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America and the World—The Effects of the Trump Presidency

Racialized Threats and Security Rationales in U.S. Immigration Policies

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In late August 2021, Afghans huddled in military airplanes amidst a massive evacuation. Crowds at the airport gates were denied access, then targeted by suicide bombers. These dramatic images encapsulate how security studies scholars typically view migration: refugees as a collateral consequence of conflict; innocent women and children in need of humanitarian assistance; asylum applicants vetted to filter potential terrorists. Too often, academics simply mirror how policymakers and the media talk about migrants as threats. Deportation flights filled with Haitians in September 2021 provide another recent example of imagery overriding analysis.¹

Recent polls show public support for admission of Afghans who worked with the U.S. military, unlike Haitians or Syrian refugees.²

In contrast, this brief essay excavates two embedded and intertwined procedures upon which U.S. immigration policy relies extensively: executive branch decisions and overt security exceptions. Executive discretion determines which groups the U.S. deems a threat to society and, conversely, who counts as worthy of admission. Specifically, I argue that the Trump administration leveraged racist underpinnings of policies that many other politicians and policymakers accept in code.³ While the Biden administration disagrees on some of these controversial policies, others remain in place.

Yet to gauge the Trump effect, we need to go beyond a tally of procedural changes to see that the terms of debate—public vocabularies about migration, not just their content—also shifted profoundly. Already strained, the asylum process at the southern border is now broken, with little pretense of providing anyone with an opportunity to claim a credible fear of persecution. And commentaries on pandemic-generated employment appear remarkably unconnected to immigration policies generally or the heightened internal policing in recent years. How many undocumented workers fear getting vaccinated? How many “essential” workers were deported, or died? We should continue to shine a spotlight on these concerns, regardless of administration, because discriminatory legacies span political parties across historical eras.

¹ Aaron Reichlin-Melnick, “Biden Administration Doubles Down on Title 42 as Del Rio Expulsions Draw to a Close,” *Immigration Impact* (American Immigration Council), 8 October 2021; <https://immigrationimpact.com/2021/10/08/biden-administration-doubles-down-on-title-42-as-haitian-expulsions-draw-to-a-close/#.YWhVZS2ZM0R>

² Craig Kafura, “Republicans and Democrats Support Evacuating, Relocating Afghans to the United States,” *Chicago Council on Global Affairs* blog, 3 September 2021; <https://www.thechicagocouncil.org/commentary-and-analysis/blogs/republicans-and-democrats-support-evacuating-relocating-afghans>. Notably, while the Vietnamese American community is directly connecting their experiences to calls for help with Afghan resettlement, award-winning novelist Viet Nguyen has been a prominent critic of any metric of worthiness; <https://viets4afghans.medium.com/>.

³ Thanks to Rich Friman and Wendy Wong for helping me hone these arguments; any errors are mine.

Setting aside partisan talking points about successes or failures reveals how administrations past and present have regularly resorted to executive orders when faced with legislative stalemate over immigration.⁴ Critics across the board have pointed to the legal extremism of the Trump administration's attempts to bar almost all migration using executive orders. First came court battles over the so-called Muslim Ban, then outrage over illegal detention of unaccompanied children.⁵ However, the Obama administration's popular DACA (Deferred Action for Childhood Arrivals) program also filled a gap when the Dream Act lacked sufficient votes in 2010.⁶

Many countries use executive discretion to provide greater flexibility in implementing provisions of their migration policies, so we know that such variations in content and scope matter. What distinguished the Trump administration was their deep dive into the micro-procedural details of implementation to leverage every possible tool of exclusion.⁷ Here, we begin to see the roots of contemporary policies. Without dedicated refugee legislation until 1980, the U.S. necessarily relied on executive discretion, and many of these procedures remain intact.

One key component, the Immigration and Naturalization Act of 1952, added unprecedented and extensive presidential discretion, previously permitted only during wartime.⁸ While immigration policies already provided extensive tools of exclusion, policymakers worried about loopholes that might still enable entry of certain suspicious Europeans, especially Jewish refugees and diplomats from Communist countries. By the 1960s, acceptable refugees mostly comprised people who fled Communism, especially well-educated Cubans, Hungarians, Czechs, and Soviet Jews.

Such ideological and religious filters were hardly new. A similar convergence drove xenophobia in the 1920s. Nationality quotas limited the entry of undesirable Eastern and Southern Europeans, whom lawmakers viewed as a motley mix of swarthy Catholics and Jewish subversives. Yet attention to the content of these prejudices can deflect from scrutiny of the tools used to exclude them. For example, Communism had little to do with the Clinton administration's discretionary decision to block Haitians in the early 1990s or the subsequent invocation of security threats by multiple administrations directed at Muslims. Going further, the Trump administration prioritized the protection of Christian minorities.⁹

⁴ Immigration reform requires exceptionally difficult cross-partisan coalitions in Congress. See Desmond King, *Making Americans: Immigration, Race, and the Origins of the Diverse Democracy* (Cambridge: Harvard University Press, 2000); Daniel Tichenor, *Dividing Lines: The Politics of Immigration Control in America* (Princeton: Princeton University Press, 2002); Aristide Zolberg, *A Nation by Design: Immigration in the Fashioning of America* (Cambridge: Harvard University Press, 2006); and Susan Martin, *A Nation of Immigrants* (Cambridge: Cambridge University Press, 2011).

⁵ The architect of those radically restrictive policies, former White House advisor Stephen Miller, also commented publicly against resettling any Afghan evacuees in the United States. Despite extraordinary churn amongst staff, Miller remained one constant. The Southern Poverty Law Center documented his connections to previously marginalized anti-immigration activists; www.splcenter.org.

⁶ Barack Obama, *The Promised Land* (New York: Crown, 2020), 616-619.

⁷ Sarah Pierce and Jessica Bolter, "Dismantling and Reconstructing the U.S. Immigration System: A Catalogue of Changes under the Trump Presidency," *Migration Policy Institute*, July 2020; <https://www.migrationpolicy.org/research/us-immigration-system-changes-trump-presidency>.

⁸ H. Richard Friman, "An 'Untrammelled Right'? The McCarran Immigration Subcommittee and the Origins of Presidential Authority to Suspend and Restrict Alien Entry Under §1182(f)," *Journal of Policy History* 31:4 (2019): 433-463.

⁹ Historically, Christian minorities from the Middle East and North Africa (the former Ottoman Empire) did not fit easily within the racial coding of U.S. naturalization policies, but lawsuits led to their categorization as white by the early 1900s. David Theo Goldberg, "States of Whiteness," in *Between Law and Culture: Relocating Legal Studies*, ed. David Theo Goldberg and Lisa Bower (Minneapolis: University of Minnesota Press, 2001): 184.

Legacies of naturalization laws and immigration quotas include the ongoing reliance on nationality categories in most aspects of U.S. migration policy. When nationality fails to filter, discretion frequently comes into play. Consequently, using nationality to categorize migrants can easily obscure other rationales for a policy. The Trump administration demonstrated this dynamic in reverse: it started with an overtly discriminatory ban on people from Muslim-majority countries, but due to effective court challenges, ended up with an odd mix of country-designated security threats including Venezuelans and North Koreans. This brazen approach shocked many people – from legal experts and partisan critics to journalists and the informed public – because official rationales for exclusion had, since the 1960s, become subtler in order to evade charges of overt racism.

We can see a gradual shift away from blatant racism in the convoluted evolution of Chinese exclusion policies, starting in 1882.¹⁰ Categorization was uniquely complicated, because policies used “Chinese” as a racial designation divorced from location or citizenship. In the 1800s, Chinese migrants had settled across the entire Pacific area, from Southeast Asia to South America, as well as U.S. territories, notably Hawai‘i. Since the Naturalization Act of 1790 explicitly applied only to free white people, Chinese families could rarely immigrate based on citizenship. As Congressional support for additional immigration restrictions grew in the early 1900s, the federal government extended anti-Chinese measures to all Asians. This outright exclusion made nationality quotas irrelevant.

Yet alliances do sometimes matter.¹¹ The cumulative impact of the World War II, the Chinese Communist Revolution, and the Korean War generated modest reforms. In December 1943, alongside formal repeal of the Exclusion Acts, a new quota allowed a scant 105 immigrants, calculated proportionally based on a very small population recorded in the 1920 census, to be split 75% for people from the country of China and 25% for Chinese from all other countries. Another concession, the War Brides Act of 1945, addressed a new domestic constituency: servicemen who had married Asian women. Previously, almost all Chinese women had been presumed to be prostitutes; very few wives of merchants had been allowed. Even wives of U.S. citizens had a tough time entering, both before and after the quota. The near total ban on women and widespread anti-miscegenation laws led to the absence of families with children, which explains the tiny Chinese population recorded in the 1920 census. Thus, the substitution of a quota in 1943 accomplished the same restrictive goal, while removing an overt stigma and making possible an exception for wives of soldiers.

Although one of the cowriters of the 1952 Act, Senator Patrick McCarran, claimed that the law eliminated racism and sexism, quotas for Asians in fact remained minimal and still disregarded Chinese nationality based on location rather than lineage.¹² This legislation also added unprecedented restrictions within the Caribbean, especially because pre-revolutionary Cuba served as a significant transit country.¹³ The Hart-Celler Act of 1965 converted country-quotas to regional caps, including the Western Hemisphere for the first time. It also bolstered emphasis on family ties, aimed at desirable European immigration, but the unintended consequence was a substantial increase in immigration from Asia and the Americas.

¹⁰ General immigration books typically cover the Chinese Exclusion Act of 1882 and key court rulings. For greater detail, see Estelle Lau, *Paper Families: Identity, Immigration Administration, and Chinese Exclusion* (Durham: Duke University Press, 2006), especially the legislative history in Ch.1, and the nuanced explication throughout of procedures based on rich archival evidence. See also Maddalena Marinari, Madeline Hsu, and Maria Cristina Garcia, eds., *A Nation of Immigrants Reconsidered: US Society in the Age of Restriction, 1924-1965* (Urbana: University of Illinois Press).

¹¹ On alliances generally, see Lamis Abdelaaty, *Discrimination and Delegation: Explaining State Responses to Refugees* (New York: Oxford University Press, 2021). On U.S. reforms related to Chinese, see Lau, *Paper Families*, and Marinari, et al., *Nation of Immigrants Reconsidered*.

¹² Zolberg, *Nation by Design*, 311-312.

¹³ Marinari, et al., *Nation of Immigrants Reconsidered*.

Since Congress had only inadvertently diversified immigration, it still relied on covertly racialized categories, as evident in policies about refugees. Images of the Kabul evacuation in August 2021 resonate with those who remember broadcasts of the April 1975 embassy airlift in Saigon, but the connection to Vietnam is much more than a metaphor or analogy. Around the world, that war transformed many migration policies. Some countries created new policies; other countries reduced barriers to Asian immigration. The U.S. finally converted its ad hoc approach into legislation that built on international definitions of persecution and procedural norms.¹⁴ Coincidentally, the Soviet invasion of Afghanistan led to the arrival of a modest number of Afghan refugees in the 1980s, but many more fled to Pakistan or Iran, as occurs today.

Although the Refugee Act of 1980 provided legal infrastructure for processing asylum claims, administrations still determine how many and which refugees to accept. Such discretion is central to current controversies related to the southern border. In January 2019 the Trump administration created the Migration Protection Protocols (MPP) as part of its broader agenda to preclude entry via Mexico (hence MPP is known as the Remain in Mexico policy). MPP prevented asylum seekers from crossing the border or deported those who did get across without adequately reviewing their claim to credible fear of persecution. Instead, potential refugees were required to wait across the border for an appointment. Noting the dangers migrants faced while in Mexico, critics portrayed MPP as a violation of the principle of non-refoulement (which precludes preemptively sending someone back to a dangerous place).

Courts have ruled multiple ways over MPP, from injunction to reinstatement. Upon taking office in January 2021, the Biden administration halted implementation of MPP but subsequently, in response to adverse court rulings, modified it.¹⁵ As of December 2021, MPP continues, even expanded to Haitians.¹⁶ Adding complications, in March 2020, the Trump administration invoked section 265 of Title 42, an obscure health regulation, linking its border policy to the pandemic. The Biden administration has maintained this rule, and as of this writing, has doubled down in its defense.¹⁷ Both administrations have faced criticism for justifying this restriction based on evocative tropes of disease-carrying migrants that contain tenuous connections to substantive health concerns. In early October 2021, Harold Koh, a senior State Department official and eminent human rights lawyer, offered a blistering internal memo about Title 42, in which he detailed multiple violations of domestic and international law, while also offering rights-respecting alternatives.¹⁸

Much as critics within the Biden Administration demand a frank reckoning with discriminatory premises of restrictions such as Title 42, security studies scholars need to do their own scrutiny of embedded assumptions. While the Trump administration's disregard for domestic or international legal commitments may not surprise anyone, procedural debates over immigration and asylum still matter as domestic articulations of national identity, with implications for foreign

¹⁴ Gil Loescher and John Scanlon, *Calculated Kindness: Refugees and America's Half-Open Door, 1945 to the Present* (New York: Free Press, 1986); Laura Madokoro, "Contested Terrain: Debating Refugee Admissions in the Cold War," in Marinari et al., *Nation of Immigrants Reconsidered*, ch.3

¹⁵ Muzaffar Chishti and Jessica Bolter, "Court Ordered Relaunch of Remain in Mexico Policy Tweaks Predecessor Program, But Faces Similar Challenges," *Migration Policy Institute* blog, 2 December 2021; <https://www.migrationpolicy.org/article/court-order-relaunch-remain-in-mexico>.

¹⁶ Aaron Reichlin-Melnick, "Biden Reinstates the 'Remain in Mexico' Program," *Immigration Impact* blog, 3 December 2021; <https://immigrationimpact.com/2021/12/03/biden-reinstates-remain-in-mexico/#.YbJQLi2ZNXg>.

¹⁷ American Immigration Council, "A Guide to Title 42 Expulsions" (15 October 2021); <https://www.americanimmigrationcouncil.org/research/guide-title-42-expulsions-border>.

¹⁸ Politico.com first reported on Koh's memo, along with access to the document, on 4 October 2021; <https://www.politico.com/news/2021/10/04/top-state-adviser-leaves-post-title-42-515029>. His memo circulated just days after the Special Envoy to Haiti, Daniel Foote, resigned in protest over deportations; journalist Yamiche Alcindor first reported his resignation on Twitter (23 September 2021), with a copy of the resignation letter; <https://twitter.com/Yamiche/status/1441004994694631428>.

policy.¹⁹ Because racist policies did not emerge in a vacuum, we must revisit the past to grasp the wider effects of Trumpism for the future.²⁰

Sidelining migration as a domestic policy issue exacerbates amnesia about unapologetic imperialism, whereas global migration history underscores that *Pax Britannica* provided the architecture for *Pax Americana*. Ambivalent about its own expansionism, particularly in the Philippines, the U.S. both responded to and bolstered key norms of that imperial world order.²¹ For example, as president during the restrictive turn of the early 1900s, Woodrow Wilson, who was a blatant segregationist, ensured the demise of Japan's proposed racial equality clause at the League of Nations.²² Also, Wilson's concept of self-determination evinced racial hierarchy: only European nations deserved self-determination. Even then, he opposed decolonization of territories controlled by the victors, despite pleas from white ethnic nationalists such as the Afrikaners in South Africa, not to mention the Irish.²³

Wilson's ghost haunts the field of International Relations. As part of the recent movement to remove Confederate monuments and honorifics to Jim Crow segregationists, Wilson's domestic record has garnered renewed attention. Princeton University reluctantly took his name off its renowned public policy school, an overdue acknowledgement of his efforts to exclude Blacks and Jews while president of the university. Meanwhile, without irony, IR continues to routinely reference Wilson as a leading voice for a liberal order, sometimes even turning his name into an adjective: Wilsonian idealism.²⁴ Portrayed as a tragic figure because the Senate rejected the League of Nations, his failure fuels the field's foundational narrative privileging realism: later the U.S. created the United Nations based on power politics. Overturning illiberal inequality requires much more than fixing migration policies and procedures.

¹⁹ Audie Klotz, "Migration," in *The Oxford Handbook of International Security*, ed. Alexandra Gheciu and William Wohlforth (Oxford: Oxford University Press, 2018), ch.30.

²⁰ Robert Vitalis, *White World Order, Black Power Politics: The Birth of American International Relations* (Ithaca: Cornell University Press, 2015).

²¹ Christopher Lasch, "The Anti-Imperialists, the Philippines, and the Inequality of Man," *Journal of Southern History* 24:3 (1958): 319-331; Paul Kramer, *The Blood of Government: Race, Empire, the United States and the Philippines* (Chapel Hill: University of North Carolina Press, 2006); Daniel Immerwahr, *How to Hide an Empire: A History of the Greater United States* (New York: Farrar, Straus and Giroux, 2019); and Richard Maass, *The Picky Eagle: How Democracy and Xenophobia Limited U.S. Territorial Expansion* (Ithaca: Cornell University Press, 2020).

²² For an account that stresses the racial equality clause as a direct response to discrimination against Japanese migration, see Marilyn Lake and Henry Reynolds, *Drawing the Global Colour Line: White Men's Countries and the International Challenge of Racial Equality* (Cambridge: Cambridge University Press).

²³ Despite invocation of treaties affirming sovereignty, the Iroquois, too, were summarily dismissed: Yale Belanger, "The Six Nations of Grand River Territory's Attempts at Renewing International Political Relationships, 1921-1924," *Canadian Foreign Policy Journal* 13 (3), 2007, 29-43; Mark Pearcey, "Sovereignty, Identity, and Indigenous-State Relations at the Beginning of the Twentieth Century: A Case of Exclusion by Inclusion," *International Studies Review* 17:3 (2015): 441-454.

²⁴ Vitalis (2015) provides a few examples (4, 75), but variations of this phrase pervade textbooks as well as writing on democratic peace. For a less U.S.-centric yet similar view, see Vineet Thakur and Peter Vale, *South Africa, Race, and the Making of International Relations* (London: Rowman & Littlefield, 2020), 32-34.

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