American Independence Day 2019: From the “asylum for mankind” to the land of concentration camps

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4 July 2019

On Independence Day 2019, with tanks deployed on the National Mall in a celebration of “America First” nationalism worthy of a dictatorship, and tens of thousands of asylum-seekers crammed into squalid concentration camps near the US-Mexican border, it is worth recalling the elementary proposition, first established in 1776, that the United States is a nation of immigrants.

With the single exception of the indigenous American Indians, anyone who lives within its geographical confines descends from those who came here from someplace else, whether voluntarily, or, in the case of the slaves taken from Africa, involuntarily. The concepts of a “nation of immigrants” and the “melting pot” represent a powerful tradition in US history, a deeply democratic and egalitarian impulse that is most famously summed up in the Emma Lazarus poem from 1883, “The New Colossus.” The poem can be read on a plaque at the foot of the Statue of Liberty, itself set a short distance from Ellis Island, the entry point for millions of immigrants:

“Keep, ancient lands, your storied pomp!” cries she
With silent lips.
“Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!”

By the time Lazarus wrote those words, the United States was a little more than a century old. Founded in a revolution against a monarchy, the young republic defined itself, very self-consciously, as the antithesis of the aristocratic and hereditary Old World, including in relationship to the question of citizenship. “One became an American by choice, not by descent. What was asked of an aspirant was not an oath of fealty to a sovereign but a commitment to the principles of American government,” as the late Rudolph Vecoli put it.

The patriotism of 1776 was not nationalist, an ideology that did not exist, but universalist. Answering his own famous question, “What is an American, this new man?,” Crèvecœur could say in 1782, “Here individuals of all races are melted into a new race of man, whose labors and posterity will one day cause great changes in the world.” Such thinking made the American Revolution, notwithstanding its limitations, an immensely radical event for its time. Standing alone in a world of monarchical governments, the new republic was informed by the Founding Fathers’ concept of immigration, which reflected their conviction that the United States of America would be, in the words of the revolution’s greatest pamphleteer, Thomas Paine, “an asylum for mankind.”

The revolution was an outcome of the Enlightenment—the epoch of history in which natural, economic and political phenomena that had been shrouded in the religious darkness of the Middle Ages were subjected to scientific scrutiny. The new republic’s legal approach to questions of immigration and citizenship were defined by the Enlightenment doctrine of natural rights, summarized here by Thomas Jefferson, author of the Declaration of Independence:

> I hold the right of expatriation [immigration] to be inherent in every man by the laws of nature, and incapable of being rightfully taken from him even by the united will of every other person in the nation. If the laws have provided no particular mode by which the right of expatriation may be exercised, the individual may do it by any effectual and unequivocal act or declaration.

In words that clearly echo the Declaration, Jefferson meant that the decision to leave citizenship in one country and assume it in another is an “inalienable” right—one that can neither be bestowed nor taken away by any government—and where existing law runs contrary to this natural right, it is the right of the individual to defy it. He was making, in other words, an argument in favor of what today would be called illegal immigration.

But such a concept—“illegal immigration”—would have been incomprehensible to the Founding Fathers. Everyone would be welcome, the poor included. In the Constitutional Convention of 1787, Benjamin Franklin argued even against modest property-holding limits to the rights of immigrants to hold office, stating that the “Constitution will be much read and attended to in Europe, and if it should betray a great partiality to the rich, it will not only hurt us in the esteem of the most liberal and enlightened men there, but discourage the common people from removing to this Country.”

The American Revolution thus enshrined the Enlightenment concept known as *jus soli*, or birthright citizenship. If you are born in the United States, you are a citizen. This was, and is, juxtaposed to the principle of *jus sanguinis*, or right of the blood, by which citizenship is derived from that of the parent. *Jus soli* is a democratic, republican principle. *Jus sanguinis* is monarchical, and in more recent times has been associated with regimes such as the Nazi dictatorship in Germany, which imagined a 1,000-year “Aryan blood nation.”

The right of birthright citizenship was so completely shared by the framers that it was not much debated. Tellingly, the Constitution did not even bother to define citizenship at all. Indeed, anti-immigrant “legal scholars,” many of whom, in other political contexts, prefer a literal interpretation of what they call “original intent,” have searched through the papers of the Constitutional Convention for any support for their arguments. In vain! The generation of ‘76 said absolutely nothing about

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immigration restriction. It was clearly taken for granted that immigrants were desired. The framers did not even disallow immigrants from voting in elections, and right on up to the 20th century many states allowed non-naturalized immigrants to vote.

The Constitution did authorize Congress to establish a "uniform rule of naturalization" among the various states. The first attempt to do so came with the Naturalization Act of 1790, which, in keeping with Enlightenment principles, required naturalized citizens to take an oath to support the Constitution and "renounce and abjure all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty." It imposed no restriction on immigration, implicitly extended birthright citizenship to the children of immigrants, and made naturalization available to "any alien, being a free, white person." The Act of 1790 was here echoing the Constitution's so-called "Three-Fifths Clause," Article 1, Section 2, Clause 3, which, stated:

> Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.

Following this clause, Indians "not taxed" were counted as foreign subjects and excluded from citizenship. Meanwhile, the exclusion of African *immigrants* from naturalization and the benefits of citizenship in the Naturalization Act of 1790 was largely rhetorical—few Africans came except those brought by the slave trade. It was instead one of the earliest efforts to shore up the institution of slavery. This would snowball into laws across the US, including in the North, that eviscerated the rights of even free black citizens.

The American Revolution had left an explosive contradiction lodged in the very heart of the republic: that between the Declaration of Independence's assertion of universal human equality—and all of the democratic principles that went along with it, including the Enlightenment concept of citizenship—and the actual existence of chattel slavery, upheld by powerful economic interests. This conflict ultimately erupted in the American Civil War.

This, the Second American Revolution, brought an end to chattel slavery—that is, the holding, buying and selling of property in human beings. The war resolved that contradiction, and at a terrible cost. Nearly as many Americans died in those four years of fighting as in all other wars combined. The Civil War paved the way for the 13th, 14th and 15th Amendments to the Constitution. These amendments embraced and expanded the Enlightenment concept of citizenship. The key was the Fourteenth, whose Section 1 finally spelled out in clear language the meaning of *jus soli*:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Fourteenth Amendment has lately come under attack by those who claim that it allows for so-called "anchor babies:" undocumented or "illegal" immigrants who come to the US and then, through children born as citizens, gain access to supposedly lavish social services. One such figure is the new head of US Citizenship and Immigration Services, Ken Cuccinelli, who, as Virginia attorney general, supported ending birthright citizenship and even denying unemployment benefits to workers who did not speak English.

Those like Cuccinelli who would do away with birthright citizenship have attempted to frame the Fourteenth Amendment as being somehow misunderstood, claiming that the amendment applied only to the freed slaves. This disregards the text of the amendment, whose language leaves no doubt over its intention to uphold *jus soli* and thereby prevent the reemergence of a hereditary caste of laborers denied citizenship rights.

It also assumes that no one in the late 1860s could have been thinking about immigration. As a matter of fact, the debate over ratification of the amendment involved specific discussion of whether or not the children of much-despised Chinese laborers would benefit. Yes, answered the amendment's backers, such as Sen. John Conness of California, who said: "We are entirely ready to accept the provision proposed in this constitutional amendment, that the children born here of Mongolian parents shall be declared by the Constitution of the United States to be entitled to civil rights and to equal protection before the law with others."

The amendment came at a time, moreover, when many millions of immigrants lived in the US—as a percentage of the population, roughly equivalent to today. And anti-immigrant sentiment was known.

Just a decade earlier, the so-called Know-Nothing Party, also called the American Party, briefly challenged the two-party system. Just like the attempt today to obscure the explosive class question behind anti-immigrant chauvinism, the Know-Nothings aimed to dissolve the slavery issue behind rabid denunciations of Irish and German immigrants. Their motto, "America for the Americans," is today shared by the Trump administration. Abraham Lincoln answered in 1855:

> As a nation, we begin by declaring that "all men are created equal." We now practically read it "all men are created equal, except negroes." When the Know-Nothings get control, it will read "all men are created equal, except negroes, and foreigners and Catholics." When it comes to this I should prefer emigrating to some country where they make no pretense of loving liberty—to Russia, for instance, where despotism can be taken pure, and without the base alloy of hypocrisy.

Such noble sentiments evaporated in the American ruling class after the Civil War, which over the next half-century slowly cut away at the citizenship concepts inherited from the revolutions of the 1770s and 1860s. Only one year before Emma Lazarus penned "The New Colossus," Congress passed the Chinese Exclusion Act of 1882, the first major attempt at immigration restriction in American history.

This was the most notorious of a series of exclusionist measures that began a few years earlier and culminated in 1924 in the passage of the National Origins Act, or Johnson Reed Act, which slammed shut Lazurus' "golden door."

In the intervening half-century, the dramatic growth of American and global capitalism dynamically created its own workforce. The advance of the market economy in the agricultural areas—first Northern and Western Europe, then East Asia, Eastern and Southern Europe, then the American South, followed by Mexico and the Caribbean and, ultimately, the entire planet—destroyed the rural subsistence economy, dispossessed the peasantry and poor farmers, and tore to shreds the old feudal structures that tied them to the land. These social layers were now compelled, on pain of starvation, to sell their labor power on what was increasingly a

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global market.

The working class was, and is, an international class. Anti-immigrant politics was, and is, reactionary in the basic sense of the term—striking out against objective reality and historical progress. It attempts to divide the working class by targeting its most vulnerable sections. Its post-Civil War incarnation was culturally and intellectually dominated by the New England elite, who promulgated theories of Anglo-Saxon superiority and ultimately embraced the eugenics movement. They were joined by the white supremacist politicians of the segregated South—though relatively few immigrants went to the American South—and, curiously, by the American trade unions.

This last category warrants some scrutiny. The trade unions had grown simultaneously with the expansion of the industrial economy. There were many craft unions that sought to organize all workers according to a particular skill. And there were a few industrial unions that sought to organize all workers in a given industry irrespective of skill. But whether craft or industrial, the trade unions' avowed purpose was to maximize wages for the workers in their ranks.

They approached this question narrowly, rejecting Marx's insistence that the fates of workers everywhere on the planet were bound together by the very nature of the emerging global capitalist economy—a discovery made flesh and blood by mass immigration itself. Instead, myopically applying the basic arithmetic of supply and demand, they aimed to keep immigrants out, imagining that only in this way could "American" workers—themselves often the sons and daughters of immigrants—be able to realize what was called an "American standard of living."

It is notable that the border police force that grew in tandem with the new immigration restrictions, the Office of the Superintendent of Immigration, was always headed up by individuals drawn from the officialdom of the unions, beginning with Terrence Powderly, the former head of the Knights of Labor. They oversaw a legion of immigrant inspectors waiting at major ports of entry, such as Ellis Island, to inspect and potentially turn away would-be immigrants.

For a few decades, however, this coalition of the Anglo-Saxon elite, Jim Crow politicians and trade union officials was not able to bring an end to mass immigration for a very simple reason: decisive sections of American industry and finance, organized into groups like the National Association of Manufacturers, demanded an open immigration policy and the limitless supply of wage laborers it brought to garrison the nation's burgeoning factories, mines and mills.

The triumph of immigration restriction, with the National Origins Act, came ultimately as a reaction to the Russian Revolution, which first demonstrated to the world both the political means—socialist internationalism—and the objective basis—the global economy—on which the Enlightenment ideal of universal citizenship would be achieved. The October Revolution of 1917 coincided, moreover, with a great strike wave of American workers, many of them immigrants, and the rapid growth of the influence of socialism in their ranks. It was in this context that American capitalism finally embraced immigration restriction in the form of the National Origins Act of 1924. Anti-immigrant and anti-socialist politics were born together. Both were, and are, aimed at the working class.

The National Origins law invented, as historian Mae Ngai has argued, the category of the "illegal immigrant." And while the openly racist character of the 1924 quota system—favoring northwestern Europeans over all others from the Old World, including southern and eastern Europeans, with especially tragic consequences for Europe's Jews—was undone in the 1950s and 1960s, the quota system itself, which prescribes legality to X number of immigrants but illegality to everyone who comes after X, remains. The legal apparatus required to enforce the quota system, and to find, jail and deport the undocumented, has remained and grown, in recent years taking on military and industrial proportions.

As significant as the National Origins Act was, however, it did not challenge the Fourteenth Amendment and did not reverse the founding principle of *jus soli* birthright citizenship. Furthermore, it did not undermine the elementary understanding that mass immigration was a labor question, in which the act of entering the US without proper legal documentation was treated as a civil offense.

Beginning in the 1980s, a new politics emerged in the media and among politicians of both parties—with California's Democrats playing a leading role—equating immigration with crime. This prepared the way for a series of new laws and executive orders, including Bill Clinton's notorious Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

The cumulative effect of this new anti-immigrant politics has been the creation of a massive section of American workforce that lacks basic democratic and workplace rights; the militarization of the Mexican border; the development of a huge prison-immigration complex and a militarized border police dominated by racist and neo-fascist elements; the industrial-scale deportation of immigrants, which reached a zenith under Barack Obama, who deported more "illegal aliens" than all 20th century American presidents combined; and tens of thousands of deaths at America's border with Mexico, graphically demonstrated by the recent photograph of Óscar Alberto Martínez Ramirez and his toddler daughter, Valeria, dead in the Rio Grande.

With the Trump administration, a qualitatively new stage has been reached. For the first time in history, the occupant of the White House is an open proponent of reversing the founding principle of birthright citizenship. As in so many other areas, today's ruling class has totally overturned the principles of 1776 once celebrated on the Fourth of July. The defense of the gains of that revolution and of the Civil War—including the basic right of men, women and children to live where they choose—falls to the working class.

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