

Immigration Law: Syllabus Supplements

August 2025

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Editor's Note: This immigration law syllabus supplement offers curated articles from Just Security's archives, intended to be combined with traditional casebooks and other materials in a law school or other higher education classroom setting where recent immigration events are relevant. The selections have been curated to reflect recent, compelling illustrations of core immigration topics that are likely to lead to rich classroom discussion (last updated August 2025; additional relevant analysis may also have been published since then, available on Just Security's [website](#)). As with all articles on Just Security, the articles represent the views of the individual authors.

Each section is sequenced to begin with articles that have a broader focus or that otherwise provide background information, and then to move to more specific examples within the topic.

Proposed discussion prompts are offered for each article.

Our thanks to the American University, Washington College of Law Rule of Law summer project for their invaluable contributions to this publication.

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I. Executive, Congressional, and State Authorities

Camille J. Mackler, [Immigration Policy Before and After 9/11: From the INS to DHS - Where Did We Go Wrong?](#) (September 2021)

Discussion prompts:

- i. This article raises a number of continually relevant changes that were made to U.S. immigration policy following 9/11. What implications did those changes have for subsequent policy-making related to immigration, including recent policy changes?
- ii. Which, if any, additional reforms to DHS and its authorities would you recommend, beyond those offered by the author of this article? Do you identify any limitations or challenges raised by the reforms suggested by the author? How might you overcome them?

Ryan Goodman, [Understanding DHS's and ICE's New Powers in Comparative Perspective](#) (July 2025) (Note: The full podcast by David Aaron and Steven Cash, highlighted in this article, may be found [here](#))

Discussion prompts:

- i. Why might intentional inefficiencies in the DHS infrastructure be a positive? Conversely, what costs might this pose? To whom?
- ii. How do you evaluate the pros and cons of having only certain components of ICE engage in regular law enforcement activity? Are there benefits to limiting the law enforcement authorities of these entities? What are potential downsides?

Andy Wright and Tara Ganapathy, [Three Thorny Issues to Watch in Congressional Investigations](#) (August 2025) (Read the immigration section, specifically)

Discussion prompts:

- i. In light of the complex public-private nature of congressional offices, should DHS be able to access congressional offices without a warrant or consent by the relevant member of Congress, when carrying out activities otherwise within their authority? What are the best arguments for and against this degree of access?
- ii. In the context of DHS denial of access to ICE field offices by members of Congress, how do you view the current balance between congressional oversight and the executive's legitimate interest in minimizing operational disruption and executing its policies? What are the most effective arguments that DHS can restrict congressional access to ICE field offices, and what are the most effective arguments that it cannot?



Nikhel Sus, [Why Trump v. Anderson Undermines State Efforts to Hijack Immigration Enforcement](#) (May 2024)

Discussion prompts:

- i. Are there any arguments that States *should* have the ability to direct immigration enforcement within their territory? What would need to be true for States to have a cognizable authority to do so? What might be the risks, and potential benefits, of this level of State authority pertaining to immigration (especially any issues that are additional to those covered in the article)?

Lucas Guttentag, [The President and Immigration Law: The Danger and Promise of Presidential Power](#) (October 2020); Nicholas Espíritu, [The President and Immigration Law Series: Executive Power Beyond Enforcement](#) (October 2020)

Discussion prompts:

- i. These pieces from 2020 raise a number of separation of powers issues that may remain relevant today. How do you evaluate the balance of congressional, executive, and judicial authorities in the current U.S. immigration framework, in light of some of these enduring considerations? Is reform needed? If so, what changes would you make, and what effect would you anticipate those changes to have? What are the potential drawbacks or limitations to those changes?



II. Admission to the United States

Bill Frelick, [The Racial Twist in Trump's Cutoff of Refugee Admissions](#) (February 2025)

Discussion prompts:

- i. Should executive powers regarding refugee admissions be reformed? How much discretion should the executive have when determining which populations to prioritize for resettlement? Are there any downsides to a legislatively prescriptive framework? Of the reforms you've identified, which would you prioritize, and why? How feasible do you evaluate those reforms to be?

Rebecca Hamilton and Jon Temin, [Visa Revocations Disregard South Sudan War Risks, Overlook U.S. Communities' Embrace of Refugees](#) (April 2025)

Discussion prompts:

- i. Should there be any limitations to the Secretary of State's authority to revoke visas, and/or any additional oversight over this authority? Which limitations and/or oversight would you recommend, and by which entities or institutions? Are there any legitimate reasons why the Secretary of State *should* have discretionary authority over visa revocation?

Chris Purdy, [US is Finally Aiding Stranded Afghan Allies, But Congress Needs to Step Up](#) (August 2024); Susan Akram, [Abandoning Afghan Allies: The Latest Chapter in Shameful History of US in Afghanistan](#) (August 2021)

Discussion prompts:

- i. Although the landscape regarding Special Immigrant Visas (SIVs) has [altered](#) considerably since these articles were published, challenges with SIV processing have been consistent since the initiation of the program and are likely to persist under future administrations. What are the relative values and challenges to codifying executive decisions regarding SIVs via legislation, as Chris Purdy suggests Congress ought to have done in 2024? In light of the problems identified by the authors of these two articles, what reforms to the program writ large would you recommend Congress consider, to address the systemic challenges faced by applicants?



Adam Keith, [Shaming without Naming: The Limits of Anonymous U.S. Visa Sanctions for Accountability](#) (January 2024)

Discussion prompts:

- i. Do you agree that Congress should legislate an exception that permits the State Department to publicize individuals that have been subjected to a 3(C) visa denial? Can you think of any arguments as to why the State Department should *not* have the discretion to make such disclosures? What, if any, are the benefits to non-disclosure? Could there be any privacy interests at play, for instance?

Priya Morley, [AI at the Border: Racialized Impacts and Implications](#) (June 2024)

Discussion prompts:

- i. What are the benefits and costs of utilizing AI (or other technology) in border enforcement activities? Recognizing that technological development and its proliferation throughout various government functions is highly likely to persist, are there ways to realize the benefits while minimizing the costs? What preconditions would be necessary for that to be true? Are there any technologies that should be outright banned from use in immigration enforcement?



III. Non-Citizens in the United States

Nancy Morawetz, [The Immigration Registration Trap Goes Live](#) (April 16, 2025)

Discussion prompts:

- i. How does the interim final rule (IFR) requiring non-citizens to register with the government potentially impact U.S. citizens, even though it appears facially to focus on non-citizens?
- ii. Do you agree with the author that DHS's argument that it is implementing the 1940 statutory provision regarding registration is weak, and that notice and comment rulemaking ought to be required? What are the benefits or potential drawbacks of ensuring a notice and comment period takes place?

Ahilan Arulanantham and Adam Cox, [Explainer on First Amendment and Due Process Issues in Deportation of Pro-Palestinian Student Activist\(s\)](#) (March 2025)

Discussion prompts:

- i. In the context of Nationality Act (INA) section 237(a)(4)(C), how should concepts like "potentially serious adverse foreign policy consequences" and "compelling United States foreign policy interest" be understood? Should there be any limitations on how those concepts can be interpreted and applied? If so, how should those limitations be established, and by whom? The judiciary, via review of the "void for vagueness" problems raised by this section of the statute? Congress, via legislation to amend the INA? The executive itself, via internal statutory interpretation or policy guidance? What are the pros and cons to these various approaches?

Edgar Chen, [With New "Alien Land Laws" Asian Immigrants Are Once Again Targeted by Real Estate Bans](#) (May 2023)

Discussion prompts:

- i. So-called "alien land laws" continue to raise thorny issues in the context of immigration. How would you balance the policy concerns referenced in the article, with the risk of constitutional violations and potential discriminatory enforcement? What other methods might be used to address these purported national security or other concerns? How does this article inform your thinking on the relationship between immigration and national security?



IV. Birthright Citizenship

Ilya Somin, [Birthright Citizenship and Undocumented Immigrants](#) (November 2024)

Discussion prompts:

- i. What do you make of the various arguments for and against considering the children of undocumented immigrants as “subject to the jurisdiction” of the United States? Are there any arguments for or against this that were not addressed in the article?

Edgar Chen and Chris M. Kwok, [The Trump Administration’s 14th Amendment Retcon: ‘Wong Kim Ark’ Does Not Limit Birthright Citizenship](#) (March 2025)

Discussion prompts:

- i. What strikes you as the strongest argument that *United States v. Wong Kim Ark* does not limit birthright citizenship in the manner claimed by the Trump administration? Are there any weaknesses to this argument? Are there any potential arguments in addition to those offered in the article?
- ii. What do you make of the concept of “allegiance” in the context of U.S. citizenship? Setting aside which markers ought to demonstrate “sufficient” allegiance to the United States, is this an appropriate analytical lens for consideration of who ought to be eligible for citizenship at all, and if so, under what circumstances?

John Mikhail, [Birthright Citizenship and DOJ’s Misuse of History in Its Appellate Briefs](#) (April 2025)

Discussion prompts:

- i. Utilizing the same historical sources cited in DOJ’s appellate brief, what are the core arguments in opposition to the Executive Order limiting birthright citizenship? Are there any arguments you can identify that the authors did not include in their article?
- ii. Is it possible to square the concept of “primary allegiance” that DOJ references in its brief with the fact that the United States recognizes dual citizenship? If you were arguing on behalf of the government, how would you define what constitutes “primary” allegiance? Now, take the position of opposing counsel. What are the problems with, and consequences of, the arguments that you advanced on behalf of the government?



Kristin A. Collins, Gerald Neuman & Rachel E. Rosenbloom, [Another Reason Trump's Birthright Citizenship Order is Unlawful](#) (May 2025)

Discussion prompts:

i. Are there any readily-available counterarguments to the birthright citizenship statute argument detailed by the authors of this article? What are the relative strengths and weaknesses of the arguments that it violates the Constitution, versus that it violates the birthright citizenship statute? Why do you think that the statutory argument has received less attention?

Melissa Stewart, [Trump v. CASA and the Risk of Statelessness](#) (July 2025)

Discussion prompts:

i. What processes could reasonably be put in place to protect individuals at risk of statelessness? Are there vulnerabilities in leaving any such protections to executive branch policy-making? Should there be legislation to provide some degree of protection, as suggested by the authors? What should such legislation strive to do? Are there any constraints on what can be solved via congressional action, in your view?

ii. What problems are raised by the lack of a clear definition of a "stateless person" in U.S. law?



V. Detention and Removal

A. Use of Military in Internal Immigration Enforcement

William Banks and Mark Nevitt, [The Mounting Crisis of Militarizing Immigration Enforcement](#) (June 2025)

Discussion prompts:

- i. In your view, what are the most compelling problems raised by 287(g) agreements? Are there any reforms that could adequately address those problems? Conversely, are there any advantages or benefits to 287(g) agreements, such that they should be maintained?
- ii. How do the recent signings of 287(g) agreements contrast to previous signings under the Bush and Obama administrations? What is the relevance of any significant differences?

Steve Vladeck and Ryan Goodman, [Posse Comitatus Act Meets the President's "Protective Powers": What's Next in *Newsom v. Trump*](#) (June 2025); Elizabeth Goitein, ["The Insurrection Act" by Any Other Name: Unpacking Trump's Memorandum Authorizing Domestic Deployment of the Military](#) (June 2025)

Discussion prompts:

- i. How are immigration policy disputes being utilized to drive increased militarization of law enforcement activity, or otherwise expand heightened theories of executive authorities in this context? Is there ever a time when it is appropriate to utilize the military for law enforcement purposes? What are the risks in doing so?

Ryan Goodman, David Aaron, Mark Nevitt, [What Just Happened Series: Potential U.S. Military Domestic Deployment for Immigration Enforcement - The Just Security Podcast](#) (January 2025)

Discussion prompts:

- i. How well does the Posse Comitatus Act help us distinguish between law enforcement functions and military functions, and what are its limitations in doing so? What impacts does this have on immigration enforced in the United States, currently and hypothetically?
- ii. Does the Insurrection Act have a place in modern immigration enforcement? Should it be amended, and if so, how?



B. Use of Military in Border Enforcement

Mark Nevitt, [The New “National Defense Area” at the Southern Border](#) (April 2025)

Discussion prompts:

- i. Is reforming the National Emergencies Act necessary and, if so, in what ways? For instance, should the ability of the executive branch to bypass congressional approval for certain actions during a national emergency be restricted in some way? Or should the circumstances in which the president declares a national emergency at all be circumscribed? Why might the drafters of the legislation have originally provided for exceptions to congressional approval upon the declaration of a national emergency?
- ii. In what ways can we understand the (possibly purposeful) ambiguity of the military purpose doctrine regarding national security, and its concomitant effects on immigration? Should the military purpose doctrine be reimaged? How so?

William Banks, [Expert Backgrounder: Federalizing the National Guard and Domestic Use of the Military](#) (February 2024)

Discussion prompts:

- i. Should Congress establish heightened limitations on presidential discretion in the Insurrection Act? What limitations would you propose, and how effective do you anticipate these limitations would be? What problems might remain, if any, and how might you address those?

C. Detention

Margy O'Herron, [Big Budget Act Creates a ‘Deportation Industrial Complex’ That Will be Hard to Dismantle](#) (August 2025)

Discussion prompts:

- i. If you were to reapportion the budget for immigration-related activities, how would you apportion funds, and for what reasons? Which immigration efforts should receive the most funding, and why? Or, should immigration-related funding be reallocated to another executive branch initiative entirely? What would be the benefits and drawbacks of doing so?



Jonathan Hafetz and Rebecca Ingber, [What Just Happened: At Guantanamo's Migrant Operation Center](#) (February 2025)

Discussion prompts:

i. Do individuals held at Guantanamo for immigration enforcement purposes have the same constitutional rights, such as due process, access to counsel, and habeas protections, as those held within continental United States? Should they? What implications does this have for other U.S. legal positions, such as in the DOD law of war detention context where the United States has taken the position that Guantanamo is not the United States and that U.S. law does not apply there?

Just Security, [Series: Executive Order 9066](#) (February 2022)

Discussion prompts:

i. In reflecting on Executive Order 9066 and considering contemporary issues in immigration regulation and enforcement in the United States, what actions would you advocate should be taken now, and by whom, to incorporate the lessons from history into law, policy, and public discourse in a way that meaningfully mitigates the abuse of national security authorities? What lessons from Executive Order 9066 do you think are most at risk of repeating (or already are), and what implications does that have for the current legal infrastructure in which national security authorities are exercised?

D. Deportation

1. Non-Refoulement

Scott Roehm & Rebecca Ingber, [In Congress, a Welcome, But Flawed, Step to Stop Trump's Transfers to Torture](#) (May 2025)

Discussion prompts:

i. Why is it important for Congress to be specific about the kind of information it seeks from the State Department regarding El Salvador's human rights records, U.S. work to promote human rights in that country, and U.S. efforts to remedy rights violations associated with transfers? What would the categories of information detailed by the authors allow Congress to more effectively do?

ii. In addition to (or perhaps instead of) 502B resolutions, are there more systemic approaches to Congressional oversight over U.S. security assistance and the conditions in the countries which receive it that you might recommend? What would those be, and how would they be an improvement over the current 502B framework?



Rebecca Ingber and Scott Roehm, [The Trump Administration's Recent Removals to El Salvador Violate the Prohibition on Transfer to Torture](#) (March 2025)

Discussion prompts:

- i. Can you make an argument for why it is in the national security interests of the United States to adhere to the law regarding non-refoulement? What core U.S. objectives does compliance with this requirement potentially advance?
- ii. Is a violation of non-refoulement ever justified? Why or why not, and under what circumstances?

Oona A. Hathaway, Mark Stevens, and Preston Lim, [COVID-19 and International Law: Refugee Law - The Principle of Non-Refoulement](#) (November 2020)

Discussion prompts:

- i. Although the overt emergency raised by the COVID-19 has largely passed, questions regarding the limits that public crises can and should be able to place on international legal obligations remain highly relevant. How should governments balance the exigencies of extreme public health or other significant crises, on the one hand, and the requirements of international law that may be in tension with certain efforts to mitigate such a crisis, on the other hand? Should international law account for such circumstances in some way that it currently does not? What would be the risks of doing so?

2. Punishment and Constitutional Limits

Ahilan Arulanantham, [Deportation to CECOT: The Constitutional Prohibition on Punishment Without Charge or Trial](#) (April 2025)

Discussion prompts:

- i. What circumstances of incarceration would *not* constitute punishment, under current conceptions of the law? Are these circumstances appropriate, or would you argue for a differing approach? If so, why?
- ii. Are there circumstances when incarceration without trial is justifiable, in the context of immigration enforcement? Why, or why not? Do the transfers to CECOT constitute such a circumstance?



Frank O. Bowman III, [Immigration Is Not an “Invasion” under the Constitution](#) (January 2024)

Discussion prompts:

- i. What do you make of the constitutional, caselaw, and non-immigration arguments regarding the use of the word “invasion” in the context of immigration levels? Are there any additional arguments (or counterarguments) that might also be available, in addition to those raised in the article? Are there any limitations to the arguments you identified?
- ii. What do you think the greatest risks of framing immigration as an “invasion” are, and why? Is there potential for any unintended consequences?

E. Special case study: Alien Enemies Act

Rebecca Ingber, [Judicial Deference and Presidential Power Under the Alien Enemies Act](#) (May 2025)

Discussion prompts:

- i. Is a finding that the president’s factual determinations are not judicially reviewable supportable under the political question doctrine? Why or why not? What are the risks to this approach, and when (if ever) might there be justification for it?
- ii. How has the March 2025 invocation of the AEA differed from prior invocations of the authority? What relevance do any of these differences have, if any, for our understanding of its March 2025 use?

Ryan Goodman, [The Absence of “State Secrets” in US-El Salvador Agreement: On Removal and Imprisonment of Non-US Citizens](#) (May 2025)

Discussion prompts:

- i. The DC Circuit states in the decision in *Ellsberg v. Mitchell* that “the privilege [of State secrets] may not be used to shield any material not strictly necessary to prevent injury to national security.” If U.S. officials had not shared so much information publicly about the United States-El Salvador arrangement (or the State secrets argument was otherwise stronger), would there be legitimacy to the national security argument in the case of transferring non-U.S. citizens to El Salvador? Why or why not?



Marty Lederman, [Remarkable Things in the Government's Alien Enemies Act Briefs to the Supreme Court](#) (April 2025)

Discussion prompts:

- i. Does the government's position regarding habeas petitions in the context of removals made under an invocation of the Alien Enemies act violate the 5th Amendment's Due Process Clause? How or how not? Are there specific aspects of the government's arguments regarding habeas petitions that you find more or less problematic than others?
- ii. Which of the author's arguments do you find the most compelling, and why? Can you think of any counterarguments, and any responses to those counterarguments?

Katherine Yon Ebright, [The Courts Can Stop Abuse of the Alien Enemies Act - the Political Question Doctrine is No Bar](#) (March 2025)

Discussion prompts:

- i. Should there be additional checks on the president's ability to invoke the Alien Enemies Act? In light of the political question doctrine, is it more appropriate (or potentially more effective) for the judiciary or for Congress to serve as a check? Why, and in what ways might each institution best do so? What are the limitations of either institution's ability to do so?

