

Nationalistic Fervor in the Form of Denial of Citizenship: Violations of Native Americans Human Rights in the Post-fourteenth Amendment Era

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Abstract: This article delves into the complex history of nationalistic fervor and its impact on human rights in the United States. The study critically examines the intricate and often contradictory legal interpretations surrounding this issue and delves into diverse perspectives from civilians and scholars. Specifically, it examines how this fervor led to the denial of birthright citizenship and the erasure of Native Americans' human rights following the enactment of the Fourteenth Amendment. Unfortunately, this sense of pride and nationalism catalyzed a series of human rights violations, including a lack of representation and unfair legal trials. It is important to recognize and learn from these past mistakes in order to prevent similar injustices from occurring in the future. Additionally, the research emphasizes the role of nationalism in fueling the denial of citizenship to Native Americans. Nationalism was justified by portraying Native American culture as inferior, leading to their marginalization in the name of national progress and societal advancement. The conclusion highlights the ongoing struggles of indigenous communities against radical nationalism and discriminatory practices. This historical analysis not only sheds light on a crucial moment in Native American history but also serves as a relevant reminder for contemporary society to remain vigilant against the resurgence of radical nationalism and to uphold the principles of equality and human rights for all.

Keywords: Nationalism, Human Rights Violations, Native Americans, Birthright Citizenship

1. Introduction

Around the 1870s, the United States experienced a period of rapid development following the Reconstruction Amendments, which sought to strengthen civil rights and bridge the divide between the North and South. A prevailing sense of nationalistic sentiment accompanied this era of industrialization and expansion, often expressed as manifest destiny, fostering pride and the belief that American development was beneficial for humanity, spreading the essence of civilization. However, amidst this progress, it is essential to acknowledge the darker side of this nationalistic fervor. Many indigenous communities were scorned as “wild men” and subjected to oppression and exploitation in the name of the great “common good. [1]” The nationalistic sentiments post-Fourteenth Amendment Native Americans faced led to the denial of their birthright citizenship and the violation of their human rights in the 1870s.

2. Perpetual Disputes Over Identity

After the American Revolution, the legal status of Native Americans with the U.S. government became a subject of intense debate. This discussion continued during the entire development of the United States. Federal policies oscillated between recognizing tribal sovereignty and promoting assimilation into mainstream American culture. This uncertainty was reflected in the inconsistent treaties signed during the 19th-century westward expansion, creating legal ambiguities that culminated in the Fourteenth Amendment with the phrase “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. [2]” Supporting Black people’s civil rights, radical Republicans insisted on retaining birthright citizenship. Although no direct evidence indicates that Indians’ citizenship was the primary focus of the Fourteenth Amendment’s ratification and implementation, the subsequent legal ambiguities resulted in grave violations of Native Americans’ human rights, including forced relocation, dispossession of lands, and suppression of cultural practices.

3. Ambiguous Legal Interpretations

Concerning violations of Native Americans’ human rights post-Fourteenth Amendment, previous scholars provided some possible explanations that mainly focused on legal issues around indigenous communities and the US government. In “The Earth is Weeping,” Peter Cozzens comprehensively examined conflicts and wars between Indians and US settlers from the 1850s to 1890s. He underlined that American citizens’ exploitations of local communities, desires for lands, and greed for resources, camouflaged by federal government’s policies, eroded Native Americans’ right to life [3]. Even worse, disregard for treaties and broken promises by US governors resulted in frequent forced removals, land confiscations, and compulsive assimilations into American society. Actually, in the face of the so-called “Indian Problem,” hardly would the government consider anything more than settlers’ interests, let alone barbarian Indians’ rights. Eventually, Cozzens charged massacres and wars up to the inconsistency and hostility of the government’s policies, as he described that “The Indian way of life must be eradicated if the Indian were to survive. [3]”

Akin to Cozzens’ stress on legal and political movements against Native Americans, Earl M. Maltz, in his article: “The Fourteenth Amendment and Native American Citizenship,” also highlighted the inescapable responsibility of legal ambiguities, however, not from specific acts or treaties, but from Fourteenth Amendment that used to be held as significant progress of human rights. According to birthright citizenship, because “Native Americans resided on land over which the government of the United States claimed authority by right of conquest, [4]” they should be legally granted US citizenship. Nevertheless, the blurry tribal sovereignty and not an absolute precise phrase in the amendment finally led to ambiguous and even conflicting interpretations about Native Americans’ civil status. The US Supreme Court Cases rulings, *Worcester v. Georgia* and *United States v. Rogers*, had conflicting interpretations about Native Americans’ civil status, with some seeing them as independent political entities [4]. In contrast, others were subject to the U.S. government, ultimately leading to violations of their rights, and shared the same purpose: benefiting American citizens. These two cases, as representations of various legal interpretations of Indians’ citizenship, explicitly conveyed that the ambiguity of Indians’ status could be used to preserve US citizens’ profits, however, at the expense of proper violations of indigenous people.

Both Cozzens and Maltz noticed the critical role of law when Native Americans’ fundamental rights were infringed frequently, and each attributed violations of human rights to inconsistent and hostile policies towards aliens and denial of citizenship due to ambiguous interpretations of the citizenship clause. Nevertheless, it must be pointed out that what motivated people to break treaties and deny Indians citizenship is often neglected by academic circles—the rising nationalism

throughout the second half of the 19th century. By critically evaluating nationalistic sentiments and the denial of citizenship at that time, a comprehensive understanding of the complexities surrounding Native Americans' human rights violations can be achieved.

4. Capturing Civilians' Perspectives

If people want to research how the law affected the deterioration of Native Americans' life, the most effective way is to dig into mountains of official documents promulgated by the US government. The flaw of examinations of government documents is that they mainly represented the idea of political elites but could not provide the reflective view of pervasive nationalism as the basis of policymaking. To understand how ordinary people regarded Native Americans, it is supposed to scrutinize resources mirroring civil discussions about Indian foreigners. Therefore, the research analysis below will concentrate on two letters from the same newspaper office written by an American citizen and a Native American, and a specific book fiercely debating the Indian question written by a famous MIT president.

5. Denial of Citizenship Driven By Nationalistic Sentiments

In the post-Fourteenth Amendment era, strong nationalism influenced policies toward Native Americans, such as the "Peace Policy. [5]" It disregarded tribal sovereignty and positively promoted Indian assimilations into US culture through education, religion, and land allotment [6]. Nevertheless, such a policy aiming at peaceful relationship conversely generate severe violations of Indians' human rights, as exemplified in the firsthand account of E. O. Boundinot, a Cherokee Indian, in his letter "Indian Citizenship 1."

5.1. Erosion of Rights

Under nationalistic sentiments, the grey zone between limited tribal sovereignty and uncertain citizenship was deliberately exploited to obtain more profits for the US, even though these nationalists understood the inevitable violations of Indians' civil rights. Native Americans' dilemma that they neither possess full tribal sovereignty nor US citizenship provided loopholes for violating their human rights without legal punishment. They were taxed because of "the revenues laws over the exterior boundaries of the United States" and subject to the jurisdiction of US court but did not enjoy any civil rights [7]. Twice a year, hundreds of Native Americans were dragged to Arkansas to be tried for "offenses committed in their respective nations," which only concerned Indians, however, with no Indians on the jury [7]. Nothing could show more infringement of fundamental rights than judicial injustice by unreasonable and unfair trial. Furthermore, the other horrible violation was "taxation without representation" of Native Americans, a rally called when colonial people fought for their natural rights but reappeared in indigenous communities. The writer argued, "If we must be subject to the responsibilities of citizens of the United States, we ought to have their privileges also. If we use to pay taxes, give us representation, which should go hand in hand with taxation. [7]"

Only being taxed but not represented is the direct proof that the birthright citizenship did not extend to Indians though they were under the jurisdiction of the US. The lack of civil rights and legal protections was bound to cause an unpunished scramble for hereditary land of local tribes and unvarnished discrimination against poor Indians. Such a miserable situation resulted from ambiguities of Native Americans' status that neither was their tribal sovereignty respected nor US citizenship acknowledged. To break away from the dilemma, Mr. E. O. Boundinot suggested, "If it is necessary to abolish our tribal existence and make us citizens of the United States do all this, let it be done and quickly. [7]" In other words, some Indians did not fiercely oppose being taxed and under the jurisdiction of the US, but they must share the same civil rights and privileges of status as other

citizens. It must be pointed out that accepting US citizenship was not the only solution to end violations because recognizing independent Indian communities with full tribal sovereignty and treating them as other nations could also prevent legal ambiguities about their identity. However, granting US citizenship at the expense of abandoning indigenous culture was another violation of Indians' human rights.

5.2. Born Without Citizenship

Native Americans' ambiguous identity within and without the US should be responsible for their suffering. Still, a more accurate explanation probably is that denial of Native Americans' citizenship led to people not afraid of trampling on their human dignity. For many people, expelling Native Americans was the necessary expense to fulfill the Manifest Destiny of the American nation. The nationalistic sentiments prompted the US to deny Indians' birthright citizenship granted by Fourteenth Amendment so that the government could continue exploitations for profits. The article "Indian Citizenship 2" shares the same name and newspaper office as above; however, its author, a US citizen, showed how nationalism shaped people's opinions of Indians' citizenship.

Some Americans, though sympathetic to Indians' situations, did not believe that it was Indians' inalienable right to gain US citizenship. However, they proposed assimilation into US society with citizenship as an award to become a part of the great American nation. As for Gen. Grant's "Peaceful Policy," the author remarked that the process of civilization has not entirely transformed the indigenous people into more cultured individuals, nor has it wholly prevented aggressive actions from savage tribes [8]. The article criticized West settlers' infringement on violations, surprisingly, not because it was wrong to do so, but because it would set a bad example to Native Americans who were supposed to be assimilated into the noble US civilization. The author's perspective on violations of Native Americans' rights and possible solutions can be summarized as "The end of barbarism is obliteration, and the flower of civilization is citizenship. [8]" In the author's eyes, the reason for denying citizenship to Indians is simple: they were still barbarians who could only become US citizens by abandoning their aboriginal culture and assimilation into advanced US culture. The irrepressible pride of the American nation and contempt for Indigenous culture prevailed in society, making it hard not to think of nationalism. Granting citizenship at the expense of discarding traditional culture was another form of violating Indians' human rights, essentially similar to denying citizenship, for supporters of both dispositions viewed Native American culture as an inferior nation.

5.3. National Development at Any Cost

If *Indian Citizenship 2* implicitly showed how nationalism affected people's opinions about dealing with human rights violations concerning citizenship, the "Indian Question" by Francis A. Walker expressed disdain for Indians and justified infringement that caused their lamented situations. (Francis A. Walker was not an average nationalist. He had a distinguished career, serving in the Union Army during the Civil War, holding key positions in various institutions, and contributing significantly to economic theory). That "What shall be done with the Indian as an obstacle to the national progress [1]" frequently appears in the book, indicating that some US people saw Indians as inferior and uncivilized. This signified strong nationalistic sentiment that generated superiority of American culture and the idea of "civilizing" or assimilating Native Americans into the dominant American society. Besides, Walker categorized local people into two kinds of Indians: hostile and unhostile, but finally, the latter will become the former. Certain tribes are classified as potentially malicious due to being ignored in their claims to the land and having their means of subsistence threatened by the expansion of settlements and railways.

When it came to hostile Indians who would impede the unstoppable development of the US nation, Walker advised that the US government should aid the homeless indigenous people [1]; on the opposite, he made no secret of tremendous US citizens' hostility and disbelief toward Indians that sometimes led to temporary peace intersections with fierce conflicts. According to the book, the ambivalent attitude and actions were even justified by how predecessors of the US—Greek and Roman Empires addressed barbarians. The US maintained peace with Native Americans not because they thought fighting a war with fellow was anti-human, but because it was meaningless and fruitless to fight SAVAGES, as Greeks and Romans did to Scythians and Parthians [1]. However, strategic peace was not the ultimate solution. To eliminate any possible danger and obstacles in the way of US development, nationalists “must still further reduce them by excluding all such tribes... in any event reasonably to be contemplated, to become involved in hostilities.” As a result, it is reasonable not to grant citizenship and tolerate consequent violations of Indians because they could not even touch the bottom line of a civilized society and constitute a potential danger to the progress of the US.

The nationalistic sentiment was so strong that whatever was hindering the progress of the American nation should be eliminated. US people did not treat Indians as equals. What is worse is that Indians, in their eyes, are mere beasts, so they did not need to consider honor and respect; instead, they just made choices in favor of the US nation's progress. If, in the US people's view, Indians were inferiors, even like beasts, no wonder they would trample Native Americans' human dignity, let alone grant them citizenship because birthright citizenship can only extend to “humans” as noble as ones in the American Nation, not the “wild people (beasts) that subjected to the jurisdiction of US. [1]” Although, according to the Citizenship Clause, Indians were born with US citizenship, since protections under the law only applied to US citizens, no wonder that nationalists would deny Native Americans so that plundering resources at the expense of Indians' human rights would not be punished, and national advancement could continue [2].

6. Conclusion

In conclusion, the compression of Native Americans' living space post-Fourteenth Amendment and the deterioration of their situations can evoke a sense of righteous indignation over humans today. The stark inequalities they faced, such as lack of representation, unfair trials, and tax burdens without corresponding rights, highlight the grave injustices inflicted upon indigenous communities in the 1870s. However, the prevailing nationalistic sentiments of that time drove many US citizens to pursue development at any cost, resulting in the denial of Indians' birthright citizenship and heinous human rights violations. This was fueled by the perception of Native American culture as inferior and uncivilized, which was used to justify their marginalization in the name of national progress and civilization.

While the Indian Citizenship Act of 1924 was a landmark step in recognizing Native Americans' citizenship, ongoing struggles between the US and indigenous communities persisted beyond this milestone [9]. Revisiting the earlier debate on whether to grant Native Americans citizenship in the 1870s sheds light on modern society that we must remain vigilant against radical nationalism and any forces that may motivate discrimination and human rights violations.

References

- [1] Francis Amessa Walker. *The Indian Question*. 1874.
- [2] US, Congress. *The Fourteenth Amendment. Section I*. 1868.
- [3] Peter Cozzens. *The Earth Is Weeping: The Epic Story of the Indian Wars for the American West*. Atlantic Books. 2016, openlibrary.org/books/OL30699961M/The_Earth_is_Weeping.
- [4] Earl M Maltz. *The Fourteenth Amendment and Native American Citizenship (2000)*. *Constitutional Commentary*. 289.

- [5] US, Congress. *Indian Peace Commission Act*. 1867.
- [6] US, Congress. *Indian Appropriation Act*. 1851.
- [7] *Indian Citizenship 1, The Independent ... Devoted to the Consideration of Politics, Social and Economic Tendencies, His...* Oct 2, 1873; 25, 1296 ProQuest. (The number "1" or "2" did not appear in the title of the original article. They are used in this paper to differentiate two pieces with the same title chronologically.).
- [8] *Indian Citizenship 2, Every Saturday: A Journal of Choice Reading (1866-1874)*; Dec 30, 1871; 3,105; ProQuest.
- [9] US, Congress. *The Indian Citizenship Act*. 1924.