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Commentary: What It Means To Be A Citizen

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Commentary: What It Means To Be A Citizen

Abstract

It was one of the great shocks of my life, and it came early. In fifth-grade government class. Though I can't remember much else that we learned then, a detail in Article 1, Section 2, of the Constitution reached out and grabbed me like the hound of the Baskervilles: "No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President."
[*excerpt*]

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By Allen C. Guelzo

It was one of the great shocks of my life, and it came early. In fifth-grade government class. Though I can't remember much else that we learned then, a detail in Article 1, Section 2, of the Constitution reached out and grabbed me like the hound of the Baskervilles:

"No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President."

With that one sentence, the ambition that fires the imagination of every red-blooded American youth was snuffed out. I was not a natural-born citizen. I had not been born on American soil. I could never be president.

I was born in Japan. My father was a career U.S. Army officer and a translator at the Panmunjom peace talks that brought an end to the Korean War, while my mother had come over to Japan to be with him. My misfortune. Even though both of my parents were "natural-born" U.S. citizens, I could never be "natural."

But because I can only be a "citizen," don't be too fast to turn on the pity spigots. There's something to be said for being only a citizen.

Citizenship has two aspects. One is participation: Citizenship is what conveys the right to participate in governance and lawmaking. Aristotle, for instance, defined a citizen as someone who "shares in the administration of justice, and in offices." Especially in a republic, a citizen is an agent in self-government rather than merely a subject who is ruled.

The other aspect is status: Citizenship is what conveys certain legal protections and a civic identity. Looked at from this perspective, citizens are legal members of a political society and cannot be molested by their government or any other government without consequences.

One hundred and fifty years ago, it was not particularly clear exactly who or what a "Citizen of the United States" really was. This was because the Constitution didn't actually contain a working definition of who was entitled either to participation or status. In the five places in the Constitution where the word *citizen* occurs, three of them merely specify that certain officeholders must be "a Citizen of the United States." The other two only discuss the jurisdiction of the federal courts over "Controversies . . . between Citizens of different States."

On the other hand, there is an implied definition of citizens of the United States, and it comes through exactly in those words that hit me like a hammer many years ago. What Article 1, Section 2, suggested was that the fundamental idea of U.S. citizenship sprang from the principle of *jus soli*, of being born on the national land or soil. Thanks to the Naturalization Act of 1795, the children of U.S. citizens born, like me, "out of the limits and jurisdiction of the United States" are also "considered as citizens of the United States." But inheritance was not the primary consideration in determining citizenship. And to underscore that distinction, the Constitution put the highest example of status and participation beyond my reach. Still, this was only an implication, and before the Civil War, it was an implication that disturbed the large numbers of slaveholding white supremacists who would have very much preferred to confine citizenship to race and birth - in their case, white race and white birth. In 1857, Chief Justice Roger Taney tried to scupper *jus soli* entirely in the infamous case



of the slave Dred Scott, who had sued for his freedom. Taney denied Scott's suit because, as he argued, Scott was not a citizen, and he was not a citizen because he was not born white. Taney had substituted for *jus soli* the principle of *jus sanguinis* - citizenship by blood. "The African race in the United States even when free," argued Taney in a similar case, "were not looked upon as citizens by the contracting parties who formed the Constitution."

The Civil War and the 13th Amendment effectively ended slavery eight years later. But on the basis of Taney's *jus sanguinis*, the reconstructed Southern states tried to deny that African Americans were thereby made citizens. The defeated Confederates enacted "Black Codes" aimed at forcing the newly freed slaves into "work contracts," forbidding black-white intermarriage, or curtailing free speech (including "insulting gestures") and ownership of "fire-arms of any kind, or any ammunition, dirk or bowie-knife."

It took the 14th Amendment (whose sesquicentennial arrived this year), and its declaration that "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," to close the door forever on the idea that American citizenship was limited by blood or race. "Those born within the Republic, whether black or white, are citizens by birth," declared the architect of the 14th Amendment, Ohio Republican John Bingham. If you're born here, then that's the prime qualification for citizenship, no matter your DNA.

It was a real crusher to learn at age 11 that not being born on American soil disqualifies me from the highest office in the gift of my fellow-citizens. And though challenges to that restriction have erupted from time to time in the federal courts, the truth is that I am really a secondhand citizen. But I'm OK with that. Despite all the grumbling about "anchor babies" and immigration walls, I would rather live with a system that doesn't define your eligibility by color or ancestry or biology. I'm happy just to be a citizen.

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