee; the Bar Association of the City of New York; the Lexis Advisory Board; and the American Association of Law Schools Immigration Section. She has edited immigration treatises or texts for both AILA and the National Immigration Project of the National Lawyers Guild.

In 1999, AILA presented Lenni with the Elmer Fried Excellence in the Teaching of Immigration Law Award. In 2011–12, she served as a consultant to the Administrative Conference of the United States, writing with Russell Wheeler a detailed study of the immigration removal system. She is the director of the Safe Passage Project at New York Law School, a pro bono clearing house and project based learning course where pro bono attorneys and law students represent immigrant youth.

Lindsay A. Curcio

Lindsay A. Curcio has practiced immigration law since 1990. She opened her solo practice in Brooklyn, New York in 2000. Lindsay has been an adjunct professor teaching immigration law courses at New York Law School since 2002. From 2007 to 2012, she served as Co-Director with Lenni Benson of the law school’s Safe Passage Immigration Project. Lindsay is a Fellow at the Center for International Legal Studies in Salzburg, Austria and is an active AILA member, serving on local and national committees. Lindsay has a bachelor’s degree in Spanish from Northwestern University, a J.D. degree from IIT-Chicago Kent College of Law, and a master’s of business administration degree with a concentration in marketing and a designation in international business from Fordham University. Currently she is studying towards an LL.M. in transnational commercial practice at Lazarski University/Center for International Legal Studies. She also is an actress who performs improv, old time radio play recreations and stand-up comedy.

Veronica M. Jeffers

A fourth-generation native of Los Angeles, an attorney and itinerant student, Veronica
INTRODUCTION

has lived and worked throughout the United States and around the world. Having been a tourist, accompanying family member, foreign national student, and nonimmigrant worker herself, the practice of U.S. immigration law was a natural fit. A graduate of Wellesley College and Harvard Law School, she is currently an associate attorney in the Los Angeles office of Fragomen Del Rey Bernsen and Loewy LLP and a member of the adjunct faculty at Southwestern Law School in Los Angeles.

Stephen Yale-Loehr

Like Lenni, Steve Yale-Loehr knew nothing about immigration law until after he finished law school. Steve received his B.A. degree from Cornell University in 1977 and his J.D. cum laude from Cornell Law School in 1981. He was editor-in-chief of the Cornell International Law Journal. After graduation he clerked for a federal judge.

From 1982 to 1986 Steve practiced law at a large law firm in Washington, D.C., where he was first exposed to immigration law. From 1986 to 1994 he was managing editor of Interpreter Releases and executive editor of Immigration Briefings, two leading immigration law publications.

Steve is co-author of Immigration Law and Procedure, the leading 20-volume treatise on U.S. immigration law, published by LexisNexis. He also teaches immigration and asylum law at Cornell Law School as an adjunct professor and is of counsel at Miller Mayer in Ithaca, New York.

Steve is the coauthor or editor of many books, including Green Card Stories; America’s Challenge: Domestic Security, Civil Liberties and National Unity After September 11; Balancing Interests: Rethinking the Selection of Skilled Immigrants; Global Business Immigration Practice Guide; J Visa Guidebook; Understanding the Immigration Act of 1990; and Understanding the 1986 Immigration Law, and numerous law review articles.

Steve is annually listed in Chambers Global, Chambers USA, and An International Who’s Who of Corporate Immigration Lawyers as one of the best immigration lawyers in the world. He is frequently quoted in the press on immigration issues and has often testified before Congress. He is the 2001 recipient of AILA’s Elmer Fried Award for excellence in teaching and the 2004 recipient of AILA’s Edith Lowenstein Award for excellence in advancing the practice of immigration law.

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# Table of Contents

## Chapter 1

**IMMIGRATION LAW IN CONTEXT: EXPLORING THE FOUNDATIONS OF CONSTITUTIONAL POWER AND IMMIGRATION CONTROLS FROM CRIMINAL PENALTIES TO EMPLOYER SANCTIONS**  

§ 1.01 WELCOME TO IMMIGRATION LAW  
A. What is Immigration Law?  
B. Much of Immigration Law is Based on the Analysis of Statutes and Regulations  
C. The Variety and Forms of Immigration Practice  
   1. Family Law  
   2. Business and Trade Attorneys  
   3. Education Law  
   4. Criminal Prosecution and Defense  
   5. Attorneys — Adjudication and Enforcement  
   6. Foreign Service Officers  
   7. Immigration Law Is Everywhere  
D. Immigration Law as a Form of Administrative Law Practice  
   1. Introduction to the Problem Method  
      Problem 1-1: Where Do We Begin? Where Do We Stand?  
   2. Anthony Nimba’s Goal is “citizenship”  
      a. Citizenship at Birth: Born Abroad to U.S. Parents  
      b. Citizenship at Birth: Born in the Territory  
      c. Citizenship by Naturalization  
      d. Citizenship by Naturalization of Your Parents  
      e. Comparative Rights and Obligations of Lawful Permanent Residents and U.S. Citizens  
      Refining Problem 1-1: Celia and Anthony  
   Problem 1-1: Notes and Questions  

§ 1.02 IMMIGRATION LAW AND THE U.S. CONSTITUTION  
A. Where Is the Power?  
   *Chae Chan Ping v. United States*  
   Notes and Questions  
   *Fong Yue Ting v. United States*  
   Notes and Questions  
B. Sanctions and the Preemption Debate  
   1. Criminal or Civil Sanctions?  
   2. Controlling Immigration through Employer Sanctions  
      Problem 1-2: The I-9 Audit  
      Problem 1-2: Essential Materials  
   Problem 1-2: Notes and Questions
Table of Contents

Problem 1-2: Notes and Questions ........................................... 58
Hoffman Plastic Compounds, Inc. v. NLRB ........................................... 59
Notes and Questions ........................................................................... 64
Problem 1-3: Where Do We Stand? ..................................................... 66
Problem 1-3: Essential Materials ......................................................... 66
Chamber of Commerce of the United States v. Whiting ......................... 74
Notes and Questions ........................................................................... 98
C. State Criminal Sanctions ............................................................... 102
Arizona v. United States ................................................................. 102
Notes and Questions ........................................................................... 119

Chapter 2 IMMIGRATION POWER: FINDING THE DIVIDING LINES ................................................. 123

§ 2.01 RIGHTS AND PROCEDURES AT THE BORDER ................................................... 123
A. The Statutes and Regulations Guarding the Border .......................... 123
B. The Inspection Process ................................................................. 125
[1] Note on the Workload of the CBP .................................................... 125
[2] Factual Background for the Problems 2-1 to 2-5 ............................ 127
Problem 2-1: Joseph Brown (Lawful Permanent Resident) and Debbie Brown (U.S. Citizen) .............................................................. 130
Problem 2-1: Essential Materials ......................................................... 131
Notes and Questions ........................................................................... 131
C. Admission and the Nonimmigrant Visa Entrant ............................. 137
Problem 2-2: Pierre Abdullah (Nonimmigrant Worker) ..................... 137
Problem 2-2: Essential Materials ......................................................... 139
Notes and Questions ........................................................................... 139
Meng Li v. Eddy ................................................................................. 140
Notes and Questions ........................................................................... 144
[1] Can Expedited Removal Be Challenged After Departure? .............. 144
a. Errors and Challenges to Expedited Removal? .............................. 144
c. National Security and Special Registration .................................. 145
d. From Special Registration to Biometric Screening ........................ 146
[4] Removal as a National Security Risk — INA § 235(c) ..................... 149
D. Expedited Removal and the Asylum Seeker .................................. 149
Problem 2-3: Marta Hapta-Selassie (Asylum Seeker) and her Minor Children .............................................................. 149
Problem 2-3: Essential Materials ......................................................... 150
Notes and Questions ........................................................................... 150
Table of Contents

[1] Credible Fear and the Complexity of the Process ................. 152
§ 2.02 CONSTITUTIONAL ANALYSIS: RIGHTS AT THE BORDER ...... 154
A. Exploring the Scope of Due Process .......................... 155
  Yamataya v. Fisher ............................................ 155
  Notes and Questions ........................................ 159
B. The Nature of Administrative Hearings and Some Measure of Due Process .................................................. 159
  Notes and Questions ........................................ 163
  Shaughnessy v. United States ex rel. Mezei ...................... 165
  Notes and Questions ........................................ 173
C. Alternatives to Expedited Removal — Regular Removal Proceedings . 175
  Landon v. Plasencia ........................................ 177
  Notes and Questions ........................................ 185
§ 2.03 CROSSING INTO THE INTERIOR? RIGHTS WITHIN THE U.S. TERRITORY ................................................. 189
Problem 2-4: Constitutional Analysis of Expanded Expedited Removal .................................................. 189
Problem 2-5: National Security Needs? ............................ 190
Notes and Questions ........................................ 191
Essential Materials for Problems 2-4 and 2-5 ....................... 191
Notes and Questions ........................................ 209
§ 2.04 REVISITING THE DIVIDING LINES .......................... 210
A. The Role of Detention at the Border ............................. 210
  Clark v. Suarez Martinez ...................................... 212
  Notes and Questions ........................................ 230
B. Arrest, Detention, and Rights for Everyone or No One? ........ 232
  Problem 2-6: Retesting Dividing Lines ........................ 232
  Problem 2-6: Essential Materials ............................. 234
  Notes and Questions ........................................ 234
Chapter 3 NONIMMIGRANT VISAS AND MAINTAINING STATUS IN THE UNITED STATES .......................... 239
§ 3.01 INTRODUCTION ............................................. 239
A. Nonimmigrant Status and the Issue of Nonimmigrant Intent .... 241
[1] Nonimmigrant Intent ........................................ 241


Table of Contents

Lauvik v. INS .................................................. 242
Notes and Questions ...................................... 244

[2] The Department of State 30/60 Day Rule ................. 245
[3] Changed Circumstances .................................. 246
[4] Special Rules for Immediate Relatives ................. 246

In re Ibrahim .................................................... 246


Brownwell v. Carija .......................................... 248

B. The Issue of Temporariness ................................ 251
C. The Issue of Activity: The Foreign National’s Plans and Choosing the Right Nonimmigrant Visa Classification .......... 253

§ 3.02 EXPLORING THE NONIMMIGRANT CATEGORIES ........ 255
A. Short-Term Visitors: B-1/B-2, VWP, C-1 and D ........ 255
[1] Temporary Visitors — B-1/B-2 and VWP .................. 255
[2] Travelers in Transit or TWOV (C-1, C-2, C-3) ............ 256
[3] Crewmen (D-1, D-2) ........................................ 256
B. Students, Exchange Visitors, and Trainees: F-1, M-1, J-1 and H-3 .... 257
[1] Academic Students (F-1) ................................ 257
[2] Vocational Students (M-1) ................................ 259
[3] Exchange Visitors (J-1) ..................................... 259
[4] Trainees (H-3) ............................................... 261
C. Temporary Workers (H-1B, H-2A, H-2B, L-1, O-1) and Treaty Nationals (E-1/E-2, TN, H-1B1, E-3) ...................... 261
[1] Specialty Occupations (H-1B) ............................ 261
[2] Temporary Agricultural or Non-Agricultural Workers (H-2A, H-2B) ................................................................. 262
D. Intracompany Transferees (L-1) ............................. 262
E. Individuals of Extraordinary Ability (O-1) .............. 263
F. Treaty Traders/Treaty Investors (E-1/E-2) .................. 263
G. Miscellaneous Treaty Nationals: U.S.-Canada-Mexico (TN), U.S.-Singapore-Chile (H-1B1), U.S.-Australia (E-3) ........... 265
[1] U.S.-Canada-Mexico (TN) ................................ 265
[2] U.S.-Singapore-Chile (H-1B1) and U.S.-Australia (E-3) ... 269
H. Uncommon Classifications: R, U, T and S ................ 270
[1] Religious Workers (R-1) ................................. 270
[2] Victims of Domestic Violence (U-1) ....................... 270
[3] Victims of Trafficking in Persons (T-1) .................... 270
[4] Witnesses and Informants (S-5, S-6) ....................... 271
I. There is No “Catch-All” Temporary Visa Category ...... 271

§ 3.03 Strategic Use of the Nonimmigration Categories ........ 273
A. Background for Problems .................................. 273
Table of Contents

B. Multiple Options for the Business Executive .......................... 274
   Problem 3-1: Manuel Hayek, CEO of Manzana Computers, S.A., Now
      CFO of Az-Tech, International ......................................... 274
   Problem 3-1: Essential Materials ....................................... 275
   [1] Visitors for Pleasure ............................................... 276
      *In re Healy* .......................................................... 275
      *In re Hira* ........................................................... 281
      *In re Minei* .......................................................... 284
   Notes and Questions .................................................... 280
   [3] Counseling Your Client ............................................. 285
      Servants ............................................................................ 288

C. Categories Based on Educational Training or Skills ..................... 289
   Problem 3-2: Edgar Smith & Sherry Kit ................................ 289
   Problem 3-2: Essential Materials ....................................... 290
   Problem 3-2: Notes and Questions ...................................... 291
   *In re Michael Hertz Associates* ..................................... 292
   *Young China Daily v. Chappell* ...................................... 294
   *In re [The Case of the Specialty Occupation and the L.A. Auto Show]* 297
   *In re [The Case of the Unevaluated Foreign Degree]* .......... 304
   *In re Sea, Inc.* .......................................................... 307
   Notes and Questions ....................................................... 311
   [1] Single vs. Multiple Job Sites and the LCA Requirement .......... 315
      *In re [The Case of the Missing Labor Condition Applications]* 315
   [2] Deemed Export Compliance ......................................... 318
      Notes and Questions .................................................... 319

D. Looking for Nonimmigrant Visa Options: Country Specific .......... 320

E. Maintaining Status in the United States .................................. 325
   [1] General Requirements ................................................. 325
   [2] Extending or Changing Status ....................................... 325

F. Maintaining Status Under Special Circumstances ......................... 326
   [1] Leaves of Absence .................................................... 326
   [2] Benching ................................................................. 327
   [3] Severance ............................................................... 327
Table of Contents

[4] Liability for Transportation Costs .......................... 328

G. Nonimmigrant Categories for Other Workers .................. 329
   Problem 3-2-2: What About Sherry Kit? ..................... 329
   Problem 3-2-2: Notes and Questions ......................... 329

H. Multinational Transfer and the Benefits of Global Business Enterprise 331
   Problem 3-3: Alejandra Martinez and her Spouse José .......... 331
   Problem 3-3: Essential Materials ........................... 332
   Problem 3-3: Notes and Questions .......................... 333
   In re ..................................................... 334
   Notes and Questions ....................................... 343
   Problem 3-4: Maria Lopez .................................... 346
   Problem 3-4: Essential Materials ........................... 346
   In re Walsh ................................................ 347
   Notes and Questions ....................................... 354
   In re [The Case of the Training Program That
   Lacked a Curriculum] ..................................... 355
   Notes and Questions ....................................... 359

§ 3.04 WEAVING NONIMMIGRANT AND IMMIGRATION OPTIONS —
THINKING AHEAD ........................................... 360

A. Temporary Options That Anticipate the Future ................ 360
   Problem 3-5: Samuel Moore and Lily Maxwell ................. 360
   Problem 3-5: Essential Materials ........................... 361

B. Family-Based Nonimmigrant Visa Classifications .............. 362
   [1] Who Qualifies as a Fiancé(e)? ........................... 362
   [2] Legally Able and Actually Willing to Marry ............... 363
      In re [The Case of the Missing First Husband] ............ 363
   [3] The Petitioner and Beneficiary Must Have Met in Person Within Two
      Years Before Filing the Petition ........................ 364
      In re [The Case of the Proxy Marriage] .................... 364

C. Change of Status: Moving from One Temporary Category to Another 366
   Bitar v. United States Dep’t of Justice ....................... 368
   Notes and Questions ....................................... 371

D. Options for the Talented, the Entrepreneurial, the Extraordinary . 371
   Problem 3-6: Luis Marini .................................... 371
   Problem 3-6: Essential Materials ........................... 372
   Problem 3-6: Notes and Questions .......................... 372
   In re [The Case of Extraordinary Ability in the Arts and Entertainment:
   Distinction] ............................................. 373
   In re [The Case of Extraordinary Ability in Business: Rising to the Very
   Top of Your Field] ....................................... 376
   Notes and Questions ....................................... 381

§ 3.05 EXPLORING UNCOMMON NONIMMIGRANT VISAS ............... 381
Table of Contents

A. Religious Workers (R-1) ................................................. 381
   Problem 3-7: A Wing and a Prayer: Religious Workers and Journalists
      (Isaiah Nimba and Patrick Ogedengbe) .......................... 381
   Problem 3-7: Essential Materials ................................. 382
   Problem 3-7: Notes and Questions ............................... 382

B. Exceptional Categories for Victims of Crime .................. 383
   Problem 3-8: Eating Your Cake and Having it Too: Shaun Caggiano .................................................. 383
   Problem 3-8: Essential Materials ................................. 384
   Gail Pendleton, Winning U Visas After the Regulations ......... 384
   Problem 3-8: Notes and Questions ............................... 388
   Problem 3-9: The Maid Who Saw and Felt Too Much: Carmen Caragay .................................................... 390
   Problem 3-9: Essential Materials ................................. 391
   Problem 3-9: Notes and Questions ............................... 391

Chapter 4 IMMIGRANTS AND PATHS TO PERMANENT RESIDENT
STATUS ................................................................. 393

§ 4.01 INTRODUCTION: CHOOSING A STRATEGY .................. 393
   A. Immigrants Versus Nonimmigrants .............................. 393
   B. Background for Problems: Az-Tech Six Months Later ........ 393
   C. Finding the Right Petitioner ................................. 394
      Overview: Immigrant Visa Classifications and the Numerical
      Restrictions? ...................................................... 395
   D. Immediate Relatives ............................................. 396
   E. Other Family-Sponsored Immigrants ............................ 396
   F. Employer-Sponsored Immigrants ............................... 397

§ 4.02 THE FAMILY-BASED CATEGORIES .............................. 400
   A. Immediate Relatives: Who Qualifies as an Immediate Relative? .................................................. 400
   B. Family Defined .................................................. 401
      [1] Definition of “Child” ........................................ 402
         Fiallo v. Bell .................................................. 402
         Notes and Questions ........................................ 414
         Problem 4-1: Max: Sam’s Son and Lily’s Soon-to-be Stepson ...... 415
         Problem 4-1: Essential Materials ............................ 416
         Problem 4-1: Notes and Questions ........................... 416
         Notes and Questions ........................................ 419
         In re Li ....................................................... 419
         Notes and Questions ........................................ 424
         DOS on International Adoption via B-2 in Lieu of IR3/4 .......... 426
Table of Contents

[3] Definition of Parents ........................................ 428
  Medina-Morales v. Ashcroft .................................. 428
  Notes and Questions ........................................ 430

[4] Definition of Spouse ........................................ 431
  Problem 4-2: Celia and Anthony Nimba .................... 431
  Problem 4-2: Essential Materials ......................... 432
  Problem 4-2: Notes and Questions ........................ 432
  United States v. Orellana-Blanco .......................... 432

[5] Does the Marriage Qualify Under the INA? .............. 438

C. Processing Issues ............................................. 439
[1] Nonimmigrant vs. Immigrant Intent ....................... 439
[5] Death of the Petitioner ..................................... 440

D. Conditional Lawful Permanent Resident Status Generally 440
[1] The CLPR Spouse ............................................. 441
[4] How Important Is It That the Marriage Was Entered into in “Good Faith”? ..................................... 442
  De Rodriguez v. Holder ....................................... 443
[5] CLPR Children, Widows and Military Families ............ 446
  Problem 4-3: Maria Lopez .................................... 448
  Problem 4-3: Essential Materials ........................ 449
  Problem 4-3: Notes and Questions ........................ 449

E. Family-Based and Employment-Based Preference Categories, and Understanding the Visa Bulletin .......................... 452
[1] What Is the Visa Bulletin and Learning How to Read It .... 452
  State Dep’t. Releases November Visa Numbers; Explains Employment based Retrogression .......................... 459

F. Employment-Based Preference Categories .................... 461
[1] Introduction .................................................. 461
[2] The Employer-Employee Relationship and Immigration .... 461
[3] Permanent Labor Certification ................................ 464
Table of Contents


Problem 4-4: Maria Lopez (Revisited) ......................... 478
Problem 4-4: Notes and Questions .............................. 479
Problem 4-5: Alejandra Martinez and her Husband José ........ 480
Problem 4-5: Essential Materials .............................. 480
Problem 4-5: Notes and Questions .............................. 481

*In re Cleveland Municipal School District* .................. 481
Notes and Questions ........................................... 485
Problem 4-6: Can Alejandra Qualify for Eb-2 Classification With her Bachelor’s Degree? ......................... 485

*In re Delitizer Corp. of Newton* ............................. 485
Notes and Questions ........................................... 487

Problem 4-7: Edgar Smith [And Sherry Kit] .................. 488
Problem 4-7: Notes and Questions .............................. 489

§ 4.03 WHEN CAN LABOR CERTIFICATION BE WAIVED? ........ 490

A. Nation Interest Waivers ...................................... 490

*In re New York State Dot* ...................................... 491

B. When Is Labor Certification Not Required? ................. 495

Problem 4-8: Manuel Hayek, CEO of Manzana Computers S.A., Now CFO of Az-Tech International .................... 496
Problem 4-8: Essential Materials .............................. 496
Problem 4-8: Notes and Questions .............................. 497

*IKEA U.S., Inc. v. United States DOJ INS* .................. 497
Notes and Questions ........................................... 500
Problem 4-9: Carlos, Manuel’s Domestic Partner ............. 501
Problem 4-9: Essential Materials .............................. 501
Problem 4-9: Notes and Questions .............................. 501

C. Individual Labor Certification .................................. 501

Problem 4-10: Father Isaiah Nimba ............................ 505
Problem 4-10: Essential Materials .............................. 505
Problem 4-10: Notes and Questions .............................. 505
Problem 4-11: Luis Marini ....................................... 506
Problem 4-11: Essential Materials .............................. 507
Problem 4-11: Notes and Questions .............................. 507

*In re [The Case of the Extraordinary Ad Man]* ............. 507
Notes and Questions ........................................... 513

D. EB-5 Investors .................................................. 513

*In re Ho* ......................................................... 514
Table of Contents

§ 4.04 THE FINAL STEP: IMMIGRANT VISA PROCESSING OR ADJUSTMENT OF STATUS ................. 520
A. Overview: Completing the Process of Becoming an Immigrant ............... 520
B. Immigrant Visa Processing: Exploring Consular Processing ............ 521
  [1] Returning Abroad ........................................ 521
  [2] The Interview ............................................ 522
  [3] The Decision ............................................. 522
C. Adjustment of Status ....................................... 522
  [1] Staying in the United States .................................. 522
  [3] Traveling on Advance Parole While Pending Adjustment of Status .... 523
  [4] The Interview ............................................ 524
  [5] The Decision ............................................. 524
    Problem 4-12: Anthony Nimba and Celia Guiterrez-Nimba ............. 525
    Problem 4-12: Essential Materials ................................ 525
    Problem 4-12: Notes and Questions ................................ 526
    In re Cavazos ............................................. 526
    Notes and Questions ....................................... 528
  [6] Inspection and Admission .................................... 528
    In re Areaguillin ........................................ 528
  [7] Maintaining Status — Critical to Eligibility for Adjustment of Status ........................................ 530
    In re Hall .................................................. 531
  [8] Exceptions to the Bars to Adjustment Found in INA § 245(c): Immediate Relatives & Employment-Sponsored Immigrants ............. 533
  [9] Adjustment of Status Under INA § 245(i) — a Generous Exception that may still be Relevant ........................................ 534
    Problem 4-13: Pierre Abdullah ................................ 535
    Problem 4-13: Essential Materials ................................ 535
    Problem 4-13: Notes and Questions ................................ 535

Chapter 5 INADMISSIBILITY: IN EVERY CONTEXT ............... 539

§ 5.01 INADMISSIBILITY: AN INTRODUCTION .......................... 539
§ 5.02 WHERE DOES INADMISSIBILITY OCCUR? ...................... 540
A. Admission .................................................... 541
B. Entry as Opposed to Admission .................................. 543
  Delgadillo v. Carmichael ...................................... 543
  Notes and Questions ........................................ 545
§ 5.03 GROUNDS OF EXCLUSION OR INADMISSIBILITY ............. 546
A. National Security and Ideology .................................. 546
  Kleindienst v. Mandel ........................................ 547
# Table of Contents

Notes and Questions .................................. 557

*American Academy of Religion v. Napolitano* .................. 557

Notes and Questions .................................. 566

B. National Security Concerns Expanded .................. 567

C. Status and Visa Violators .................. 569

  Problem 5-1: Overstay .................................. 569
  Problem 5-1.2: Withdrawal of Admission .............. 570
  Problem 5-1.3: Overstay Bars on Readmission .... 570

D. Unlawful Presence .................................. 570

[1] When Does the Ground of Inadmissibility Apply? ........ 570

  Notes and Questions .................................. 571


  *In re X* ................................................ 572

  Notes and Questions .................................. 576

E. Misrepresentation, Fraud, and Other Immigration Violations .................. 576


  Problem 5-2: Fraud and Misrepresentation .......... 577

  Notes and Questions .................................. 578

[2] Section 212(i) Waiver .................. 578

F. Other Immigration Violations .................. 578

G. Criminal Grounds .................................. 579

  Problem 5-3: Criminal Past .................. 579

[1] Starting to Analyze a Case with a Criminal Offense Issue ........ 580


  *In re* ................................................ 582

  Notes and Questions .................................. 585


[5] The Categorical Approach or When Can the DHS Look Behind a Conviction? ........ 587

[6] Circuit Courts of Appeal Are Rejecting the Modified Categorical Approach Used in *Silva-Trevino* .................. 588

  *Jean-Louis v. AG of the United States* .................. 588


H. Other Criminal Offenses .................. 599

§ 5.04 EXPLORING WAIVERS .................. 600

A. Criteria for the Waiver of Inadmissibility for Nonimmigrants .................. 600

  *In re Hranka* ........................................... 600

  Notes and Questions .................................. 601

B. Waivers Continued — Immigrants and Nonimmigrants .................. 602

xix
Table of Contents

Problem 5-4: Exploring Waivers for Criminal Grounds .......................... 602
C. Waivers and Criminal Offenses Redux ........................................... 603
   In re: [case Involving A 212(h) Waiver] ....................................... 604
   Notes and Questions ............................................................ 610
D. More about Waivers ............................................................... 611

§ 5.05 THE LINK BETWEEN INADMISSIBILITY AND DEPORTATION ....... 612
A. How the Grounds of Inadmissibility Operate at the Border and Beyond ...................................................... 612
   Problem 5-5: How Inadmissibility can Lead to Removal .......... 612
   Notes and Questions ............................................................ 613
B. The Issue of Admission — Fleuti in the Twenty-First Century ........ 613
C. Lawful Permanent Resident with Conviction Returning to the United States after a Short Trip .................................................. 614
   Vartelas v. Holder ............................................................... 614
   Notes and Questions ............................................................ 625
D. New Relief from the Three and Ten Year Overstay Bars ................ 625
   [1] Travel with Advance Parole ................................................. 625
   In re Arrabally and Yerrabelly ............................................... 626

Chapter 6 DEPORTABILITY AND THE REMOVAL PROCESS ........ 635

§ 6.01 THE POWER TO REMOVE ...................................................... 635
A. Introduction to Deportation ..................................................... 635
B. A Civil Sanction ................................................................. 637
C. The Consequences of Greater Removal Enforcement .................. 637
D. Removal: Deportation Compared with Inadmissibility ................. 639
   Problem 6-1 .......................................................................... 639
   Problem 6-1: Essential Materials ............................................. 639
   Problem 6-1: Notes and Questions .......................................... 640
   [1] Compare These Time Limits for People Ordered Removed ........ 642
   [2] Burden of Proof Differences Between Inadmissibility and Removal .................................................. 642
   [3] The Grounds of Inadmissibility and Deportability Are Not Identical .................................................. 643

§ 6.02 EXPLORING SOME OF THE GROUNDS OF DEPORTABILITY ....... 644
A. Marriage Fraud ................................................................. 644
   Problem 6-2: Marriage Fraud (Anthony and Celia) .................... 644
   Problem 6-2: Essential Materials ............................................. 644
   Problem 6-2: Notes and Questions .......................................... 645
B. Violating the Immigration Laws ................................................ 646
C. Security Related Grounds ....................................................... 647
   Problem 6-3 .......................................................................... 647
   Problem 6-3: Essential Materials ............................................. 648

xx
# Table of Contents

*Harisiades v. Shaughnessy* .............................................. 648  
Problem 6-3: Notes and Questions .................................. 658  

D. Grounds Relating to False Documents and Misrepresentation .... 660  

[1] False Documents at Work ........................................ 660  
Problem 6-4 .............................................................. 660  
Problem 6-4: Essential Materials .................................... 661  
*Immigration & Naturalization Service v. Lopez-Mendoza* ........ 661  
Notes and Questions .................................................. 675  
*Flores-Figueroa v. United States* .................................. 676  
Notes and Questions .................................................. 681  

*In re Barcenas-Barrera* ............................................ 683  
Notes and Questions .................................................. 686  

E. Criminal Grounds of Deportability ................................ 686  

[1] The Intersection of Criminal and Immigration Law ............. 686  
Problem 6-5 .............................................................. 686  
Problem 6-5: Essential Materials .................................... 687  
Problem 6-5: Notes and Questions ................................... 687  
*Kawashima v. Holder* ................................................ 688  
Notes and Questions .................................................. 698  
*Singh v. Mukasey* .................................................... 699  
Notes and Questions .................................................. 707  
*In re Lakhwinder Singh* ............................................. 708  

[2] Conviction Within Time Period Following Admission ........... 709  

[3] Multiple Criminal Convictions ................................... 709  

[4] Aggravated Felony .................................................. 710  

F. Other Criminal Grounds of Deportability ......................... 711  

[1] Controlled Substance ............................................... 711  


[3] Crimes of Domestic Violence ....................................... 711  

[4] Trafficking .................................................................. 711  

§ 6.03 CONVICTIONS AND RELIEF ..................................... 712  
Problem 6-5 Revisited: After Conviction ......................... 712  
A. What Is a Conviction? ............................................... 712  

[1] Is Post-conviction Relief Available to Mitigate the Immigration Consequences? ........................................... 712  

[2] Ineffective Assistance of Counsel in the Immigration Courts ........................................... 713  
*In re Lozada* .............................................................. 713  

*Padilla v. Kentucky* .................................................... 715  
Notes and Questions .................................................. 733  

xxi
## Table of Contents

§ 6.04 IMMIGRATION PROCEEDINGS .................................. 734  
A. The Many Forms of Removal Proceedings .................... 734  
B. The Basics of Section 240 Removal Procedures ............ 737  
[1] The Executive Office for Immigration Review ............. 737  
[3] The Right to Counsel ....................................... 739  
[4] Informal Rules of Evidence and No Formal Discovery ... 739  
[5] The Move to Video Hearings ................................. 741  
§ 6.05 DETENTION RELATING TO REMOVAL PROCEEDINGS .... 741  
A. Detention and Bond ............................................. 741  
   *In re Patel* .................................................. 743  
B. Parole ............................................................. 744  
   Problem 6-6 ..................................................... 744  
C. Detention and the Constitution ............................... 744  
   *Demore v. Hyung Joon Kim* .................................. 745  
[1] Detention Issues .............................................. 762  
§ 6.06 EXECUTING AN ORDER OF REMOVAL ..................... 765  
A. Final Steps in the Removal Process .......................... 765  
B. Stays of Removal ............................................... 765  
C. Basics of Judicial Review of Removal ........................ 766  

Chapter 7 RELIEF FROM REMOVAL ................................. 767  
§ 7.01 RELIEF FROM REMOVAL ...................................... 767  
   Problem 7-1: Exploring Various Forms of Relief from Removal 768  
   Problem 7-1: Essential Materials ............................ 769  
   *Akinsade v. Holder* .......................................... 771  
   Notes and Questions ........................................... 779  
A. Derivative Citizenship, INA §§ 320, 322; 8 U.S.C. §§ 1431, 1433 .... 779  
B. Naturalization, INA § 316; 8 U.S.C. § 1427 ............... 780  
C. Limited Relief When Individuals Are Subject to Some Criminal Grounds of Removability .................................. 780  
   Notes and Questions ........................................... 780  
D. Waivers as a Remedy To Removal .............................. 781  
   *In re Emeka Kenneth Abosi* .................................. 781  
   Notes and Questions ........................................... 783  
E. Adjustment of Status as a Form of Relief .................... 783  
   Notes and Questions ........................................... 784  
F. Nonimmigrant Visa and a Waiver ............................. 785  
G. Asylum, Withholding, and Convention Against Torture Relief .... 785
# Table of Contents

Notes and Questions .................................................. 788
Problem 7-2 ............................................................ 789
Problem 7-2: Essential Materials ................................. 790

H. Section 212(c): An Old Waiver with a Long Life and the Exercise of Discretion .......................... 790
[1] Using a Waiver to Obtain Relief in Removal ............ 790
*INS v. St. Cyr* ......................................................... 791
Notes and Questions ................................................. 799
[2] Expanding the 212(c) Waiver to Removal Cases ....... 801
*Judulang v. Holder* ............................................... 802
Notes and Questions ................................................. 813
*In re Marin* .......................................................... 813
Notes and Questions ................................................. 819

I. Convention Against Torture and Deferral of Removal .................................................. 819
Problem 7-3 ............................................................ 819
Problem 7-3: Essential Materials ................................. 820

J. Cancellation of Removal Part B ................................. 820
[1] Hardship ............................................................ 821
*In re Monreal-Aguinaga* ............................................ 821
Notes and Questions ................................................. 830
*In re Recinas* .......................................................... 830
Notes and Questions ................................................. 835
[2] Children as Qualifying Relatives for Cancellation of Removal ........................................... 835
*In re Isidro-Zamorano* ............................................. 836
Notes and Questions ................................................. 839

K. Relief for Victims of Domestic Violence ................. 839

L. Voluntary Departure ................................................. 840
Notes and Questions ................................................. 841

M. Special Immigrant Juvenile Status ......................... 841
Problem 7-4: Carmen’s Journey ................................. 842
Problem 7-4: Essential Materials ................................. 843
*In re: Petitioner: Jose A. Menjivar* ......................... 844
Notes and Questions ................................................. 846

§ 7.02 DEFERRED ACTION AND PROSECUTORIAL DISCRETION ........................................ 847
A. Prosecutorial Discretion ......................................... 847
B. Deferred Action for Childhood Arrivals ................. 848
Notes and Questions ................................................. 849

§ 7.03 ADDITIONAL FORMS OF RELIEF ........................................ 849
A. Special Situations or Limited Forms of Relief ........ 849
[1] U and T Nonimmigrant Visas ................................. 849
Table of Contents

[2] Private Bills ......................................................... 850
[3] Registry ............................................................... 850
[4] Temporary Protected Status ......................................... 850
[5] Cuban Adjustment Act .................................................. 851
B. What Is Missing? ....................................................... 853

Chapter 8 ASYLUM AND RELIEF FOR PEOPLE SEEKING REFUGE .............. 855

§ 8.01 INTRODUCTION: REFUGEES AND ASYLEES .......................... 855
Problem 8-1: Applying for Refugee Status at Home ..................... 856
A. Trends in Refugee Admissions ......................................... 858
  Presidential Memorandum — Fiscal Year 2012 Refugee Admissions Numbers and Authorizations of In-Country Refugee Status ........ 861
  Refugee Processing Priorities, from U.S. Dep’t of State, Proposed Refugee Admissions for Fiscal Year 2012: Report to the Congress ......................................................... 863
  Notes and Questions ....................................................... 868
B. In Country Processing ................................................... 869
[1] Special Circumstances — Special Procedures ......................... 869
[2] How Do You Help a Political Dissident Within the Dissident’s Home Country? ......................................................... 872

§ 8.02 COMPARING ASYLUM AND WITHHOLDING OF REMOVAL ............ 873
A. Standards of Proof: Asylum Versus Withholding of Removal ........ 874
  INS v. Cardoza-Fonseca .................................................... 875
  Notes and Questions ....................................................... 878
  INS v. Elias-Zacarias ....................................................... 879
  Notes and Questions ....................................................... 884
  Problem 8-2: Testing Nexus ................................................ 885
  Problem 8-3: The Continued Journey of Marta Hapta-Selassie and her Daughters ....................................................... 887
  Problem 8-3: Notes and Questions ......................................... 889
  Problem 8-3: Essential Materials .......................................... 890
  In re Kasinga ................................................................. 891
  Notes and Questions ....................................................... 899

xxiv
# Table of Contents

B. Understanding Social Group and Eligibility for Asylum .......................... 900
   [3] Gender Based Violence and Membership in a Particular Social Group .... 903
   [5] Sexual Minorities and the Theory of Particular Social Group ........... 904

   Notes and Questions ............................................. 905

C. What is Persecution? .............................................. 906
   [1] Persecution Definition Developed Through Caselaw ......................... 906
      *In re Chang* .................................................... 907
      Notes and Questions .......................................... 912
      Problem 8-4: The Role of the Government Trial Attorney ................. 913
      Problem 8-4: Essential Materials .................................. 914
      *In re A-T (I)* ................................................. 914
      *In re A-T (II)* ................................................. 919
      *Benyamin v. Holder* ............................................ 922
      Notes and Questions .......................................... 928
   [2] Persecution and Statutory Definitions ..................................... 929

D. Credibility ........................................................ 931
   *In re J-Y-C* ...................................................... 932
   Problem 8-5: Credibility and the Role of the Government Attorney ....... 936
   Problem 8-5: Notes and Questions ..................................... 939

§ 8.03 CONSTRAINTS, LIMITS, CESSATION .................................. 939
   Problem 8-6: Can we Help Former Child Soldiers? ............................. 940
   Problem 8-6: Essential Materials ....................................... 941

   A. Persecution of Others ........................................... 942
      *Negusie v. Holder* ............................................. 942
      Notes and Questions .......................................... 949

   B. Other Constraints on Asylum Eligibility — Crimes and National Security ......................................................... 952

   C. Safe Third Country and Resettlement ..................................... 953
   D. Prior Denial ...................................................... 953
   E. Applications Made More Than One-Year After the Applicant’s Entry in the United States ......................................................... 953

§ 8.04 CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT .......................... 954

   A. Torture .......................................................... 954
   B. Burden of Proof .................................................. 955
   C. Withholding Versus Deferral ........................................ 955
      Problem 8-7: Convention Against Torture or Other Relief ............... 956
Table of Contents

Problem 8-7: Essential Materials .......................... 956

Pierre v. AG of the United States .................................. 957
Notes and Questions ........................................... 970

§ 8.05 PROCEDURAL ISSUES ........................................ 971
A. Preserving Judicial Review .................................. 971
B. Motions to Reopen ............................................ 971
C. Stays of Removal ............................................. 972

Chapter 9 U.S. CITIZENSHIP AND NATURALIZATION ........ 975

§ 9.01 INTRODUCTION TO U.S. CITIZENSHIP ....................... 975
Problem 9-1: Overview of Citizenship Benefits .................. 975
A. What Does it Mean to Be a Citizen of a Country? .............. 975
B. Why Become a U.S. Citizen: “Pros and Cons” of Citizenship .... 976
[1] Sponsor Relatives for Permanent Residence .................. 976
[2] Ideological and Cultural Reasons ............................... 976
[3] Practical Reasons .............................................. 977
[4] Legal Rights and Protections ................................... 977
[8] Miscellaneous ................................................ 978

§ 9.02 APPLYING FOR U.S. CITIZENSHIP (NATURALIZATION) ........ 979
Problem 9-2: Anthony Nimba and Celia Gutierrez-Nimba: Citizenship Based On Birth ............................... 979
Problem 9-2: Essential Materials ............................... 979
Problem 9-2: Notes and Questions ................................ 979
Problem 9-3: Anthony Nimba: General Naturalization Requirements 980
Problem 9-3: Essential Materials ................................ 980
Problem 9-3: Notes and Questions ................................ 981
Problem 9-4: Maria Lopez, the Frequent Flier ...................... 982
Problem 9-4: Essential Materials ............................... 983
Problem 9-4: Notes and Questions ................................ 983
Problem 9-5: Maria Lopez: Drunk Driving Conviction .......... 985
Problem 9-5: Notes and Questions ................................ 985
A. U.S. Passports and Certificates of Naturalization .......... 986
   Problem 9-6: Samuel and Lily Moore and Their Baby Boy John ... 987
   Problem 9-6: Essential Materials ............................... 987
   Problem 9-6: Notes and Questions ............................ 987

§ 9.03 OTHER WAYS TO ACQUIRE U.S. CITIZENSHIP .................... 988
A. History of U.S. Citizenship .................................... 988
B. Derivative Citizenship .......................................... 988

xxvi
Table of Contents

United States v. Flores-Villar ........................................ 989

Notes and Questions ............................................. 992


Problems 9-6 Through 9-12: Essential Materials .............. 997

Problem 9-7: Brian the Canadian .................................. 998

Problem 9-8: Pieter Van Zant ..................................... 999

Problem 9-9: Pieter Van Zant, Redux ............................ 999

Problem 9-10: Pieter Van Zant’s Father George ............... 1000

Problem 9-11: Pieter Van Zant’s Mother ...................... 1000

Problem 9-12: Madison Martinez ................................. 1000

Problem 9-13: Guam and U.S. Citizenship .................... 1001


Problem 9-14: Joe From Peru ..................................... 1002

Problem 9-15: Joe From Peru, Redux .......................... 1003

Problem 9-16: Lily Maxwell’s U.S. Citizenship .............. 1003

Problem 9-17: Mary and James’s Adoption of Frannie .... 1003

Problems 9-14 Through 9-17: Essential Materials .......... 1004

Problems 9-14 Through 9-17: Notes and Questions ......... 1004

In re Guzman-Gomez ............................................... 1004

Notes and Questions ............................................. 1004

§ 9.04 LOSING CITIZENSHIP STATUS .............................. 1008

A. Expatriation ...................................................... 1008

[1] Voluntary Renunciation ........................................ 1008

Soto v. Rodham-Clinton ........................................... 1008

Notes and Questions ............................................. 1012

Problem 9-18: Catherine Scott, Death and Taxes .......... 1013

Problem 9-18: Essential Materials ............................ 1013

Problem 9-18: Notes and Questions ........................... 1013

[2] Denaturalization .................................................. 1014

Kungys v. United States ........................................... 1014

§ 9.05 NATURALIZATION AS THE LAST STEP IN THE IMMIGRATION PROCESS ................................................. 1018

Problem 9-19: Mr. Swanson’s Naturalization Interview .... 1018

Problem 9-19: Notes and Questions ........................... 1018

Table of Cases ..................................................... TC-1

Index ........................................................................ I-1

xxvii