



## Good Idea, Bad Reasons, Worse Context

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On Monday, August 12 the Trump Administration changed U.S. immigration policy by Executive Branch fiat in the form of a new 837-page rule. As is by now well known—because of the hue and cry it set off—the Administration ordered new stringencies against immigrants who would or could reasonably be expected to become a drain on state resources. According to the new “[Inadmissibility on Public Charge Grounds](#)” rule, U.S. policy will now apply a wealth test for green-card status, favoring immigrants who fit into the needs of the U.S. economy—those more likely to engage in activities that create new jobs than to compete for existing ones. The rule, which is in the main a new narrower definition of an old rule, will go into effect on October 15.

The reaction to the announcement was vigorous and generally critical, and the criticism did not come from just the so-called progressive Left; it came also from what could be fairly called the center. Thus Mindy Finn for Stand Up Republic, from August 15: “[T]he engraving on the Statue of Liberty does not specify from where a person should come, or how much money they should have, just that they will be welcome in the new world. . . . Though Trump and his nativist cronies are trying to redefine our ideals through their xenophobic statements and bigoted policies, Americans do not separate themselves from each other, we unite.” Some criticism came, as well, from the Right, of which more below. The basic dig against the new policy was that it would discriminate against poorer nations and people of color, and this, presumably, is not only morally wrong, but shows the Trump Administration’s own true colors, which are debased and disgusting. Some also suspect that the rule will dramatically reduce the volume of legal immigration, over and above even the degree of economic need for lower-skill labor.

It is easy to account for such expectations given the context into which the announcement fell. It is as Ms. Finn described it: xenophobic and bigoted. The President had just recently told the so-called Squad, made up of four female congresswomen of color, to go back where they came from—despite the fact that all but one of them were native-born American citizens. Then there was the unfortunate remark on August 13 by Ken Cuccinelli, the acting Director of the U.S. Citizenship and Immigration Services. Cuccinelli opined during an NPR interview that Emma Lazarus’s famous poem on the base of the Statue of Liberty referred only to Europeans, and flippantly suggested that the words should be changed to read, “give me your tired and your poor who can stand on their own two feet, and who will not become a public charge.”

The chatter over Cuccinelli’s remark bore elements of the bizarre and the ignorant. As to the former, it is obvious that Cuccinelli’s quip about changing the poem was just that—a quip—

delivered during a hostile interview. He should not have said it, but some chose disingenuously to take his suggestion literally because it served their purposes to do so. Apparently, virtue signaling has yet to acquire borders, making it often indistinguishable from an old-fashioned cheap shot.

More important, most otherwise educated Americans remain innocently ignorant of the poem's history. When it was written it was understood to be about those seeking refuge and asylum, not those seeking greater economic opportunity, as Ms. Finn mistakenly asserts. More specifically, "The New Colossus" was written in 1883, about two years after the notorious May Laws were promulgated by Czar Alexander III, sending large numbers of persecuted Jews toward American shores. Lazarus was a Sephardi Jew who was active in Jewish causes, and so clearly had her oppressed brethren foremost in mind. The statue was erected in its current location on June 19, 1885. Only in 1903 was the plaque with the poem added to the base of the statue, by which time its meaning had already begun to conflate refugees with economic aspirants. Lazarus died in 1887 at the age of 38, so she could have nothing to say about the repurposing of her poem. And while Lazarus said nothing about liberty being only for Europeans, it is a matter of plain fact that, at the time, that is what everyone here had in mind.

To get back to the present moment, earlier, too, in mid-July, the Administration had unilaterally changed American asylum policy, making it more difficult to claim asylum status to get into the country. Specifically, the new rule states that asylum seekers who pass through another country to get to the U.S. border will not be eligible to apply for asylum in the United States unless they have first requested it from pass-through countries and been denied.

Then there were the much-ballyhooed ICE raids to deport illegal immigrants. These ended up being rather underwhelming in practice unless you happened to be caught without papers in a remote corner of Mississippi on August 7. But the acerbic, bitter anti-immigrant language coming from the White House was loud and clear. And if all that were not enough, not long after the August 12 announcement news sources reported on August 26 that Cuccinelli's USCIS was denying all medical deferment requests, excepting only some military families and DACA "dreamers," and the latter only because of ongoing litigation. (The subsequent outcry led to a partial reversal of the policy, announced on September 2.)

Taken together, the optic was of an Administration applying a decidedly bigoted lens to how it saw the entire immigration policy portfolio. That optic, most likely, was entirely intended for the political purpose it was deemed to serve. It is difficult to come up with any other general conclusion, given the Administration's overall behavior and body language.

This is unfortunate, because the August 12 announcement, were it to be judged solely on its policy merits, is a positive one. Over the past few decades many proposals to adjust U.S. immigration policy so that it is more functional in economic terms, and less tuned to humanitarian and family reunification criteria, have been put forth. These proposals have come not just from Republicans, but also from Democrats and independents. They have mainly made good sense.

The general argument has been that given changes in the globalizing American economy—changes that have made getting ends to meet more difficult for much of the middle class and for most poorer Americans—the United States can no longer afford an immigration policy, formed in 1964-65 under very different circumstances, so focused on broadly humanitarian criteria.

Much research has shown that excessive low-skill immigration depresses wages among less well-educated Americans, and has fallen especially hard on African-Americans. Other research has emphasized the job-creating energies provided by new immigrants arriving in the United States with enough capital to start their own businesses. Those who have made this argument over the years have also frequently pointed out that no other country in the world bases its immigration policy the way the United States has since 1965, and failing comprehensive reform until now, still does.

None of that prevented the aforementioned hue and cry. **Many Americans seem actually to think that U.S. public policy ought to put the interests of those who are not citizens of the country above those who are.** Many Americans seem actually to think that U.S. public policy ought to put the interests of those who are not citizens of the country above those who are. This proves that, as Tomo says in the exquisitely awful Indonesian movie *Firegate*, “It’s easy to be an idealist, if you have money.”

It is a mystery to me why anyone thinks this a normal premise, or a morally justifiable one, upon which to make public policy in a democracy. It is of course a matter of great sadness that there are so many poor people in Latin America and sub-Saharan Africa, for example. But how does that translate into it being the responsibility of the U.S. government to solve this problem, and to do so in part on the back of its existing citizenry without fairly soliciting their view of the proposition? If you believe that it really is the responsibility of the United States government to solve this problem, even if the chosen method adds burdens to poorer Americans, you should read (or re-read, as the case may be) Charles Dickens’s *Bleak House*, and focus in on the unforgettable character of Mrs. Jellyby. Because that’s you.

The problem with the August 12 announcement was not only the context of concerted bigotry in which it fell, but also the manner in which it was promulgated. Immigration policy is of such vast importance to public policy that it must be the province of the Legislative Branch. It is not a proper domain for Executive fiat. We know this from the experience of the Obama Administration, which, faced with an obstructionist Republican majority in Congress, resorted to a great many Executive Orders. The problem with Executive Orders is that they are much easier to overturn by successive administrations than a law passed by Congress. The result is a policy that whipsaws back and forth and that is generically unstable and hence resistant to consistent implementation.

Now we have more of the same despite the fact that a congressional consensus for this particular change was possible had the White House been willing to negotiate. It is true, as the White House claims, that it sought first to work through Congress, but it should have been more flexible and patient. Instead, apparently, Stephen Miller lost patience and persuaded the President to act precipitously. Now that he has acted by Executive Order, engaging Congress may no longer be feasible, at least for the duration of his tenure.

So whose fault is all this?

We need to be careful about parsing the discrete pieces of the immigration policy issue. The mess at the southern border concerning illegal immigration is real enough, and its cause falls mainly on a series of piecemeal legislative and administrative acts that taken together have actually produced the crisis the Administration describes, less the “carnage” hyperbole of course. It has persisted for so long because an unnatural coalition supports ignoring the problem: liberal

Democrats who favor virtually unrestricted immigration because they think it will end up being politically beneficial to them, and corporate Republicans, justified by a passel of libertarians like those at the Cato Institute, eager to exploit undocumented labor for purposes that need no explanation. This is why the aforementioned corporate Republicans are in the main not fond of the President's August 12 decision—herewith the opposition from the Right.

Neither part of the coalition appeared to care much about all the problems this has caused for ordinary Americans, not to exclude the burgeoning problem of identity theft fraud, at least until the broader immigration policy blowback helped mightily to put Donald Trump in the White House. Much the same can be said, by the way, for Tony Blair's 1997 decision to open the United Kingdom wide to "third world"-origin immigration; he thought it would help Labour Party electoral fortunes, but instead it brought Brexit and made Enoch Powell a prophet.

But beyond the mess at the southern border, which is arguably more the fault of Democrats than Republicans, the reform of immigration policy proper remains on the national to-do list entirely because of Republican stonewalling against comprehensive immigration reform. One would likely not know it from the reporting provided by the depleted mainstream media, but back in 2013 a bipartisan bill that bore all the characteristics of an intelligent, well-balanced, and carefully detailed reform came before Congress. A more detailed and refined version of a proposal first proposed by President George W. Bush in January 2004 and introduced as a bill in June 2006, the 2013 bipartisan "Gang of Eight" bill passed the Senate by a comfortable margin: 68-32. That bill would have solved the illegal immigration part of the policy portfolio along with the larger issue. But it was never put to a vote in the House because of the Hastert rule, which held that unless the majority of House Republicans supported a bill, it would not come up for a vote. Had it been put to a vote, it almost certainly would have passed.

It is hard to think of a better example of dysfunctional partisanship destroying an opportunity for a major advance in public policy. But the Republicans wanted to keep the issue of immigration on the front burner so that they could profit from it politically, and of course they have, at the expense of the national interest as a whole. Alas, harvesting anxiety and division works; it merely requires that you have no scruples. As far as qualifications ago, that's almost too easy for most Republicans lately.

In other words, to circle back to where we began, it is the fault of the Republican Party that a Republican President had to resort to an Executive Order to do something that by rights ought to have been done by Congress; and it is something Congress might well have done in due course had it not been for the aura of bigotry surrounding the Administration's overall orientation to the problem.

That orientation is deliberate; under current circumstances it is more useful politically for the President to have changed the policy by fiat than to have had Congress do it properly, and in a bipartisan fashion. After all, no one is better at sowing division and harvesting anxiety than he is.

Politics is a funny thing. Sometimes the wrong thing happens for the right reasons, and sometimes the right thing happens for the wrong reasons. Sometimes things do or don't get done because reason itself ends up having little to do with the political process. And sometimes not knowing the backstory makes it impossible for observers to figure out what the hell is going on at all. Stay tuned to the TAI dial for more backstories as necessary; this overwhelmingly sad saga isn't nearly over.

*For Emma*

Emma, perhaps it's for the best you never knew  
What the fickle tides of time did to you;  
Your sonnet so fair in Jacob's behest  
To a small share of balm and a moment's rest  
On American shores, in the New World's womb  
Far from Czarist hatreds that did loom.

Your beauty lives on, all the same;  
for at Liberty's feet, is written your name.  
Its beacon, rest assured, o'er the sea still glows  
Though your first purpose, alas....  
Few will ever know.