

# The Meaning of American Citizenship

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*Many* any today think about American citizenship either in terms of rights or of diversity. But recurrence to the American founding can help disabuse us of such distorted views. Citizenship involves governing the community and is therefore as much a privilege as a right. And while the American regime is based on principles that permit and even encourage a certain diversity among its citizens, attention to the thought of the Founders reminds us that citizenship also demands unity among citizens. Citizens must be unified in their commitment to the principles of our government, and, just as importantly, they must share in a capacity to exercise the habits of mind and character that will preserve our political way of life.

What does it mean to be an American citizen? A clear answer to this question is necessary to the great work confronted by every generation of Americans: the protection, preservation, and transmission of the American regime. Most Americans rightly think of their country and its way of life as a precious inheritance that they are bound to hand on to their children and grandchildren. We cannot perform this duty successfully, however, unless we have an accurate conception of the meaning of citizenship and of the virtues of the good citizen.

Today, regrettably, the meaning of American citizenship is distorted by ideology. Ideas sound in themselves have been pushed beyond reasonable limits. Principles have degenerated into slogans. We live in an age that

venerates equality and is preoccupied with individual rights. Accordingly, we tend to think of citizenship purely in terms of the equal sharing in individual rights. We live in an age that celebrates diversity and inclusion. We accordingly think that citizenship should be extended to practically anybody without any limitations.

As a result, it has become commonplace for Americans to treat citizenship and its prerogatives more carelessly—or to guard them less jealously—than they ought. Some, insisting on a strict equality of rights, claim that it is a serious injustice to withhold the right to vote even from those who have been convicted of serious crimes. Others, demanding openness and inclusivity, hold that anyone who comes to America should be welcomed and placed on the path to citizenship—regardless, perhaps, of whether they arrived legally in the first place.

Indeed, some Americans go so far as to think of citizenship not as means of preserving our regime but instead as a tool with which to change it. There are those on the left who proudly proclaim their desire to transform American society and its politics. And many of them openly admit that they view the admission of recent immigrants to citizenship as a key means to this end.

Recurrence to the American founding can help correct such distortions. Our key founding documents emphasize not only a fundamental equality in relation to certain individual rights but also remind us that citizenship involves the exercise of power or authority and is therefore properly understood not only as a right but also as a privilege and a responsibility. Moreover, while the American regime is based on principles that permit and even encourage a certain diversity among its citizens, attention to the thought of the Founders reminds us that citizenship also demands a kind of unity among citizens—unity in commitment to the principles and in capacity for the habits that will preserve our political way of life. Finally, the Founders remind us that America is not only a regime but also a country. Thus, as American citizens we are called not only to support the regime, which is based on universal principles, but also to love our country, to defend its particular interests, and to cherish its unique historical identity.

## **Rights, Citizenship, and the Power to Rule**

The contemporary tendency to think of citizenship exclusively in terms of the equal possession of rights is supported, it would seem, by a recurrence to America's own fundamental principles. If we ask what it means to be an American citizen, our minds are naturally drawn to the American Founding, and especially to our great founding documents. Among these,

the Declaration of Independence holds pride of place as the public statement, made in the name of the whole people, of the foundational “truths” on which America is based. The Declaration, moreover, instructs us in its celebrated language that “all men are created equal, that they are endowed by their Creator with certain unalienable Rights,” and “that among these are Life, Liberty, and the pursuit of Happiness.” Perhaps, then, being an American citizen means acknowledging and sharing equally in these fundamental rights.

There is some truth in this view. As long as America remains faithful to its founding principles, its citizens will affirm, and therefore will equally enjoy, these rights. Nevertheless, this is not the whole truth of the matter, as we can see if we reflect further on the Declaration and its teaching.

The “unalienable rights” articulated by the Declaration of Independence are indeed of fundamental importance, but they are not the rights of citizens as such. Influenced by the teaching of the English political philosopher John Locke, the Founders understood the rights announced in the Declaration to be *natural* rights. That is, they belong to the natural moral order that exists always and everywhere. They rest, as the Declaration says, upon the “Laws of Nature and Nature’s God” and therefore belong to “all men.” All human beings, as human beings, are equally endowed with the rights to life, liberty, and the pursuit of happiness. These rights are in force at all times and in all places, under any government and even where there is no government.

The unalienable rights of the Declaration, then, are natural and universal. Citizenship, in contrast, implies participation in a particular government. As the Declaration itself teaches us, however, governments do not exist by nature. Rather, they “are instituted among Men” by “the consent of the governed.” Accordingly, the rights of citizenship are not conferred by nature but are settled by the agreement of the people who constitute the political community.

It would therefore be misleading to think of the natural, unalienable rights announced by the Declaration of Independence as the rights of *citizens*. To be sure, these natural rights are bound up with our citizenship, to the extent that we are members of a regime properly dedicated to the protection of natural rights.

Nevertheless, the natural rights of human beings and the political rights of citizens are distinct. Even a government dedicated to the protection of natural rights has no natural moral obligation to confer the rights of citizenship on any particular person. At the same time, however, such a government always has a natural moral obligation to respect the natural rights of both citizens and non-citizens. A government may properly deny

a non-citizen admission to citizenship, just as it may deny a foreigner entry into the country. Yet a government that permits non-citizens to live in the country under its protection cannot deprive them of their natural rights by arbitrarily taking their lives, liberty, or property.

If the Declaration of Independence does not reveal the full meaning of American citizenship, perhaps that meaning can be found in the Constitution of the United States. Citizenship, once again, depends on the existence of a particular political community's government. The Constitution is the document that establishes America's governing institutions. The Constitution, in contrast to the Declaration, is not a statement of natural law and natural rights. It is rather the expression of America's fundamental positive or conventional law. Its provisions are not in force at all times and in all places and in relation to all men, but instead were ordained by the people of the United States when they ratified it and the subsequent amendments to it. Perhaps, then, the meaning of American citizenship is to be found in sharing in the individual rights and liberties enshrined in the Constitution.

Once again, this is true but not the whole truth. On the one hand, a citizen of the United States will enjoy these rights by virtue of living under the Constitution's authority and will, to the extent that he is a good citizen, be committed to upholding them, since they are part of the fundamental law of the community of which he is a member. On the other hand, if we attend to the text of the Constitution, we find that the individual rights it protects are not the rights of citizens as such. Rather, the Constitution extends these protections even to non-citizens.

The Constitution's protections for individual liberties are found in Article I (Sections 9 and 10), Article III (Sections 2 and 3), and, most famously, in the Bill of Rights (Amendments I through X). For the most part, these protections are not limited to citizens but instead extend to everyone living in the United States—either because they are stated in general, and therefore comprehensive, terms, or because they are said to belong to “persons” or to “the people.” For example, Article I provides that “The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it,” and that “No Bill of Attainder or ex post facto Law shall be passed.”<sup>1</sup> Later in the same article these prohibitions are also applied to the state governments, which are additionally forbidden to “pass any...Law impairing the Obligations of Contracts.”<sup>2</sup> Similarly, Article III requires trial “by Jury” in the case of “all

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1. Article I, Section 9, Clauses 2 and 3.

2. Article I, Section 10, Clause 1.

Crimes,” without distinguishing whether the crime was committed by a citizen or a non-citizen.<sup>3</sup>

Many of the protections afforded in the Bill of Rights are expressed in equally comprehensive terms. The First Amendment simply protects the “free exercise” of “religion” and “the freedom of speech” without reference to any distinction between citizens and non-citizens. The Third Amendment forbids the quartering of soldiers “in any house, without the consent of the owner.” Similarly, the Sixth Amendment secures the right to a “speedy and public trial” to “the accused,” just as the Eighth Amendment forbids that “Excessive bail,” “excessive fines,” and “cruel and unusual punishments” be imposed on anybody.

In other key provisions, the Bill of Rights extends its protections beyond citizens by speaking of the rights in question as belonging to “persons” or to “the people.” The Fourth Amendment establishes “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.”<sup>4</sup> The Fifth Amendment provides that “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury” and “nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law.”

The aforementioned provisions include some of the most important conceivable protections for the liberty of the individual. None of them depend upon citizenship. All of them extend to anyone who lives under the authority of the United States.<sup>5</sup>

The individual rights noted in the Declaration of Independence and in the Constitution, then, are not the same thing as the rights of the citizen. Sharing in them, as important as they are, is nevertheless not the same thing

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3. Article III, Section 2, Clause 3.

4. Admittedly, some of the Constitution’s other uses of the expression “the people” seem to be limited to the body of citizens. Most obviously, the reference to “we the people” in the Preamble presumably refers to the citizenry, who alone would have the authority to “ordain and establish this Constitution for the United States of America.” Similarly, because the Second Amendment is concerned with the “militia,” it might be reasonable to interpret its statement of “the right of the people to keep and bear arms” as referring to a right held by citizens and not non-citizens.

5. The Constitution also refers to the “privileges” and “immunities” of “citizens.” Paradoxically, however, this famous formulation does not do much to advance our search for the meaning of American citizenship. The Constitution’s first reference to “privileges and immunities” of citizens—in Article IV, Section 2—does not refer to citizens of the United States but to the citizens “of each state” and “of the several states.” The provision, moreover, does not offer any substantive teaching on the privileges and immunities of citizens. It only requires that each state offer the same privileges and immunities to citizens of other states that it offers to its own citizens. The Constitution’s second use of these terms is found in Section 1 of the Fourteenth Amendment, which, unlike Article IV, refers to national citizenship and not just to state citizenship: “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.” Regrettably, however, scholars and jurists have never been able to agree on the meaning of this provision, which has mostly been treated as a dead letter by American courts. See David Forte and Matthew Spaulding, eds., *The Heritage Guide to the Constitution* (Washington, DC: The Heritage Foundation, 2005), pp. 267–273 and 501–505.

as holding the status of a citizen. This conclusion is supported not only by the preceding discussion but also by our common experience of political life. That experience teaches us that the rights of the Declaration and the Constitution are somehow more fundamental and more unshakable than the rights of the citizen. Citizenship can be bestowed on non-citizens when they demonstrate that they merit being admitted to full membership in our political community. Conversely, citizenship can be taken away from Americans who renounce their allegiance to the United States.

In contrast, the natural rights noted in the Declaration, insofar as they are “unalienable,” can never be taken away from any human being. The rights ensured by the Constitution are permanent not by nature but by the Constitution’s status as a fundamental law. Even a person convicted of a serious crime still enjoys all the protections bestowed by the Constitution. Having been found guilty and sent to prison, the government cannot prevent his religious practice there or search his house without a warrant or make him provide evidence against himself in relation to some other suspected crime.

If being an American citizen is not merely sharing in the individual rights identified in the Declaration of Independence and the Constitution, then what is it? Here, our search may be assisted by a more fitting choice of terms. In truth, citizenship is less a matter of holding and exercising *individual rights* than of sharing in *collective responsibility*. Although the Constitution does not explicitly define the meaning of citizenship, it points toward this understanding both in its original text and in its subsequent amendments.

The Constitution of 1789 provides that one must be a citizen of the United States to serve as a senator, a representative, or as president.<sup>6</sup> In a similar spirit, the Fifteenth, Nineteenth, and Twenty-Sixth Amendments limit the conditions under which “citizens” can be denied the “right” to “vote,” and therefore generally associate voting with citizenship. This understanding is further fleshed out in American law, which provides that one must be a citizen to vote in a federal election or to serve on a federal jury.<sup>7</sup> Generally speaking, citizens—and only citizens—share in government and therefore exercise power over the political community.

For this reason, although we commonly speak of the “rights” of citizens, we no less commonly, and perhaps more appropriately, speak of the “privileges” of citizenship. All human beings have rights—founded both in nature and in a wisely constituted fundamental law—to be secure against

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6. Article I, Section 2, Clause 2; Article I, Section 3, Clause 3; and Article II, Section 1, Clause 5.

7. See 18 U.S. Code § 611 and 28 U.S. Code § 1865.

the exercise of arbitrary power. Nobody, however, has a right in the same sense to exercise power over others and over the whole community. Such power is rather a responsibility and a privilege. This understanding is expressed by Alexander Hamilton in *Federalist* 84, where he speaks not of the rights of citizens, but instead of “the political privileges of the citizens in the structure and administration of the government.”<sup>8</sup>

Having come this far, we are in a position to correct a common error in our contemporary thinking about citizenship. Some Americans talk as if it would be obviously advantageous and just to extend all of the rights or privileges of citizenship to as many individuals as possible. After all, they say, anyone affected by a decision should have a say in the decision.

Common practice, however, and the common sense on which it is based, say otherwise. Foreigners, both here and abroad, are every day affected by the decisions of the government of the United States. Yet they are accorded no power in our political system because they are not members of our community and cannot reasonably be expected to act only with a view to its well-being. In a criminal proceeding, the accused and his family, and the victim and his family, will be affected more than anybody by the outcome. Yet they are not permitted to serve on the jury, because their circumstances give us good grounds to expect that they will not be able to impartially exercise the power entrusted to them. Minors are excluded from voting on the very reasonable grounds that they have not yet developed the qualities of mind and character to vote responsibly. Why should someone who cannot legally dispose of his own personal interests by entering into a contract be permitted to dispose of the whole country’s interests by voting? Some jurisdictions in America deny felons the right to vote on the understanding that someone who has already chosen to do serious harm to the community ought not to be entrusted with power over it.

When people exercise their rights as individuals, the consequences of their choices commonly fall only upon themselves and those who are closely connected to them. But when people act as citizens—when they vote or hand down a verdict in a trial or exercise the functions of elective office—they exercise authority over others and over the whole community, and the consequences of their choices may bear upon the well-being of the whole community for years to come. We commonly speak of the exercise of our citizenship as a form of liberty. Nevertheless, as Edmund Burke observed,

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8. Alexander Hamilton, James Madison, and John Jay, *The Federalist*, George W. Carey and James McClellan, eds. (Indianapolis: Liberty Fund, 2001), p. 447.

“liberty, when men act in bodies, is *power*.”<sup>9</sup> This is sufficient justification for a proper jealousy of the privileges of citizenship, even in a democracy.

## Citizenship, Diversity, and the American Regime

In recent years, diversity has become an almost sacred concept for some Americans. The claim that “diversity is our strength” often functions as a kind of slogan, expressing not so much an empirical claim that may be tested against the evidence as a moral claim that all decent citizens are expected to affirm. Unsurprisingly, this kind of thinking has come to influence our understanding of American citizenship.

Thus, many Americans emphasize—and celebrate—the diversity of America’s body of citizens. On this view, America’s great glory is found in the fact that its citizens represent so many different cultures, so many different systems of belief, and come from so many different parts of the world. This existing diversity is to be praised, and development in the direction of greater diversity is to be welcomed.

For those who take this position, “inclusivity” and “openness” are treated as concepts allied to diversity. Affirming diversity is held to be good, because it makes possible the virtues of inclusivity and openness: America is open and welcoming to all kinds of people from all over the world. In contrast, a desire for unity or homogeneity among citizens implies exclusivity: To the extent that Americans have to be somehow the same, it may not be possible to welcome everyone without distinction. Unity is therefore to be rejected as questionable or bad.

Those who promote this cult of diversity sometimes contend that they are merely defending America’s traditional identity. After all, America’s own founding principles make it open to a greater diversity of citizens than any other country. There is some truth in this view. Nevertheless, if we examine the work of the American Founders, we find that such claims exaggerate and distort the role of diversity in their thought.

America, according to its most important founding document, is established on universal principles. To be sure, the government of America was erected to protect the rights of Americans—and not the rights of all people everywhere. Nevertheless, to the extent that these rights are understood as belonging to human beings as human beings, as resting on a human nature that is the same everywhere and not on some uniquely American culture, then *in principle* any human being of any background can become

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9. Edmund Burke, *Reflections on the Revolution in France*, J. G. A. Pocock, ed. (Indianapolis: Hackett Publishing, 1987), p. 8 (emphasis added).

an American citizen—can become a participant in the regime dedicated to the protection of natural rights. To this extent, American citizenship is open to a kind of diversity not available to other kinds of nations—nations, for example, whose identity is founded on an ancient sharing in the same “blood and soil.”

American citizenship involves other kinds of diversity as well, ones arising not from the universality of the principles of the Declaration but instead from the institutional structures the Founders chose when devising the Constitution. America is in some respects a nation of states. The Founders accepted as an unavoidable reality the attachment of citizens to their states as distinct communities, each with a political life of its own, not entirely dependent on the nation or its government. More than that, they to some extent accommodated and even encouraged this attachment by incorporating the states in the workings of the federal government.

Most famously, the states are represented in the Senate as states. There each state is accorded two Senators, regardless of population, on the understanding that the states are all equal as distinct political communities within the larger national community. Even the House of Representatives, which is intended to represent the people of the nation itself, is constructed in a way that acknowledges the existence of the states and encourages attachment to them. The Constitution requires that Representatives be apportioned among the states, with the result that every House district exists within a given state.<sup>10</sup> No district is formed out of more than one state. Similarly, the Constitution requires that every Representative be, when elected, “an inhabitant of the State in which he shall be chosen.”<sup>11</sup> As a result, it is now customary for even members of the House to think of themselves as part of a congressional “delegation” representing a particular state.

The Founders understood America’s system of federalism—or the existence of the states as distinct communities with their own governments—as essential to one of the most important aims of the Constitution: the protection of liberty. As James Madison observed in *Federalist* 51, the division of authority between the federal government and the states works with the principle of separation of powers to prevent “usurpations” of government against the rights of the people. “In the compound republic of America,” Madison observed, “the power surrendered by the people is first divided between two distinct governments [state and federal] and then the portion allotted to each subdivided among distinct and separate

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10. Article I, Section 2, Clause 3. See also the Fourteenth Amendment, Section 2.

11. Article I, Section 2, Clause 2.

departments”—legislative, executive, and judicial. “Hence,” Madison concluded, “a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself.”<sup>12</sup>

The ability of the federal government and the states to check each other, however, depends ultimately on the citizens’ energetic attachment to and support for both levels of government. Here, then, the Constitution itself both fosters and depends upon a certain diversity of citizenship. Being an American citizen does not require giving unqualified support to the government of the United States in every situation. It requires instead unqualified support for the Constitution and the system of federalism it establishes. This calls upon the citizen to uphold the legitimate prerogatives of both the federal government and the states. It may require supporting one government over the other in a particular contest of power in order to preserve the proper constitutional balance between the two and to preserve the liberty that that balance is intended to safeguard.

America’s constitutional system also fosters another kind of useful diversity among its citizens. When the Americans of the founding generation chose to unite the states into one union under a central government, they were choosing to create what James Madison, writing in the *Federalist*, famously called an “extended republic.”<sup>13</sup> The advantage of republican government on a large scale, Madison contended, was precisely the diversity of interests and opinions that it permitted among its citizens, for this diversity was the key to a large republic’s ability to “break and control the violence of faction”—or the tendency of citizens to use the government to advance their own interests at the expense of the rights of others or of the public interest.<sup>14</sup>

In a republican regime like America’s, Madison taught, the main problem was posed by majority faction. After all, political minorities whose aims threatened the rights of others would usually be defeated by the ordinary workings of the political process: They would lack the votes to prevail. Under that same process, however, a majority faction would necessarily possess the power to “carry into effect” its “schemes of oppression.”<sup>15</sup> This danger could not be averted by removing the causes of faction, Madison

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12. Hamilton, Madison, and Jay, *The Federalist*, p. 270.

13. *Ibid.*, p. 271.

14. *Ibid.*, p. 42.

15. *Ibid.*, p. 45.

held, because the causes were rooted in human nature itself. The natural “diversity” of human talents and minds would necessarily result in citizens having different and even conflicting interests, opinions, and passions.<sup>16</sup>

Madison found the solution to this problem, paradoxically, in actually multiplying the grounds of faction in the community. In a small society, he observed, the danger of majority faction was great because the simplicity of such a society made it more likely that it would divide into only two groups, each with opposed interests. In a large society, however, the larger number of distinct factions would permit them all to check each other, with the effect that any national majority would likely be not factious but instead decent and moderate. As Madison put it: “In the extended republic of the United States, and among the great variety of interests, parties, and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good.”<sup>17</sup>

Certain kinds of diversity with regard to citizenship, then, did play a role in the Founders’ project. Nevertheless, the preceding discussion also highlights how the Founders’ thinking about diversity differs from contemporary celebrations of diversity. America’s founders did not treat diversity as a sacred concept. For the Founders, it was not so much to be celebrated as a fundamental good as it was to be recognized as related to other things that are fundamental goods. The Declaration of Independence does not teach that the purpose of government is to establish a diverse community or that a diverse community is necessarily a good community. It teaches rather that the purpose of government is to secure the natural rights of the citizens who comprise it (and incidentally, of the non-citizens who reside there or who happen to be visiting).

This understanding of the purpose of government makes a certain diversity among the citizens possible, but the rights of citizens—not diversity—is the object of good government. Similarly, in the constitutional structures chosen by the Founders, diversity operates as a useful instrument, not as a fundamental good. Diversity of commitments among American citizens—to state and federal governments and to the various factions to which they belong—operate to moderate the courses of government and to protect liberty. Here, diversity is not so much an end as a means.

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16. *Ibid.*, p. 43.

17. *Ibid.*, p. 271.

## Citizenship, Unity, and the American Regime

Additional reflection on the Founding, moreover, sheds further light on the limits of diversity and, indeed, brings to light America's need for a real unity of principle and purpose among its citizens. In the first place, while it is true that the teaching of the Declaration of Independence *permits* a certain diversity and openness with regard to citizenship, it is also true that this teaching does not in fact *require* such diversity and openness.

As we have seen, the universal principles of the Declaration open the door for any human being to become an American in a way that would not be possible for a country whose identity is based on ethnic affinity or on "blood and soil." Nevertheless, the principles of the Declaration do not require America to admit foreigners to membership in its political community. Universal natural rights, after all, do not themselves confer membership in any particular regime.

Indeed, the idea that non-Americans might have a natural right to become Americans would actually undermine the teaching of the Declaration of Independence. That teaching includes not only the doctrine of natural rights but also the doctrine of consent—the idea that political communities are established by the agreement of their own members. This idea was no less fundamental to the Founders than the idea of natural rights. Yet to hold that a political community is properly established on the basis of voluntary consent necessarily implies that such a community possesses the freedom to decide for itself whether or not to admit new members and, if it chooses to admit them, which particular ones it will accept and on what basis. This understanding is embodied in the Constitution, which authorizes the Congress of the United States "to establish an uniform rule of Naturalization."<sup>18</sup> Thus the citizens of the United States, acting through their elected representatives, are free to determine whether and to what extent non-Americans should be admitted to citizenship.

In addition, the aforementioned kinds of citizenship diversity that are fostered by America's constitutional structures are subject to certain necessary limits. Put another way, these legitimate forms of diversity do not preclude a certain unity of citizenship—a unity that is in fact necessary for the country to function. Federalism, again, entails a certain tension between the loyalties that citizens owe to the federal government and to their states. These tensions are nevertheless perfectly compatible with a unified sense of loyalty to the United States and its constitutional system and to one's fellow

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18. Article I, Section 8, Clause 4.

Americans as common citizens in a single political community comprised of both the nation and its member states.

Thus, besides taking certain steps to foster attachment to the states, the Constitution also includes provisions seeking to encourage the sense that all Americans are together members of a single political community. Article IV, for example, demands that “The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.”<sup>19</sup> The purpose of this provision is to encourage the free movement of Americans among the states by prohibiting the states from treating visitors or new residents as outsiders with rights inferior to those of their own citizens. As a result of this clause, a New Yorker, say, and a Georgian are already potentially fellow citizens. Merely by taking up residence in Georgia the New Yorker can become a Georgian. A similar intention animates Article VI’s requirement that “Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.”<sup>20</sup> This sense of common American citizenship is further strengthened by the Fourteenth Amendment, which provides 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.”<sup>21</sup>

Indeed, the political crisis from which the Fourteenth Amendment emerged, the Civil War, reminds us of the dangers of federalism if it is not sufficiently leavened by a sense of common national citizenship—the opposite of diversity. Federalism can only work to protect liberty if citizens possess a sense of loyalty to the state governments and are willing to oppose the federal government if it abuses its powers or usurps powers to which it has no constitutional title. At the same time, however, the Civil War—the temporary dissolution of America as a political community—was caused in part by an excessive loyalty to the states that led many Americans to support the secession of their states from the Union. The successful functioning of the American regime therefore requires not only the diversity of citizen loyalties to their particular states but also a unifying sense of membership in a single, national, permanent political community and an accompanying sense of common citizenship with all of one’s fellow Americans.

Again, our extended republic uses factional diversity to protect liberty. Nevertheless, factious political competition, if carried too far, would

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19. Article IV, Section 2, Clause 1.

20. Article IV, Section 1. For a fuller treatment of these constitutional provisions, see Forte and Spaulding, eds., *The Heritage Guide to the Constitution*, pp. 267–273.

21. Fourteenth Amendment, Section 2.

undermine the spirit of amity and patriotism necessary for cooperation in pursuit of the common good. Accordingly, the Founders emphasized not only the constructive uses of factional conflict, but also the need to moderate such conflict.

This point was made perhaps nowhere so famously as in George Washington's celebrated Farewell Address of 1796. Like Madison, Washington noted that the spirit of "faction" or of "party" is "inseparable from our nature, having its root in the strongest passions of the human mind." Washington also echoed the Madisonian argument that faction could be used for the "salutary purpose" of restraining the government and preventing tyranny. "There is," the President admitted, "an opinion that parties in free countries are useful checks upon the administration of the government and serve to keep alive the spirit of liberty. This within certain limits is probably true."

Nevertheless, Washington immediately added that while these good uses of the natural spirit of faction or party are not to be overlooked, neither should that spirit be actively encouraged. On the contrary, "there being constant danger of excess, the effort ought to be by force of public opinion, to mitigate and assuage" the spirit of faction. Factionalism or party conflict, Washington warned, "serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms, kindles the animosity of one part against another, foment occasionally riot and insurrection. It opens the door to foreign influence and corruption, which finds a facilitated access to the government itself through the channels of party passions." Accordingly, he concluded, it is "the interest and duty of a wise people to discourage and restrain" the spirit of party or faction.<sup>22</sup>

Thomas Jefferson made a similar point in his First Inaugural Address. The recently concluded national election, he suggested, was inevitably and appropriately a forum for spirited factional competition—a "contest of opinion" notable for the "animation of discussions and of exertions" among the contending parties. Nevertheless, he continued, successful governing of the country would require that this spirit of conflict give way to a spirit of cooperation. The election having concluded, Jefferson expressed his expectation that "all will, of course, arrange themselves under the will of the law, and unite in common efforts for the common good."<sup>23</sup>

This turn to unity, Jefferson hinted, was necessary to sustaining our commitment to republican self-government. Presumably, people will

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22. John H. Rhodehamel, ed., *George Washington: Writings* (New York: Library of America, 1997), pp. 969–970.

23. Merrill D. Peterson, ed., *Thomas Jefferson: Writings* (New York: Library of America, 1984), p. 492.

not exert themselves to uphold a system that they find unpalatable. Yet Jefferson noted that without a certain unity of “heart” and “mind” among the citizens, without the “harmony and affection” of “social intercourse” that such unity makes possible, “liberty and even life itself are but dreary things.” Accordingly, Jefferson emphasized the unity of principles that must leaven the political competitions inseparable from self-government. “[E]very difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all Republicans, we are all Federalists.”<sup>24</sup>

Finally, we must acknowledge that while America’s fundamental principles permit a certain diversity, openness, and inclusivity with regard to citizenship, there is another sense in which those very principles demand a certain unity and exclusivity with regard to citizenship. Simply put, our fundamental principles require that we foster citizens who support those principles and will preserve and transmit them. The idea of the citizen or of citizenship is inseparable from a kind of conservatism. As Aristotle teaches, who is a citizen depends upon the character of the regime. The citizen is, by definition, a member of a particular kind of regime. Therefore, a good citizen is one who seeks the “preservation” of the regime of which he is a member.<sup>25</sup> A person who seeks to transform the regime is not so much a citizen as a revolutionary.

Accordingly, America must look to preservation and not transformation when creating citizens. This principle applies both to the process of admitting foreigners to citizenship and to the process of educating Americans themselves in the full meaning of citizenship.

America is a free, self-governing republic. The constitutional principles that sustain this way of life can, in principle, be learned by anyone. At the same time, those principles are the product of a long history during which Americans learned what practices are most conducive to freedom and self-government. Nobody—not even a native-born American—has natural or intuitive knowledge of specific constitutional forms such as separation of powers or federalism, to say nothing of a right to a trial by jury of one’s peers or the government’s obligation to establish probable cause before executing a search. America should only admit to citizenship those foreigners who have undergone the arduous process of learning all of these principles. And it should at the same time ensure that all of its native citizens have undergone the arduous process of learning these principles in their own education.

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24. *Ibid.*, p. 493.

25. Aristotle, *Politics*, Carnes Lord, translator (Chicago: University of Chicago Press, 1984), 1276b16-35.

Even the universal principles of the Declaration of Independence point to the need for a certain exclusivity regarding citizenship. The truths announced by the Declaration are presented as applicable to all people everywhere. This is not the same, however, as contending that these truths are in fact understood and espoused by all people everywhere. “We hold these truths to be self-evident”—but it does not follow that others necessarily so hold them.

The Founders were well aware of this problem, having before their very eyes many examples of traditional despotism from which the new American regime was a welcome departure. Now, as then, there are not a few people in the world who reject the elementary moral and political principles on which America is founded. The modern world has given birth to Nazism, Communism, and other mass ideological movements hostile to the idea of natural rights. America would be foolish to admit the adherents of such ideologies to American citizenship—and could not look with indifference on the indoctrination of its own citizens in such principles.

Finally, the preservation of America’s regime requires attention not only to the ideas of citizens but to their habits as well. Notional support for, or intellectual affirmation of, America’s founding principles is necessary but not in itself sufficient for good citizenship. In addition, citizens must possess the virtues necessary to the preservation and perpetuation of a free, self-governing people. America’s fundamental political principles are known—and treated as objects of aspiration—the world over. Thus, the vast majority of countries in the world include the word “republic” in their formal names.<sup>26</sup> Yet it is a sobering fact that for many countries a “republic” exists in name only, that only a few have been able to create and sustain a free republic on the model of the United States.

The importance of the habits of citizens was emphasized by some of our greatest Founders. In early 1802, Alexander Hamilton penned *The Examination*, his last important series of articles for the public press. In this series Hamilton took issue with the principles expressed in President Thomas Jefferson’s first Message to Congress. Among the objects of his censure, Hamilton included Jefferson’s call for a rapid admission of large numbers of immigrants to American citizenship. Such a move was not safe for America’s newly created republic, Hamilton insisted, because it was not clear that these new citizens, having been born and educated in Europe, would share America’s republican political principles. But, he added, even

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26. United Nations, “Official Names of the United Nations Membership,” <https://www.un.int/protocol/sites/www.un.int/files/Protocol%20and%20Liaison%20Service/officialnamesofcountries.pdf> (accessed June 13, 2019).

if such immigrants came to the United States out of a “preference” for our form of government, it was “extremely unlikely” that they would “bring with them that *temperate love of liberty* so essential to real republicanism.”<sup>27</sup> In other words, for Hamilton it was necessary that new citizens not only affirm republicanism but that they also possess the habits to sustain it.

In making this point, Hamilton was able to summon Thomas Jefferson himself as a supporting witness. As Hamilton observed, Jefferson had warned, in his celebrated *Notes on Virginia*, about the dangers of too quickly admitting foreigners to American citizenship. Moreover, in this work Jefferson had, like Hamilton, emphasized the importance of not only the beliefs but also the habits of citizens. Jefferson had feared that new arrivals would “bring with them the principles of the governments they leave, imbibed in their early youth; or if able to throw them off, it will be in exchange for an unbounded licentiousness, passing as usual from one extreme to another.” “It would,” Jefferson concluded emphatically, “be a miracle” were such new arrivals “to stop precisely at the point of temperate liberty.”<sup>28</sup>

Both Jefferson and, following him, Hamilton emphasized the importance of temperance or moderation in the character of those suitable for republican citizenship. Such citizenship does not merely require, as we might at first thoughtlessly assume, a love of liberty. It requires a *temperate* or *moderate* love of liberty that strikes the proper mean between, on the one hand, the abject servility of the subject, and, on the other hand, the unruly self-assertiveness of the ungovernable individual. Those habituated to despotic government cannot be good citizens of a republic like America because they are too deferential to the government, too submissive to exercise the spirit of vigilance necessary to hold government within its lawful powers.

As Jefferson observed, however, for those who succeed in freeing themselves from such a spirit of subjection, nothing is more natural than that they should go to the opposite extreme and prove themselves unwilling to submit to any actions of government with which they happen to disagree. They move naturally from slavery, not to freedom but to licentiousness. What is required is the temperate love of liberty that will rouse itself against the unlawful actions of the government and that will with equal ardor lend its support to the lawful actions of the government.

Jefferson and Hamilton evidently regarded this temperate love of liberty as difficult to learn. In holding this view, they surely had the evidence of

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27. Carson Holloway and Bradford P. Wilson, eds., *The Political Writings of Alexander Hamilton*, Volume II (New York: Cambridge University Press, 2017), p. 502 (emphasis in original).

28. Quoted in Holloway and Wilson, ed., *The Political Writings of Alexander Hamilton*, Volume II, p. 499.

history on their side. After all, up to the time of the American Founding, much of the story of the human race had been characterized by despotism and chaos, in contrast to which ordered liberty appeared as a rare and hard-won achievement. Accordingly, when they thought about naturalizing new citizens, they were not so much interested in the diversity those citizens would bring as in ensuring their assimilation to the requirements of republican citizenship. They thought of the admission of new members to the political community not as a means to that community's transformation, but, on the contrary, as needing to be managed in such a way as to be compatible with the preservation of the community's existing character.

These considerations are as relevant today as they were in Hamilton and Jefferson's time. Many political cultures in the world still foster an excessive submission to public authority, where people make no clear distinction between law and whatever the government happens to command or where submitting to the necessity of bribing public officials is taken as a matter of course. There are also cultures in which individuals are well-nigh ungovernable because they are not accustomed to submitting their disputes to public resolution—where, for example, it is routine to respond with violence to insult to one's person, family, clan, or religion. Again, those who take seriously the preservation of America's regime of self-government and liberty could not look with indifference on the rise of such habits, whether through admission of new citizens or through the gradual loss of true republican virtue among the native citizens of the United States.

## Citizenship, Unity, and America as a Country

“America is not just a country; it's an idea.” This expression is often used by those who wish to emphasize what has been called America's “creedal identity,” its exceptional status as a nation founded on universal moral and political truths. It is a noble sentiment and one with a genuine root in America's Founding.

At the same time, however, one could with equal truth say the opposite, that “America is not just an idea; it's a country.” That is, Americans must not lose sight of the fact that America, apart from its political creed, is a country like any other, with its own particular interests, history, and culture. America may be, in the words of Abraham Lincoln, the nation “dedicated to the proposition that all men are created equal.”<sup>29</sup> Nevertheless, the identity

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29. Don E. Fehrenbacher, ed., *Abraham Lincoln: Speeches and Writings, 1859–1865* (New York: Library of America, 1989), p. 536.

of the nation is not exhausted by its dedication to that abstract proposition, but it is also bound up with the concrete needs, experiences, relationships, and beliefs of the specific people who inhabit the country.

Accordingly, a full understanding of American citizenship must embrace not only the citizen's commitment to America's political regime but also the citizen's commitment to the country itself. After all, we would hardly call someone a good citizen who is dedicated to upholding the Declaration of Independence and the Constitution but who is hostile to America's national security, indifferent to the fate of his fellow citizens, and scornful of his country's history and traditions. We would surely say that the good citizen is a patriot. Patriotism, however, involves not just commitment to regime principles but also affection for the country and solicitude for its entire well-being. A good, patriotic citizen would be willing to fight in the nation's wars. But not all wars involve a threat to regime principles. They are sometimes waged over more ordinary interests that a good citizen is nonetheless bound to try to protect.

The importance of this kind of good citizenship—protectiveness towards the country's interests—was also acknowledged by the Founders in the Constitution and in their commentary on it. The Constitution restricts some of the rights of the citizen in order to make it more likely that those entrusted with the country's interests will in fact be attached to those interests. Under the Constitution, not every citizen is permitted to hold office as a member of the House of Representatives, as a Senator, or as President of the United States. To be elected to the House, one must have been a citizen for seven years.<sup>30</sup> To be elected to the Senate, one must have been a citizen for nine years.<sup>31</sup> And only a "natural born citizen" can aspire to the presidency.<sup>32</sup>

In *Federalist* 62, James Madison revealed the thinking that led the Constitutional Convention to adopt these various restrictions. Madison noted that the constitutional qualifications for Senators were different in that they required "a longer period of citizenship" than was required for House Members. The reason for this, Madison argued, lay in the different character of the "senatorial trust"—or in the different and greater powers wielded by the Senate. The Senate, unlike the House, is empowered to ratify the treaties of the United States. By thus "participating immediately in transactions with foreign nations," the Senate's power "ought to be exercised by none who are not thoroughly weaned from the prepossessions and habits

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30. Article I, Section 2, Clause 2.

31. Article I, Section 3, Clause 3.

32. Article II, Section 1, Clause 5.

incident to foreign birth and education. The term of nine years appears a prudent mediocrity between a total exclusion of adopted citizens, and an indiscriminate and hasty admission of them, which might create a channel for foreign influence on the national councils.”<sup>33</sup>

Madison did not comment on the even more strict requirement that the President be a natural-born citizen, but the considerations he noted in *Federalist 62* obviously apply with even more force to the presidency. The President is the leading actor in the negotiation of treaties with foreign nations and is also, more than any other actor, generally responsible for the conduct of the nation’s foreign policy. Hence, it is even more important to ensure that any person who occupies the presidency is not attached to the interests of any foreign country.

Moreover, these considerations, which urge a certain caution in admitting new citizens immediately to the privilege of holding elective office, also urge a similar caution in admitting newcomers to American citizenship in the first place. This conclusion was drawn by Alexander Hamilton in his aforementioned critique of Thomas Jefferson’s call for an immediate admission of new immigrants to American citizenship. Writing in *The Examination*, Hamilton held that “the safety of a republic” depends in part “on the exemption of the citizens from foreign bias and prejudice; and on that love of country which will almost invariably be found to be closely connected with birth, education, and family.”<sup>34</sup> In a representative republic like America, government policy is ultimately decided by the wishes of the voters. The security of the country’s interests therefore depends not only on the immunity of elected officials to undue attachments to foreign nations but also on the immunity of ordinary citizens to such attachments. After all, the requisite safety is not achieved if, say, a Senator feels personally free to weigh a treaty only in light of America’s interests but at the same time feels pressured by some group of voters to weigh it also in light of the competing interests of another country.

Here again the Founders’ thinking about good citizenship points to a prudent balance between openness and exclusivity. Even the need for attachment to the country’s interests does not argue for excluding immigrants from citizenship. Madison’s argument in *Federalist 62* implies that “adopted citizens” can develop sufficient attachment to American interests to serve safely in the Senate.<sup>35</sup> Similarly, Hamilton’s argument in *The*

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33. Hamilton, Madison, and Jay, *The Federalist*, p. 319.

34. Holloway and Wilson, eds., *The Political Writings of Alexander Hamilton*, Volume II, p. 502.

35. Hamilton, Madison, and Jay, *The Federalist*, p. 319.

*Examination* cautioned against a too hasty admission of immigrants to citizenship—but at the same time held that a permanent exclusion of them would be unreasonable.<sup>36</sup>

Nevertheless, both Madison and Hamilton suggested that human beings tend to feel a powerful affection and solicitude for the country in which they were born and raised. As Hamilton noted in another context, “Man is very much a creature of habit,” and as a result his “affections” tend to center on what has been familiar to him.<sup>37</sup> Thus, a proper realism about human nature counsels that new arrivals should not be admitted to citizenship too quickly but only after a period of time sufficient for them to become habituated to caring first and foremost for America’s national interests and not those of their country of birth.

Finally, good citizenship as patriotic love of country implies not only support for America’s regime principles and its national interests but also a sympathetic attachment to one’s fellow citizens and hence a simple affection for the country’s concrete historic identity. Here again, the disposition of the good citizen will be conservative, inclined to preserve and not to transform. We would hesitate to call someone a good citizen who, for example, supports the Declaration of Independence and the Constitution and who upholds America’s foreign policy interests but who nonetheless thinks Americans are on the whole crass and unenlightened and that America’s traditional culture ought to be replaced with something like the culture of contemporary Europe. Simply put, disdain for one’s fellow citizens and their traditional historical identity does not seem to be the part of the good citizen.

The American Founders also affirmed this love of the country’s historic cultural identity and welcomed it as a principle of unity among citizens. Perhaps the most famous expression of this view is found in John Jay’s *Federalist 2* essay. Jay argued that America’s common culture and shared historical experiences were strong reasons why it should continue as one country and not divide itself into several smaller confederacies. Jay reported that he had often reflected with “pleasure” that

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36. Holloway and Wilson, eds., *The Political Writings of Alexander Hamilton*, Volume II, p. 503. In 1795, Congress extended the period of residency before naturalization from two to five years. In 1798, the Federalist Congress again extended the residency period, this time to fourteen years. Gordon Wood, *Empire of Liberty: A History of the Early Republic, 1789–1815* (New York: Oxford University Press, 2009), pp. 248–249. In *The Examination*, Hamilton contended that a minimum of five years should be required but also indicated that fourteen years was too long. In 1802, Congress again revised the naturalization law, returning the residency requirement to five years.

37. Hamilton, Madison, and Jay, *The Federalist*, p. 134.

Providence has been pleased to give this one connected country, to one united people; a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs, and who, by their joint counsel, arms and efforts, fighting side by side throughout a long and bloody war, have nobly established their general liberty and independence.<sup>38</sup>

Jay, to be sure, somewhat exaggerates this picture of unity. There were noteworthy differences of “manners and customs” between the American North and South. America at this time was overwhelmingly but not entirely Christian, and there were differences between Protestants and Catholics and even among the various Protestant sects. Because of the presence of non-English and even non-British settlers, the Americans of this time were not entirely “descended from the same ancestors” or entirely speakers of “the same language.” Nevertheless, the point to be emphasized here is that Jay understood a shared culture and history to be an important part of the basis for the country’s existence—and he evidently assumed that most of his contemporary readers would agree.

James Madison took a similar line in *Federalist* 14. Like Jay, Madison was responding to those who thought that America was too big to be governed as a single country and that it therefore ought to be divided into several smaller confederacies of states. Madison urged his fellow “countrymen” to “shut” their “ears against this unhallowed language” and to “shut” their “hearts against the poison which it conveys. The kindred blood which flows in the veins of Americans, the mingled blood which they have shed in defense of their sacred rights, consecrate their union, and excite horror at the idea of their becoming aliens, rivals, enemies.”<sup>39</sup>

It is noteworthy that here Jay and Madison are not yet arguing that it would be advantageous for Americans to live under a regime dedicated to natural rights and enjoying the wise institutional arrangements and legal provisions of the Constitution. Jay and Madison would certainly make those arguments in other contexts, but here they are merely contending that America’s shared culture and history is itself a very important reason for Americans to unite as *one people*.

In these passages, both Jay and Madison present the country’s concrete historic identity—apart from its commitment to the regime principles in the

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38. *Ibid.*, p. 6.

39. *Ibid.*, p. 66.

Declaration and the Constitution—as good in itself and as an independent reason for Americans to decide to continue to live as one people under one government. Jay and Madison thus teach us that experience of a common culture and history is one of the reasons that people do and should consent to live together under a common government. Therefore, a good citizen will seek to preserve this basis of unity—both out of sheer affection for the country as it is, and from a prudent realization that such unity contributes to the nation’s political stability.

This is not, of course, to say that Americans today should try to reestablish the kind of cultural unity that the country could claim at the time of the Founding. It is, however, to remind us of the wisdom of the Founders in noting that citizens are held together in a community not only by shared political principles but also by all the other things they have in common. Therefore, today’s good citizen will want to preserve the shared culture that Americans today have inherited and will therefore realize that diversity for its own sake cannot be treated as a reasonable goal.

## Conclusion

Simplicity of principle possesses an understandable charm. It is easy to grasp, and it wears the aspect of consistency and integrity. It is therefore not surprising that so many today should be so attracted to simple conceptions of American citizenship—as the sharing of equal rights, as openness to diversity, as commitment to a regime based on universal principles.

America’s strength, however, has always depended not on the simplicity but the *complexity* of its principles. Thanks to our Founders, America is an ingenious and (so far) successful attempt to combine various important but often competing goods. Thus America is both a nation but also a union of states, affirms both rule by the majority but also the rights of the minority, seeks both energetic government but also limited government.

Such appreciation for complexity should inform our understanding of citizenship as well. To be an American citizen is to share in a regime based on equality of natural rights, but it is also an exercise of political authority and therefore a responsibility and a privilege. American citizenship is open to certain kinds of diversity, but it also depends on a certain kind of unity. A good American will be committed to the universal principles on which our republic is based but will also safeguard and cherish the particular interests and identity of our country. Understanding these complexities is necessary to living out the full meaning of American citizenship and to preserving and passing on to the next generation the nation we have been blessed to inherit.

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