In 2016, when we first sat down to write a textbook that we hoped would encapsulate a relatively small sliver of the immigration laws of this country it was at a time of relative predictability and stability, towards the end of one governmental administration, and the beginning of another. With our second edition, written in the fall of 2019, we sought to reflect the legal and political landscape at a time of significant change. Decades of familiar practice and interpretations of law were seemingly overturned overnight, leading to extensive litigation on countless issues. At the same time, there was also a global pandemic, COVID-19, that affected us all, including the foreign-born seeking to enter the United States. Now, with our third edition, there is yet another change in administration and a return to familiar long-standing policies and approaches that were in place prior to those introduced during 2017–2021. While to some it may appear that immigration law and policy is akin to playing ping pong, these vagaries are a stark reminder of the political nature that underpins the question "Who is American?"

The population of foreign-born residents living in the United States on a long-term basis has continued to grow. According to the Migration Policy Institute, in 2019 the United States had 44.9 million foreign-born residents, representing 13.4 percent of the total U.S. population of 334.4 million people.[1] Since almost all foreign-born residents interact at some point with the U.S. immigration system, immigration law and policy continues to be a growing field with dramatic impact on the foreign-born, their family members, and the U.S. workforce.

Applying immigration law in a particular case can work to protect refugees, bring needed workers to the United States, and reunite families, but it can also result in family separation or forced return of a foreign national to that person's home country. Given the high stakes involved in an immigration case, all legal professionals have an obligation to be well-informed and to work within the legal and ethical scope of their profession.

Between us, we have close to 40 years of immigration law experience in nonprofit organizations and other immigration disciplines. With our extensive experience, we sought to offer a book that would be easily accessible to both students and teachers, recognizing that, in today's world, both are engaged in

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[1] Jeanne Batalova, Mary Hanna, and Christopher Levesque, *Frequently Requested Statistics on Immigrants and Immigration in the United States* (February 11, 2021), available at https://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states-2020#immig-now-historical.

busy lives. We have continued our collaboration with wonderful colleagues in the immigration bar to partner with us and share their extensive knowledge of working with those seeking immigration benefits through employment to ensure we offered a textbook that accounted for all perspectives. Their contributions regarding employment-based immigration law issues continue to be invaluable. Through our combined efforts, we seek to provide a comprehensive textbook covering most aspects of immigration law today. We believe that *Understanding Immigration Law and Practice* goes some way toward achieving that goal. Our book is used in clinical legal programs, graduate, college, and paralegal courses exploring immigration law, and for teaching fundamental substantive law and procedure. It is also used outside the classroom by paralegals, legal practitioners, and attorneys who, new to the field of immigration, wish to refer to it as a guide and resource as they learn to navigate this complex area of law. While we have both moved on from our non-profit organization background, we remain heavily rooted in immigration law.

In this text, we condense the complicated laws and regulations that make up our immigration system into user-friendly yet comprehensible chapters. It is always a challenge to decide what to include and what to leave out, while maintaining a size that remains manageable to our readers. The book could easily have been three times in length, but that would not have achieved our objective. We have focused on what we considered to be the most important areas to cover. For the more complex issues dealing with those with criminal convictions, we have chosen not to delve too deeply, as more often than not, these cases require the expertise of a lawyer with a background in criminal law or access to someone whose practice focuses on this companion area of law. Rather, we have tried to focus more on issue spotting so that the practitioner might know when to seek assistance from others.

In order to make the book accessible, we offer various scenarios as examples, placing information in contexts that illuminate the lives of those needing representation. Because we believe that posing questions is an invaluable aid to test comprehension and creates a gateway for deeper exploration of the material, we have included numerous "Cases for Discussion," with answers deliberately omitted from the text but available in the online Instructor's Manual. These and the examples used throughout the text emanate from cases we have been involved in through our client interactions and, therefore, offer real-world problems for beginning practitioners to consider. We have included a glossary of terms and acronyms, which are in boldface when they appear in the text for the first time. Other tools for students include learning objectives, marginal notes clarifying key vocabulary, which are in boldface and italicized, and numerous documents and other illustrative materials generated in the course of actual practice.

The last item points to a central aspect of this text. The facts behind many of the examples and cases for discussion are based on real-life situations on which we have advised over the years in the course of direct client representation, although clients' names have been changed to protect their privacy. We have found in our classes that using real cases brings to life the myriad experiences of and problems faced by those who come into contact with the U.S. immigration

system. They assist students in translating legal rules and theory into practice. With that necessity in mind, we have sought to balance coverage of statutory and procedural rules with insights into practical information.

We have chosen to use the words "foreign national" rather than "alien" or "illegal alien" when addressing those who are neither U.S. citizens nor lawful permanent residents, or who are here temporarily. We also use this term for those who, for various reasons, may not have permission to be in the United States and are therefore undocumented. Where possible, we chose this terminology for both the text and for reproduced statutory and regulatory language. Those seeking the unaltered language will need to refer to the original source, which is good practice in any event.

A companion **Instructor's Manual** is available online at www.Aspen Publishing.com/Gansallo-Immigration3 to assist those wishing to teach substantive or procedural immigration law or both. As noted, it includes what we consider appropriate responses to the text's numerous "Cases for Discussion." As with immigration law broadly, these suggested responses take into account the many variables involved in reaching a satisfactory solution. The manual also contains sample PowerPoint slides, tested in the classroom, that can be used in whole or in part, as well as sample exams. Also included are: entire class, small group, and individual exercises for enhanced learning — some of which require use of the Internet; and ideas for homework assignments that call for analyzing fact patterns and applying legal principles.

Today, much of the practice of immigration law depends on the Internet, which is used extensively by government agencies responsible for implementing the laws in this area. Readers should always check relevant websites and other source material to ensure they have the latest information.

NEW IN THE THIRD EDITION

Immigration law is never static. As an instrument of public policy, it is always changing as societal goals and public priorities change, which has become starkly obvious since the first edition of this book. Although there were no major statutory changes in the Immigration and Nationality Act since our second edition was published, there have been many policy and procedural changes to the implementation and application of the law that have reverted us back, for the most part, to the implementation and interpretation of policy in place at the time of the first edition of the book. One academically-based project tracked a total of over 1,000 policy and regulatory changes in immigration law during the years 2017–2020 alone,[1] some of which we incorporated into the second edition of this book. For this third edition we have focused on those areas in which immigration law has once again shifted to a return of the status quo ante. These changes have been significant in creating stability, both to the world of immigration law,

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[1] *See* Immigration Policy Tracking Project, available at https://immpolicytracking.org/home/.

but also to the lives of the foreign-born. We have continued the discussion on the important question of when is a Notice to Appear a complete, valid document, by analyzing the latest decision of the United States Supreme Court on this issue, *Niz-Chavez v. Garland*, that makes clear it is a single document with all relevant information. We have included a number of cases where the Board of Immigration Appeals has continued to seek to clarify that decision and its effects on the jurisdiction of immigration judges to hear cases. *See* for instance, *Matter of Fernandes*, 28 I&N Dec. 605 (BIA 2022). We also discuss the Attorney General's reversals of earlier decisions in *Matter of A-B-* I and II, that sought to categorically exclude asylum claims based on domestic and gang-based violence, and *Matter of L-E-A-* I, which rejected the idea that nuclear families were cognizable as particular social groups.

Of course, a major factor that impacted immigration law since the last edition of this book was published is the global COVID-19 virus, which few could have predicted. We reference policies such as the United States Code, Title 42, that prevented certain foreign nationals from entering the country as a means of controlling the spread of the virus. We also address new regulatory proposals that attempt to respond to those fleeing countries in crisis which are designed to encourage foreign nationals seeking to enter the United States to do so through newly created lawful pathways.

As always, despite our best efforts, it has been almost impossible to keep up with the changes in the law while writing this third edition. Because of space limitations, we have had to be judicious about what we included and with the continued rapid legal changes, some of our updates may be obsolete by the time of publication. Given that, we continue to urge readers to do their own due diligence with respect to keeping abreast of changes as they use this text. Our goal is to provide readers with the tools they will need to conduct their own analysis and research and, more important, to spark their interest in a field we find both challenging and rewarding.

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— Ayodele Gansallo and Judith Bernstein-Baker

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