

Write your exam
number here:

Immigration Law: Summer 2023
The University of Oklahoma College of Law (at Oxford)
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FINAL EXAMINATION

Instructions:

1. Write your exam number in the box on the top right corner of this page.
2. This is a closed book examination. You may use no materials other than this exam booklet and pens, pencils, and erasers.
3. You should handwrite your response to each exam question on this booklet in the space provided. For true/false questions, simply circle true or false. For short-answer questions, please write in the space provided—it is anticipated to be enough for a full answer. However, if you need more room, feel free to use the back of any exam page so long as you clearly indicate that there is more on the back.
4. Please write neatly and legibly.
5. This is a two-hour exam.
6. Your goal is to show your mastery of the material presented in the course and your skills in analyzing legal problems within the scope of this course's subject matter. It is upon these bases that you will be graded.
7. Base your exam answer on the general state of U.S. law, including all rules, procedures, and cases discussed in class.
8. Feel free to use reasonable abbreviations.
9. Good luck.

1. What word does the U.S. Code use for noncitizens?
2. In what decade did the United States first place numerical restrictions on immigration?
3. Immigration judges are employees of what federal agency?
4. What are the three branches of the Department of Homeland Security focused on immigration enforcement and where does each operate?
5. What is the “immigration service” branch of the Department of Homeland Security?

6. The Supreme Court first established the ____ ____ doctrine in *Chae Chan Ping v. United States*, 130 U.S. 581 (1889). Name the doctrine and provide a short explanation of it.

7. Name the two categories of legal migrants and briefly explain how they differ.

8. Which noncitizens are eligible to receive family-based visas without being subject to worldwide numerical limitations or visa caps?

9. True or False: Same-sex marriage is presently valid for visa adjudication purposes.

10. True or False: Noncitizens who have been married to their U.S. citizen spouses for less than two years at the time they receive their marriage-based visa receive “conditional” residence.

11. The statutory definition of a “child” refers to:

12. Using the following chart, we can estimate that if a visa application were filed today for the sibling of a U.S. citizen from India, it would take ____ years to become available. Explain.

Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILLIPINES
F1	15DEC14	15DEC14	15DEC14	01APR01	01MAR12
F2A	08SEP20	08SEP20	08SEP20	01NOV18	08SEP20
F2B	22SEP15	22SEP15	22SEP15	01JUN01	22OCT11
F3	22DEC08	08DEC08	08DEC08	01NOV97	08JUN02
F4	08APR07	08APR07	15SEP05	01AUG00	22AUG02

13. Provide an example (real or imagined) of noncitizens who would qualify for: (a) an EB-1 visa and (b) an EB-2 visa.

14. "Labor Certification" is initially evaluated by what federal agency?

15. True or False: A U.S. employer may hire a more-qualified EB-2 worker over a minimally qualified U.S. worker.

16. True or False: A requirement to live on the employer's premises is not considered to be an "unduly restrictive requirement" that would require justification on the basis of "business necessity."

17. Derivative beneficiaries of immigrant visas cover which family members?

25. Name one exception to the bar against admission of Communists.

26. Where do most noncitizens go to receive their visa?

27. Victor Vincenza is statutorily eligible for a K-1 visa. Nevertheless, the consular officer denied his visa application. Victor files a federal lawsuit to obtain his visa. How should the federal court respond?

28. True or False: A grant of parole is a formal admission to the United States.

29. Explain one reason why a noncitizen might be subject to expedited removal.

30. How does Parole in Place help members of the armed forces regularize the immigration status of undocumented family members?

31. In *Rosenberg v. Fleuti*, the U.S. Supreme Court held: “we declare today simply that an ____, ____, and ____ excursion by a resident alien outside this country’s borders may not have been ‘intended’ as a departure disruptive of his resident alien status and therefore may not subject him to the consequences of an ‘entry’ into the country on his return.” What are the missing words?
32. Criminal defense counsel has an obligation to inform noncitizen clients of the immigration consequences of any plea when the immigration statute is ____, ____, and _____. What are the missing words? Where does this obligation come from?
33. Patrycja Paczynski, an LPR from Poland, pled guilty to 29 Ohio Revised Code § 1280(A): Having a firearm while committing a felony. The statute provides: “Any person who, while committing or attempting to commit a felony, possesses a pistol, shotgun or rifle or any other offensive weapon in such commission or attempt, whether the pistol, shotgun or rifle is loaded or not, or who possesses a blank or imitation pistol, altered air or toy pistol, shotgun or rifle capable of raising in the mind of one threatened with such device a fear that it is a real pistol, shotgun or rifle, or who possesses an air gun or carbon dioxide or other gas-filled weapon, electronic dart gun, conductive energy weapon, knife, dagger, dirk, switchblade knife, blackjack, ax, loaded cane, billy, hand chain or metal knuckles, in addition to the penalty provided by statute for the felony committed or attempted, upon conviction shall be guilty of a felony for possessing such weapon or device, which shall be a separate offense from the felony committed or attempted and shall be punishable by imprisonment in the custody of the Department of Corrections for a period of not less than two (2) years nor for more than ten (10) years for the first offense, and for a period of not less than ten (10) years nor more than thirty (30) years for any second or subsequent offense.”

The Department of Homeland Security (DHS) contends that Paczynski’s plea renders her deportable under INA § 237(a)(2)(A)(iii) (rendering noncitizens who are “convicted of an aggravated felony at any time after admission... deportable”) with reference to INA § 101(a)(43)(E)(ii) (“the term ‘aggravated felony’ means ... an offense described in ... section ... 924(b) ... of title 18) and, finally, 18 U.S.C. § 924(b), which reads: “Whoever, with intent to commit [a felony], or with knowledge or

reasonable cause to believe that [a felony] is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined under this title, or imprisoned not more than ten years, or both.”

Should Paczynski be removed as an aggravated felon? Why or why not?

34. Name two differences between 42A and 42B relief from removal.

35. True or False: The Board of Immigration Appeals found the issue of whether to grant relief from removal in the case of *In Re Recinas* to be a “close question.”

36. True or False: The Department of Homeland Security may exercise prosecutorial discretion in immigration enforcement, meaning the agency may choose whether or not to pursue removal of an otherwise removable noncitizen.

37. True or False: The Deferred Action for Childhood Arrivals (DACA) program was created under the administration of President George W. Bush (aka “Bush 2” or “Bush 43”).

38. As explained in *Aguilera-Enriquez v. INS*, removal proceedings are civil in nature. Thus, procedural challenges are evaluated for ____ ____ in accordance with the ____ Amendment to the U.S. Constitution. What are the missing words or phrases?
39. True or False: If a noncitizen seeks relief based on an assertion that prior immigration counsel provided ineffective assistance, their motion should reflect whether a complaint has been filed with appropriate disciplinary authorities regarding such representation, and if not, why not.
40. True or False: Decisions of the Board of Immigration Appeals may be referred to the U.S. Attorney General for review.
41. What is “reinstatement of removal”?
42. What is a difference between a refugee and an asylee?
43. True or False: The U.S. House of Representatives is responsible for setting the nation’s worldwide refugee admissions ceiling.
44. True or False: Refugees are admitted in refugee status and must apply for LPR status after one year of living in the United States.

Use the following facts to answer questions 45 through 47.

The Rohingya people are a stateless Indo-Aryan ethnic group who primarily follow Islam. They are indigenous to the Rakhine State of Myanmar, a country whose official religion (followed by 90% of its people) is Buddhism. The

Rohingya are denied citizenship pursuant to the 1982 Myanmar nationality law and face restrictions on their freedom of movement, access to state education, and civil service jobs. Since 2017, violence against the Rohingya has been rampant. Probes by the UN have found evidence that Myanmar security forces have been conducting "summary executions, enforced disappearances, arbitrary arrests and detentions, torture and ill-treatment, and forced labour" against the community. Hundreds of thousands of Rohingya have fled to Bangladesh in the last six years.

Mimma Mahmood is Rohingya. At 19, she participated in a nonviolent protest of about 100 individuals in front of the ministry building housing the Chief Minister of the Rakhine State. She held a sign that, translated to English, read: "Rights for Rohingya." Mimma was arrested and tortured by Myanmar security forces. When released, Mimma fled the country and found her way to the United States. She does not want to return to Myanmar because she fears her life would be in danger.

You represent Mimma in her bid for asylum in the United States.

45. On what protected grounds would you base Mimma's asylum claim. Why?

46. True or False: Mimma has suffered “past persecution” within the meaning of with U.S. asylum law.
47. Can Mimma establish that she is “unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country”? Why or why not?
48. In *Matter of Acosta*, the Board of Immigration Appeals determined that “we interpret the phrase ‘persecution on account of membership in a particular social group’ to mean persecution that is directed toward an individual who is a member of a group of persons all of whom share a ____, ____ characteristic.” What are the two missing words?
49. Give an example of a characteristic that would satisfy the above definition provided by *Acosta* and explain why your example would satisfy the standard.
50. Explain why the following PSG is or is not viable: “married women of Nicaragua who suffer abuse at the hands of their marital partners and are unable to leave.”
51. Absent certain circumstances, affirmative asylum applications must be filed within ____ ____ of the noncitizen’s arrival in the United States. What is the missing time period?

52. What is one reason why asylum relief is superior to withholding of removal?

53. CAT stands for:

54. True or False: The crime of illegal entry (8 U.S.C. § 1325) has been heavily enforced since its passage during the Hoover administration.

55. True or False: It is a crime for a noncitizen to be present in the United States without authorization.

56. True or False: It is a crime for a noncitizen to work in the United States without employment authorization.

57. Name one right that is exclusive to U.S. citizens:

58. True or False: A child born to undocumented migrants in Texas is a U.S. citizen at birth.

59. True or False: Every child born to a U.S. citizen abroad is a U.S. citizen at birth.

60. Name two requirements for naturalization:

***** END OF EXAMINATION *****