

## PREFACE

Looking back, the decade of the 1980s was for the most part a positive period for immigrants, and their representatives. The U.S. Supreme Court found that immigrant children had a right to a public education regardless of immigration status. The 1980 Refugee Act was enacted. Solo practitioners, legal aid lawyers, religious organizations, pro bono attorneys, and others zealously defended asylum-seekers fleeing horrendous conditions around the world. In addition to the energy in asylum defense, the 1986 legalization program was passed, and millions of immigrants legalized their status. Thereafter, IMMACT90 was enacted, thus liberalizing immigration laws and granting temporary protected status (TPS) to thousands fleeing civil wars, natural disasters, and persecution. The unfair treatment of Salvadoran and Guatemalan refugees was at least partially remedied by TPS and the *ABC* class settlement.

However, in the 1990s, immigration law changed. The generosity of the 1986 legalization program was replaced with “Proposition 187-English Only” movements—calls to close off the border and clamoring by many politicians who felt that the United States had been too generous in granting amnesty. As a result, Congress passed IIRAIRA and AEDPA in 1996—two draconian immigration proposals that expanded the grounds of deportability and inadmissibility and dramatically reduced or eliminated relief. The Board of Immigration Appeals (BIA), in a series of decisions, strictly interpreted these laws, especially in regard to the criminal provisions in IIRAIRA. At the same time, Congress moved to reduce or eliminate judicial review of the agency’s decisions. The Attorney General, in 2002, then moved to “streamline” (*i.e.*, drastically reduce) any administrative review of immigration judges’ decisions.

Suffice it to say that the last 15 years generally have not been positive for immigrants or those advocating on their behalf. However, despite these setbacks, there have been ever-increasing numbers of new lawyers taking up the challenge of representing immigrants and refugees. Pro bono representation, in particular, is on the rise. Major law firms are championing the causes of protecting unaccompanied immigrant children and immigrant spouses who have been victimized by domestic violence. Immigration clinics that train law students to competently and energetically fight for immigrants’ rights in court are opening throughout the country. The ranks of AILA itself have grown, and the solo practitioners and old veterans of immigration court have not been demoralized. Most continue to go into court daily to battle the Department of Homeland Security (DHS) for any minimal rights they can gain for their clients, and find ways to challenge wrongful denials of relief in spite of the attempts to eliminate administrative and judicial review.

It is for these individuals that this book was written. It is a book on the basics—hopefully, a helpful tool for those new to the law of immigration to learn and understand the fundamentals of immigration court practice. It is written for law students, pro bono attorneys, new lawyers, accredited organizations, and even as a refresher for

grizzled immigration court vets. It is not an advanced theoretical discussion, but rather, a “how to” book. This is the first edition, and it is hoped that it will evolve as the law does.

I started as an accredited representative with Volunteers In Service To America (VISTA) and later worked as a legal aid lawyer for several years. I have worked with and learned from the best and most generous lawyers I’ve ever met. They have been teachers, mentors, and comrades-in-arms from the early 1980s until the present. Whether they know it, all have in one way or another helped me to gather and understand the information contained on the following pages, and have shown me what it means to be an advocate for immigrants. I want to acknowledge a few here.

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