

**The Rights of Noncitizens
Northeastern University School of Law
Spring 2010**

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Office hours: Tuesdays 2:30-4:00 and by appointment

This seminar focuses on the rights of noncitizens in the United States, with a particular emphasis on social, economic, and cultural rights. You will have an opportunity to research an approved topic of your choice within this area of law. Your final product can be a traditional research paper on a theoretical or practical issue; a substantial case commentary; or, where appropriate, a legal memorandum for use by an advocacy organization.

The first half of the course introduces relevant theoretical and legal frameworks and surveys several substantive areas, including workplace rights, public benefits, education, language rights, and family law. In the second half of the course, students will present a work-in-progress to other seminar participants. As part of your presentation, you will select appropriate background readings for the class. These presentations will introduce new issues not covered in the first half of the course and/or allow us to delve more deeply into the substantive areas already covered.

Rigorous Writing Requirement Eligibility: All papers successfully completed in satisfaction of all the requirements of this seminar are eligible for law school rigorous writing requirement credit. If you would like to elect this option, please let me know by the second week of the course.

Evaluations are based on all of the following (with thanks to Prof. Hope Lewis for her seminar guidelines, on which these are based):

In-Class participation

The seminar format requires your regular attendance and active participation in discussions. Each student is asked to sign up as a “Lead Commentator” for specific sessions, but all seminar members are expected to be prepared to participate in all seminar discussions.

In-Class Presentation

Before the end of the course, each participant will make a 20-25 minute oral presentation of her or his research project. That presentation will then be followed by 15 minutes of questions and comments from other seminar participants and the instructor. The presentation is an opportunity for you to learn from each other and to collaborate on your research projects.

Writing Requirement: Guidelines on the paper writing process will be distributed on the first day of class. Here is a timeline:

- Paper Topic Proposal: (1 page) due by Friday, March 12, 2010.
- Annotated Preliminary Bibliography (1-2 pages) due by Friday, March 19, 2010.
- Detailed Working Outline (1-2 pages) due by Monday, April 5, 2010.
- Draft of representative section(s) (8-10 double-spaced pages) due by Wednesday, April 14, 2010.
- Final Paper (20-25 double-spaced pages before endnotes) due by NOON on Wednesday May 19, 2010. It should be delivered with your EXAM NUMBER, not your name, to the Office of Academic and Student Affairs.

NOTE: Please refer to Office of Academic and Student Affairs rules and procedures with regard to advance requests for extensions. Please consult with Professor Melinda Drew with regard to disability accommodation requests.

Syllabus

March 2 – Introduction to the Course

Huyen Pham, *When Immigration Borders Move*, 61 FL. L. REV. 1115 (2009).

Linda Bosniak, *Being Here: Ethical Territoriality and the Rights of Immigrants*, 8 THEORETICAL INQUIRIES L. 389 (2007).

March 5 – Constitutional Framework – Equal Protection

Yick Wo v. Hopkins, 118 U.S. 356 (1886).

Excerpts from *Chae Chan Ping v. United States*, 130 U.S. 581 (1889) and *Fong Yue Ting v. United States*, 149 U.S. 698 (1893), along with introductory material/commentary.

Plyler v. Doe, 457 U.S. 202 (1982) (excerpt)

March 9 – International Human Rights Framework

David Weissbrodt, *The Human Rights of Non-Citizens* (Oxford University Press, 2008): skim Chapters 2 and 3.

María Pabón López, *The Intersection of Immigration Law and Civil Rights Law: Noncitizen Workers and the International Human Rights Paradigm*, 44 Brandeis L. J. 611 (2006) – skim.

Hiroshi Motomura, *Federalism, International Human Rights, and Immigration Exceptionalism*, 70 U. Colo. L. Rev. 1361 (1999).

March 12 -- Workplace Rights

Hoffman Plastic Compounds, Inc. v. NLRB, 535 U.S. 137 (2002).

National Immigration Law Center, *Overview of Key Issues Facing Immigrant Workers* (Nov. 2009).

Inter-American Court of Human Rights, *Legal Condition and Rights of Undocumented Migrant Workers*, Consultative Opinion OC-18/03 (September 17, 2003), pp. 1-3, 101-115.

March 16 – Workplace Rights cont.

AFL-CIO, National Employment Law Project, and American Rights at Work, *ICED OUT: How Immigration Enforcement Has Interfered with Workers' Rights* (2009)

Erik Camayd-Freixas, *Interpreting after the Largest ICE Raid in US History: A Personal Account*

Cathleen Caron, *Portable Justice, Migrant Workers, and the United States*, 40 Clearinghouse Review Journal of Poverty Law and Policy 549 (2007).

March 19 – Workplace Rights cont.

In-Class Film: *Farmingville*

Liza Zamd, *All in a Day's Work: Advocating the Employment Rights of Day Laborers*, 3 MOD. AM. 56 (2007)

Michael J. Wishnie, *Immigrant Workers and the Domestic Enforcement of International Labor Rights*, 4 U. PA. J. LAB. & EMP. L. 529 (2002).

March 23 – State and Local Laws

Alex Kotlowitz, *Our Town*, NEW YORK TIMES MAGAZINE, Aug. 5, 2007.

De Canas v. Bica, 424 U.S. 351 (1976) (excerpt)

National Conference of State Legislatures, *2009 State Laws Related to Immigrants and Immigration*, <http://www.ncsl.org/default.aspx?tabid=19232>

March 26 – State and Local Laws cont.

Lozano v. City of Hazleton, 496 F.2d 477 (M.D. Pa. 2007) (focus on Section II of the decision).

Rigel C. Oliveri, *Between a Rock and a Hard Place: Landlords, Latinos, Anti-Illegal Immigrant Ordinances, and Housing Discrimination*, 62 VAND. L. REV. 55 (2009).

March 30 – Healthcare and Public Benefits

Graham v. Richardson, 403 U.S. 365 (1971) (excerpt)

Matthews v. Diaz, 426 U.S. 67 (1976) (excerpt)

Kevin R. Johnson, *Public Benefits and Immigration: The Intersection of Immigration Status, Ethnicity, Gender and Class*, 42 UCLA L.REV. 1509 (1995).

April 2 – Healthcare and Public Benefits cont.

Deborah Sontag, *Immigrants Facing Deportation by U.S. Hospitals*, NEW YORK TIMES, Aug. 3, 2008.

Joseph Wolpin, *Medical Repatriation of Alien Patients*, 37 J.L. MED. & ETHICS 152 (2009).

Other readings TBA

April 6 – Education

Review *Plyler v. Doe*

María Pabón López and Diomedes J. Tsitouras, *From the Border to the Schoolhouse Gate: Alternative Arguments for Extending Primary Education to Undocumented Alien Children*, 36 HOFSTRA L. REV. 1243 (2008).

Michael A. Olivas, *IIRIRA, the Dream Act, and Undocumented College Student Residency*, 30 J.C. & U.L. 435 (2004)

April 9 – Language Rights

Alexander v. Sandoval, 532 U.S. 275 (2001).

Brennan Center for Justice, *Language Access in State Courts* (2009).

Other readings TBA

April 13 -- Family Law

David B. Thronson, *Of Borders and Best Interests: Examining the Experiences of Undocumented Immigrants in U.S. Family Courts*, 11 TEX. HISP. L. J. & POL'Y 45 (2005).

Other readings TBA.

April 16 – May 11 Presentations of Works in Progress

Readings TBA

May 14 – Final Wrap-Up: Perspectives on Immigration Federalism

Readings TBA