

PREFACE

One of the fundamental flaws of our system is the judicially sanctioned notion that there are barely any limits to the congressional power over immigration. This blind adherence to what is called “the plenary power doctrine” is reinforced by our judicial branch’s reluctance to incorporate international human rights principles as part of our domestic jurisprudence. This leaves us with a situation in which the courts countenance congressional enactments unheard of in any other area of the law.

After more than four decades of teaching immigration law in law schools and lecturing on the subject before a variety of audiences, I am always struck by the initial reaction of the novice to the field. Whether the audience consists of law students, judges, lawyers new to the field, or non-lawyers, they all find themselves confused by the clash between common sense expectations of justice and the doctrines of immigration law. The study of this immigration maze takes one on a labyrinthian journey that defies our basic notions of logic, reason, and justice.

As a starting point, I tell my students that the law—and especially immigration law—has a tremendous impact on the lives of human beings. Every rule, every interpretation, every decision to take on or prosecute a case will have a lasting human impact, and that is especially true in immigration law. Therefore, the need to get it right, to do justice, is profoundly important—for, to paraphrase Justice Louis D. Brandeis, to deport a person is to take away from them all that makes life worth living.

My purpose here is to peel away some of the confusion found in immigration law. I have endeavored in this book to distill immigration law into its most essential elements and principles. Although I have done this to make the subject more accessible for those who are new to the field, I hope that it might also be a tool for those with deeper knowledge. At the same time, this book is not meant to answer every question but to provide you, the reader, with the basics, to shine the light a little bit brighter and help you find your way through the labyrinth—a labyrinth described by Justice Irving Kaufman as bearing a resemblance to King Minos’s ancient Crete. Additional routes to navigating through this labyrinth can be found in other books published by AILA, most notably *Kurzban's Immigration Law Sourcebook*, by Ira Kurzban.

I would be remiss if I did not mention the late Dale Schwartz and Bob Juceam, and Ira Kurzban—past Presidents of AILA and extraordinary lawyers who inspired and encouraged me to write this book. I am indebted to the watchful eyes of so many people who have looked over various drafts and sections of this book. My students, who over a number of years have been subjected to various versions and have given me helpful suggestions, deserve special thanks. Special thanks are reserved to the library staff at University of California Law, San Francisco—most notably Grace Takatani, Vince Moyer, and Hilary Hardcastle who probably do not realize how much they helped me in locating some of those hard-to-find sources. Warm thanks and appreciation go to Alberto Benítez, Anna Gallagher, Jerome Ingber, Nancy Lawrence, Amy Novick, Michael Olivas, José Pertierra, and countless others, all of

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I dedicate this book to Karen Musalo, my life partner, best friend, and inspiration, without whom the many iterations of this work could not have evolved into this final product. Notwithstanding all of this support, I take full responsibility for any errors that might have found their way to these pages.

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