Chapter 14 Citizenship and Equal Justice

* America has been viewed as a refuge for foreigners that offers endless opportunities and freedoms. However, the fence project projects a different image. Many Americans worry about the growing number of undocumented immigrants and how they will affect the society we now know.
* For most of our history, many Americans have cherished the belief that we are a nation of immigrants. In the early years, the Spanish occupied the southwest and the British settled along the East Coast. The heaviest wave of immigration was between 1880-1920 when 25 million immigrants from Southern and Eastern Europe arrived.
* There have been periods when Americans opposed new waves of immigration. For example, in the 1840s, when many Irish Catholics began to arrive, Americans begged Congress to restrict immigration because they felt Catholics were loyal only to the Pope and not the American Republic.
* Today, immigration is again a major political issue, but the concerns are somewhat different:
  1. The biggest difference is the *large number of undocumented immigrants* living here (about 12 million in 2008).
  2. *Terrorism*-remembering the attacks of September 11, many Americans are nervous about the fact that so many people can enter the country illegally.
  3. Significant numbers of *immigrants are moving to states like Iowa, Montana and North Carolina*. These states do not have a lot of experience with immigrants and tend to be more fearful of how immigrants may change their communities.
* The Constitution clearly gives Congress the power to make immigration policy. In 1790, it passed a law defining who could become a citizen if a person was not born here: “a free white person.” This shows their clear preference for European immigrants. After the Civil War this law was revised to include people who were born in Africa to become citizens.
* In our nation’s history, Congress’ immigration legislation has included:
  + 1. In 1882, Congress the first major law that barred entrance to specific groups because the California Gold Rush and railroad building had attracted many immigrants. (Over half of the workers who built the Central Pacific RR were Chinese)
* The Chinese Exclusion Act said that no Chinese laborer could enter the U.S. for 10 years. Under this law, Chinese professionals were still allowed to immigrate. (This act was in force until WWII when the Chinese became our ally.)
  + 1. The Immigration Act of 1924 introduced a quota system by country: Each country’s immigrants were limited to 2% of foreign-born residents from that country listed in the U.S. Census of 1890.
       - This formula favored certain groups that had been in the U.S. a long time. For example, Great Britain would have a high quota because there were many British-born residents in the U.S. in 1890. However, the Italian numbers would be low because Italians had just begun migrating to the U.S. in the 1880s.
       - This formula caused immigration to drop sharply.
    2. In 1965 Congress passed the Immigration Reform Act, abolishing the quota system based on national origin. It set up annual limits: 170,000 immigrants from the Eastern Hemisphere (Europe, Asia and Africa) and 120,000 from the Western Hemisphere (Canada, Mexico, and Central and South America). This new law was inspired by the civil rights movement and was driven by 2 principles:
       - *Reuniting families*-this meant the annual limits were being filled by immigrants brining in their relatives, keeping others from having a chance to immigrate.
       - Giving priority to certain skills
    3. Immigration and Reform Control Act (IRCA) had a dual purpose:
       - First, Reagan wanted to slow illegal immigration by punishing employers who knowingly hired undocumented immigrants. These employers would be fined for each undocumented worker they hired.
       - Second, he wanted to offer a way for long-term, undocumented immigrants to become legal. If they could show they had entered the U.S. before January 1982 and lived here continuously, they could apply for amnesty. Eligible workers could be granted temporary and then permanent residency. After 5 years, they could apply for citizenship.
    4. Immigration Act of 1990 said that no country could account for more than 7% of total immigrants. The law also considered a person’s education and skills and it set up special categories for war refugees or close relatives of American citizens.
    5. In 1996, Congress passed more immigration laws that increased the border patrol staff and stiffened penalties for creating false citizenship papers or smuggling undocumented workers.
* An *alien* is the term for someone who lives in a country where he or she is not a citizen. Immigrants are called aliens before they become citizens.
* Under the law, there are 5 categories of aliens:
  1. *Resident alien*-a foreigner who has established permanent residency in the U.S. (Resident aliens can stay in the U.S. as long as they like without becoming citizens.)
  2. *Nonresident alien*-people who expect to stay for a short, specified time—a foreign journalist covering an election or a foreign exchange student for example.
  3. *Enemy aliens*-citizens of nations that are at war with the U.S.
  4. *Refugees*-people who are fleeing persecution or danger from their home country
  5. *Undocumented aliens*-people who are in this country illegally.
* It is important to remember that the Bill of Rights protects anyone living in the U.S., citizen or noncitizen. Like citizens, aliens may own homes, attend public schools and use public facilities. Aliens also have some of the same responsibilities as citizens. They must pay taxes and they must obey the law. They cannot vote and are exempt from military and jury duty.

Section 2

* American citizens, whether they are born or naturalized here, have certain rights. The Declaration of Independence describes the core rights of a citizen (life, liberty and the pursuit of happiness). The government exists to secure these fundamental rights and equality under the law.
* Citizens also have duties and responsibilities. These include paying taxes, obeying the law, and being loyal to the nation and its principles. As a citizen, it is your responsibility to be informed, to vote and to respect the rights and property of others, as well as their opinions and ways of life.
* When the Founding Fathers wrote the Constitution, they described citizenship only as a qualification for holding national office. They assumed the states would decide who was or was not a citizen and that state citizens would then automatically be citizens of the nation. Originally, this rule had 2 exceptions:
  + 1. African Americans (*Dred Scott v. Sandford*, 1857)
    2. Immigrants who became citizens through *naturalization* (the legal process by which someone who was not born in the U.S. becomes a citizen)
* The *Fourteenth Amendment* sets forth 2 foundations for U.S. citizenship:
  1. Birth on American soil
  2. Naturalization
* The 14th amendment said all people born or naturalized in the U.S. (except Native Americans) were citizens and that state citizenship was an automatic result of national citizenship. Notice this is the opposite intention of the Founding Fathers.
* Other foundations for automatic U.S. citizenship include:
  1. Being born to a U.S. citizen
  2. The principle of *jus soli* (YOOS SOH lee), a Latin phrase for “law of the soil.” Jus soli and the most common basis for citizenship and it focuses on where a person is born. Almost anyone born in the U.S. or American territories is a citizen. Bottom line, a baby born in the U.S. to foreigners is a citizen. The only exception is a baby born to foreign diplomats.
  3. *Jus sanguinis* (YOOS SAHN gwuh nuhs), which means “law of blood.” The rules of jus sanguinis are complex: if a child is born abroad and both of the parents are U.S. citizens, then the child is a citizen so long as one parent lived in and was a legal American resident at some point. If only one parent is an American citizen then another rule applies. The parent who is a U.S. citizen must have lived in the U.S. or an American territory for at least 5 years, 2 of which had to occur after the age of 14.
* All immigrants who want to become U.S. citizens must go through the process of naturalization. At the end of the naturalization process, a person will have almost all of the same rights as a citizen born here. (Exception: they cannot serve as president or VP of the U.S.)
* The U.S. Citizenship and Immigration Service, a bureau of the Department of Homeland Security, is the federal agency that administers most of the naturalization process.
* To apply for citizenship, a person must:
  1. Be at least 18 years old
  2. Have lived in the U.S. as a legal resident alien for 5 years
  3. Been physically present for half of that period
  4. Lived in the state where the petition is filed for at least 3 months. (Only 3 years of residency is necessary for someone who is married to a U.S. citizen.)
* During the naturalization process, witnesses must appear to testify to the applicant’s moral character. Applicants may be asked to show their grasp on English or answer basic questions about the American government. If applicants make it through this first hearing, they attend a final hearing where a judge administers the oath of allegiance to the U.S. and its laws and then declares the person a citizen. This type of naturalization is called *individual naturalization* and is the most common type.
* *Collective naturalization* is a process under which an entire group of people become citizens by treaty or by an act of Congress. This has only been used 5 times in our nation’s history. The biggest *example* is the Louisiana Purchase. All of the people living in those one million square miles were collectively naturalized. The biggest *exception* to this rule is the case of Native Americans, who did not receive full citizenship until 1924.
* Only the federal government can grant citizenship, and it can also take it away. A state may deny some privileges of citizenship to convicted criminals, but it cannot deny citizenship itself. A U.S. citizen can lose their citizenship in one of 3 ways:
  1. *Expatriation*-a person gives up his or her citizenship by the act of leaving the U.S. and becoming a citizen of another country.
  2. By being convicted of certain serious federal crimes, such as treason or participating in a rebellion.
  3. *Denaturalization*-this is an administrative process that occurs when it is proved that fraud, deception or error occurred during the original naturalization.