

PREFACE

These are difficult times. “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943) (Jackson, J.).

This book is written for practitioners, government officials, judges, students, and everyone interested in a detailed knowledge of immigration law. It is designed to be a quick reference to federal and administrative cases, regulations and statutes, and INS/DHS, DOS, and DOL rulings on significant issues in the field. The book represents my research over more than 40 years on topics and issues that are relevant to practicing lawyers and students of immigration law.

Although we are fortunate in the immigration field to have a number of outstanding treatises and in-depth reference materials, as a practitioner, I was often frustrated by their lengthy explanations when all I sought were short citations to relevant cases and materials. This *Sourcebook* does not attempt to compete with or be a substitute for any treatise; it is designed to be used to pinpoint the significant cases and references on a particular topic, or as a basis for further research on a particular issue.

As a guide to practitioners and students, the *Sourcebook* contains the most recent cases and authorities in immigration law. The book is updated biannually and will continue to contain the latest authorities. Be sure to also check the *Kurzban’s Immigration Law Sourcebook* update page at www.aila.org/errata for selected updates, as well as any corrections or further information. This Eighteenth Edition has incorporated all available regulatory citations through September 2022, U.S. Supreme Court cases through September 2022, and other federal case citations August 2022 (with selected major decisions through Sept. 2022).

Navigating This Book

This book contains many finding aids, including an extensive keyword index; tables of cases, statutes, and other authorities; and detailed tables of contents at the beginning of each chapter. Depending on the topic you are researching, you may want to begin your research with any of these. Note, however, that ***the detailed chapter tables of contents will be the best way to navigate*** through the outline structure of the text. So even if you find your topic via the index, reference to the table of contents can help you determine the context of where you are in the book (particularly in the complicated areas of Chapters 3 and 4), and it may help you find other relevant topics.

The Use of the Term “Alien”

Some recent Supreme Court opinions have “use[d] the term ‘noncitizen’ as equivalent to the statutory term ‘alien.’ See INA §101(a)(3).” *Barton v. Barr*, 140 S. Ct. 1442, 1446 n.2 (2020); see also *U.S. v. Palomar-Santiago*, 141 S. Ct. 1615, 1619 (2021); *Nasrallah v. Barr*, 140 S. Ct. 1683, 1689 n.2 (2020). Government agencies are similarly avoiding antiquated terminology. See Joel Rose, “Immigration Agencies Ordered Not To Use Term ‘Illegal Alien’ Under New Biden Policy.” www.NPR.org (Apr. 19, 2021) (quoting CBP memo [“We enforce our nation’s laws while also maintaining the dignity of every individual with whom we interact. The words we use matter and will serve to further confer that dignity to those in our custody.”] and ICE memo [“The way that we choose to communicate is critical to enforcing the nation’s laws while respecting the humanity and dignity of those individuals with whom we interact.”]); Jean King, Acting Director EOIR, PM 21-27 (July 23, 2021) (“clarify[ing] the agency’s use of terminology regarding noncitizens” in EOIR decisions and communications, noting that “[t]he only exception to the change

in terminology . . . is when quoting a statute, regulation, legal opinion, court order, or settlement agreement.”). In this book, we are attempting to avoid the use of the term “alien,” particularly in newly added or revised material, but recognize the term is still necessary in quoted material.

Adjudicator’s Field Manual (AFM)

For several years now, the USCIS’s Adjudicator’s Field Manual has been transitioning to its Policy Manual (PM). On May 21, 2020, the agency issued a technical update and removed the AFM from its website, referring users to the PM as the centralized online repository for USCIS policies. However, the PM sections that correspond to the AFM are not clear, despite a vague crosswalk, and are not necessarily all published online. Accordingly, we have left in references to the now-superseded AFM if a Policy Manual cite was not available. For the time being, AILA’s online research tool, *AILALink*, is preserving the AFM provisions as they existed immediately before the May 21, 2020 technical update.