

by Hon. Dorothy Harbeck

## Antigone, Identity, Assimilation, and the Salad Bowl

**T**he journey that noncitizens take through the immigration system raises questions about identity and citizenship. These are mostly technical inquiries about places of birth and passports and the legal permission to be in one place or another. However, there are deeper questions of identity that are not addressed on the forms for relief from removal or in the immigration courtrooms. Those questions are not unique to the United States, or even to modern times. From its very earliest days, the concept of citizenship has exhibited a tendency to come into clash with the experience of identity.

The genesis of citizenship developed in Europe, foremost in Greece. Citizenship theory initially derives from the Greek plan. The first of these ideas is citizenship as being particular to a place, a *polis*. Prior to this, humankind arranged itself according to clan and family ties, regardless of geography. Loyalty to a geographic site began in Ancient Greece.<sup>1</sup> Later, the Romans developed a complex system of naturalization as their empire expanded.<sup>2</sup>

In modern times, citizenship is the most privileged form of nationality. It is the relationship between us and the state to which we owe allegiance. In turn, we are entitled to state-protected rights. Citizens have certain rights, duties, and responsibilities that are denied, or only partially extended, to aliens and other noncitizens residing in the country. In general, full political rights, including the right to vote and to hold public office, are predicated upon citizenship. In turn, the usual responsibilities of citizenship are allegiance, taxation, and military service.<sup>3</sup>

Identity, or what we think ourselves to be, is distinct from citizenship. Where we are from, what we think, and what we believe are issues central to our identity, both temporally and psychologically. Americans in particular seem to embrace the multifaceted self. Many of us lay claim to another national identity distinct from that of solely being American citizens. The national heritage of our ancestors also becomes part of our emotional lexicon. Spaghetti sauce simmering on Sunday, shamrocks on March 17th, jokes from the Catskills, wine and cheese, cigars, round wooden dolls with a series of ever smaller round wooden dolls inside, meat chunks on skewers, paper dragon kites, samurai swords, saris, sombreros, cuckoo clocks, shrimp étouffée, churches, temples, mosques, ashrams ...

all of these things invoke an ancestral identity for many Americans.

Sometimes, we experience a divided loyalty between how we identify ourselves and what we think is the norm for being American. This is not a modern concept—the dichotomy is as old as the idea of citizenship itself and is demonstrated in the story of Antigone from the fifth century B.C.<sup>4</sup>

Antigone was a daughter of Oedipus. After the Battle of Thebes, she was faced with a dilemma that brought sharply into focus what being a good citizen meant in Ancient Greece. Oedipus, of course, has his own fascinating story, but we are concerned here with his four children: Eteocles, Polynices, Antigone, and Ismene. After Oedipus left Thebes, his brother-in-law Creon became the temporary ruler until Oedipus' sons, Eteocles and Polynices, were old enough to rule. When Eteocles and Polynices first took over Thebes, they agreed to share in ruling the city in alternating years. One year, Eteocles refused to give up the throne to his brother. As a result, Polynices left Thebes and went to Argos to gather allies to oust his brother. In the ensuing years, Polynices gathered a force of six champions, totaling seven champions, including himself, to go against Thebes, one for each gate of the city. There were seven instances of combat, resulting in Eteocles and Polynices killing each other simultaneously. Creon passed a law commanding that all soldiers who died protecting Thebes, such as Eteocles, be given a hero's burial, allowing them to pass to the underworld. All those who died attacking Thebes, such as Polynices, would be left outside the city to rot with no burial and thus never passing into the underworld.

Antigone found this law intolerable. Against the counsel of her sister, Ismene, Antigone snuck out and gave Polynices a proper burial so he could pass into the underworld. When Creon discovered this, he imprisoned Antigone in a cave with only one day's worth of food. She hanged herself during her imprisonment<sup>5</sup>.

Being a good citizen often involves doing something out of the ordinary to help others. Sometimes, that involves acting against the will of others to do what a good citizen might think is best. Although this is traditionally the case, the trait most associated with being a good citizen is great respect for the nation in which one lives. If one wishes to be a good citizen, he or she might go out of his or her way to help others. However, he or she must do so within the rules of

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the nation. Thus, arguably, Antigone's act of defiance is an example of bad citizenship. Later philosophers even cited Antigone as an example of why women should not actually be citizens.<sup>6</sup> Another argument, though, is that Antigone could not reconcile her role as a citizen of Thebes and her identity as the sister of Polynices. In her story, there was no way to harmonize her citizenship and her identity.

We hear about America as a melting pot,<sup>7</sup> where identities all mix together. This is essentially the great American metaphor of assimilation<sup>8</sup>: *E Pluribus Unum*—Out of Many, One.<sup>9</sup> Melting-pot ideology is that the culture and society of each ethnic group should be blended with the culture and society of the host group to produce a new and different culture and society. This assumes we all want to become the same,<sup>10</sup> one flavor, as it were. More recent theorists have espoused the Salad Bowl analogy—where the individual ingredients retain their flavors in a mix that has value both in its parts and its sum.

An early sociologist, Robert Ezra Park,<sup>11</sup> championed the idea that assimilation into the Melting Pot was quite desirable and valuable. Park posited four stages in the development of group relations: competition, conflict, accommodation, and assimilation.

Assimilation is, according to Park, “a process of interpenetration and fusion in which persons and groups acquire the memories, sentiments, and attitudes of other persons or groups, and, by sharing their experience and history, are incorporated with them into a common cultural life.”<sup>12</sup> Thus, assimilation merges two or more cultures into a single, shared set of traditions and memories.

According to Park's traditional model, which is premised primarily on European immigration,<sup>13</sup> assimilation occurs after three generations: the first generation struggles to learn the new way and holds on to many aspects of their culture; the second generation attends public schools, learns better English, moves out of ethnically grouped neighborhoods and tends to marry outside of the ethnic group; and the third generation moves completely into American mainstream, maybe retaining some words of their grandparents' language, a few recipes, proverbs, etc., but they are mostly English speaking and experience minimal inquiry regarding their nationality.<sup>14</sup>

Assimilation does not produce uniformity or sameness but rather a “unity of experience and orientation, out of which may develop a community of purpose and action.”<sup>15</sup> European immigrants who arrived between the 1820s and 1920s competed for jobs, housing,

and status and faced intense rejection, prejudice, and discrimination. Accommodations gradually emerged, and the descendants of the immigrants eventually assimilated and achieved parity with national norms in terms of occupations, income, and other measures of equality. Various researchers have found that descendants of European immigrants currently share identity, memories, and traditions with other white Americans.

A later sociologist, Milton Gordon, proposed that there are not three generations to assimilation but rather, seven processes<sup>16</sup> that

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an individual goes through to become part of a new society:

1. Cultural—The immigrant begins to observe practices and traditions of the new culture.
2. Structural—The immigrant attends schools and finds a job, housing, and recreation within the new culture.
3. Marital—The immigrant finds partners within the new culture.
4. Identification—The immigrant self-identifies with the new culture.
5. Attitudinal—The relationship of the immigrant to the new culture may be affected by attitudes or prejudices.
6. Behavioral—The immigrant may experience prejudice.
7. Civic—The immigrant becomes involved in the political process of the new culture.

Horace Kallen<sup>17</sup> wrote of a different manner of accommodating differing cultures in one society. His idea is cultural pluralism. He stressed that national pride and cultural diversity within one nation were compatible. His theories allow for those who are not of white European descent to still be considered assimilated and for members of minority groups to be accepted without being required to disappear as distinctive groups. Cultures are added rather than substituted. This is the Salad Bowl analogy described above.

The concept suggests that integrating the many different cultures of U.S. residents is like combining ingredients in a salad, as opposed to melding everything together. In the Salad Bowl model, various American cultures are juxtaposed—like salad ingredients—but do not merge into a single homogeneous culture. Each culture keeps its own distinct qualities. This idea demonstrates a completely separate perspective that the newcomers bring different cultures, and each is kept as an essential part to make up the whole. Every distinctive culture or belief is considered to be one of the tastes or ingredients that contribute to forming the whole; therefore its original shape and characteristics are maintained.<sup>18</sup>

Antigone was a Theban. However, Creon created a law she could not justify with her religious beliefs. Could she assimilate into Creon's Thebes? It's hard to say, because she did not have the

political mechanism to lobby to change the law or the court system available to challenge it. She only had her sister Ismene, who tried to talk her out of it by saying women had no power to change anything. It certainly took many generations, but women seem to be assimilating in cultures resistant to sharing the power.

As far as the Salad Bowl is concerned, I just think of my own homesickness for my neighborhood food. It struck me when I was travelling with my father, looking for our Berlin roots after the Wall had come down. Our family had emigrated in the 1760s and lived in

New York ever since. And the food I missed most was ... a cheese enchilada with jalapeno. ☺

## Endnotes

<sup>1</sup>Fine, John V.A. *THE ANCIENT GREEKS: A CRITICAL HISTORY* (Harvard University Press, 1983).

<sup>2</sup>Pocock, J. G. A., *THE CITIZENSHIP DEBATES*, Chapter 2—The Ideal of Citizenship Since Classical Times (originally published in *Queen's Quarterly* 99, no. 1) (The University of Minnesota, 1998) pp. 3-40.

<sup>3</sup>Leary, Virginia. *Citizenship, Human Rights and Diversity*, which is chapter 12 in *CITIZENSHIP, DIVERSITY AND, PLURALISM*. (McGill-Queen's University, 1999).

<sup>4</sup>*Antigone*, one of the three extant Theban plays by Sophocles (497 BC – 406 BC). This is most famous adaptation; see also *Antigone*, a play by Euripides (ca. 480 – 406 BC) which is now lost except for some fragments. Modern readers are likely more familiar with *Antigone*, a play by Jean Anouilh (1910–1987) and English-speaking audiences with *The Burial at Thebes* (2004) by Seamus Heaney, adapted into a 2008 opera with music by Dominique Le Gendre.

<sup>5</sup>See footnote 4 above.

<sup>6</sup>Rousseau, Jean Jacques (June 28, 1712, – July 2, 1778). His political philosophy influenced the French Revolution as well as the overall development of modern political, sociological, and educational thought. Rousseau's novel *Émile, or On Education* is a treatise on the education of the whole person for citizenship. He cites Antigone's divided loyalty as the reason women should not be citizens; see also Elshtain, Jean Bethke *Women and War*, p. 70; and Sjöholm, Cecilia *the Antigone Complex: Ethics and the Invention of Feminine Desire* for a discussion on Mary Wollstonecraft's response to Rousseau's theories.

<sup>7</sup>Zangwill, Israel. *The Melting Pot* is a play by Israel Zangwill, first staged in 1908. It depicts the life of a Russian-Jewish immigrant family, the Queans. David Quinone has survived a pogrom, which killed his mother and sister, and he wishes to forget this horrible event. He composes an “American Symphony” and wants to look forward to a society free of ethnic divisions and hatred, rather than

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backward at his traumatic past. The hero of the play proclaims: “America is God’s Crucible, the great Melting-Pot where all the races of Europe are melting and reforming ... Germans and Frenchmen, Irishmen and Englishmen, Jews, and Russians—into the Crucible with you all! God is making the American.”

<sup>8</sup>Gristle, Gary, *AMERICAN CRUCIBLE; RACE AND NATION IN THE TWENTIETH CENTURY*, (Princeton University Press, 2001) p. 51. In the 18th and 19th centuries, the metaphor of a “crucible” or “(s)melting pot” was used to describe the fusion of different nationalities, ethnicities and cultures.

<sup>9</sup>A motto on the Great Seal of the United States. The motto was suggested in 1776 by Pierre Eugene du Simitiere to the committee responsible for developing the seal. At the time of the American Revolution, the exact phrase appeared prominently on the title page of every issue of a popular periodical, *The Gentleman’s Magazine*,

<sup>10</sup>It was a metaphor for the idealized process of immigration and colonization by which different nationalities, cultures and “races” (a term that could encompass nationality, ethnicity and race) were to blend into a new, virtuous community, and it was connected to utopian visions of the emergence of an American “new man.” *American Ethnic History: Themes and Perspectives*, (Edinburgh University Press) pp. 50–52.

<sup>11</sup>Park, Robert (1864-1944) was a member of the Chicago school of sociology and had a major hand in establishing the discipline of sociology in the United States.

<sup>12</sup>Park, Robert and Burgess, E.W. *INTRODUCTION TO THE SCIENCE OF SOCIOLOGY*, (University of Chicago Press, 1921) p. 737.

<sup>13</sup>See generally Alba, Richard and Nee, Victor *Rethinking Assimilation Theory for a New Era of Immigration*. Published in *INTERNATIONAL MIGRATION REVIEW* Vol 31 Issue 4 (winter 1997).

<sup>14</sup>See note 13 above.

Park, Robert and Burgess, E.W., *INTRODUCTION TO THE SCIENCE OF SOCIOLOGY*, (University of Chicago Press, 1921) p. 737.

<sup>15</sup>Gordon, Milton. *Assimilation in American Life*, Chapter 3 of *THE NATURE OF ASSIMILATION* (Oxford University Press, 1964).

<sup>16</sup>Kallen, Horace. Jewish philosopher, argued that members of every American ethnic group should be free to participate in all of the society’s major institutions while simultaneously retaining or elaborating their own ethnic heritage. See Ratner, Sidney. *Horace Kallen and Cultural Pluralism*, (Associated University Presses/Fairleigh Dickinson University, 1987).

<sup>17</sup>Chua, Amy, *DAY OF EMPIRE: HOW HYPERPOWERS RISE TO GLOBAL DOMINANCE AND WHY THEY FALL*, (Doubleday, 2007).

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procedural or substantive defect in the underlying proceedings and those vacated because of post-conviction events, such as rehabilitation or immigration hardships).

<sup>20</sup>*Moncrieffe v. Holder*, 133 S.Ct. 1678, 1684 (2013).

<sup>21</sup>*Id.*

<sup>22</sup>495 U.S. 575 (1990).

<sup>23</sup>The Supreme Court reasoned in *Johnson v. United States*, 559 U.S. 133, 144-145 (2010):

When the law under which the defendant has been convicted contains statutory phrases that cover several different generic crimes, some of which require violent force and some of which do not, the “modified categorical approach” that we have approved, *Nijhawan v. Holder*, 557 U.S. 29, —, 129 S.Ct. 2294, 2302, 174 L.Ed.2d 22 (2009), permits a court to determine which statutory phrase was the basis for the conviction by consulting the trial record—including charging documents, plea agreements, transcripts of plea colloquies, findings of fact and conclusions of law from a bench trial, and jury instructions and verdict forms. See *Chambers v. United States*, 555 U.S. 122, —, 129 S.Ct. 687, 691, 172 L.Ed.2d 484 (2009); *Shepard*, 544 U.S. at 26, 125 S.Ct. 1254 (plurality opinion); *Taylor v. United States*, 495 U.S. 575, 602, 110 S.Ct. 2143, 109 L.Ed.2d 607 (1990). Indeed, the government has in the past obtained convictions under the Armed Career Criminal Act in precisely this manner. See, e.g., *United States v. Simms*, 441 F.3d 313, 316–317 (C.A.4 2006) (Maryland battery); cf. *United States v. Robledo-Leyva*, 307 Fed.Appx. 859, 862 (5th Cir.) (Florida battery), *cert. denied*, 558 U.S. —, 130 S.Ct. 64, 175 L.Ed.2d 47 (2009); *United States v. Luque-Barahona*, 272 Fed.Appx. 521, 524–525 (7th Cir.2008) (same).

<sup>24</sup>New York Penal Law §120.00(1).

<sup>25</sup>New York Penal Law §120.00(2).

<sup>26</sup>New York Penal Law §120.00(3).

<sup>27</sup>24 I&N Dec. 239 (BIA 2007).

<sup>28</sup>21 I&N Dec. 475, 477-78 (BIA 1996).

<sup>29</sup>Although the BIA held that reckless simple battery is not a CIMT in *Matter of Fualaau*, the author cautions when analyzing reckless conduct it is almost always a CIMT. The author’s advice is that generally, reckless conduct is a CIMT. See *Matter of M-W*, 25 I & N Dec. 748 (BIA 2012) (Reckless and wanton disregard for human life is sufficient to be an aggravated felony); *Keungne v. U.S. Att’y Gen’l*, 561 F.3d 1281 (11<sup>th</sup> Cir. 2009) (noncitizen’s conviction for criminal reckless conduct under Georgia law was for a CIMT). The BIA consistently has interpreted moral turpitude to include recklessness crimes if certain statutory aggravating factors are present, such as where a defendant consciously disregards a substantial risk of serious harm or death to another person. *Matter of Leal*, 26 I&N Dec. 20, 25 (BIA 2012) (one who consciously disregards a known risk of harm exhibits a base contempt for the well-being of the community, which is the essence of moral turpitude); *Matter of Medina*, 15 I&N Dec. 611, 613 (BIA 1976) (when criminally reckless conduct requires a conscious disregard of a substantial and unjustifiable risk of serious injury or death to another, the crime involves moral turpitude).

<sup>30</sup>20 I&N Dec. 615, 618-19 (BIA 1992).

<sup>31</sup>See *U.S. v. Tucker*, 703 F.3d 205, 214 (3d Cir. 2012) (quoting *Jean-Louis v. U.S. Att’y Gen.*, *supra*, at 466); *Partyka v. U.S. Att’y Gen.*, 417 F.3d 408, 411 (3d Cir. 2005).