

ALIENS AND THE LAW:

Don't U.S. citizens have at least some rights aliens don't?

A naturalized professor says 'Yes.'

If nothing else, the Iranian crisis has brought one fact to glaring light: the far-gone erosion of American national self-identity. For now the destructive self-contempt in which many Americans now hold their own sense of nationality has come to light in the current discussion about the rights of aliens - including demonstrating Iranian students - on American soil.

Three things stand out in that discussion: one, the tendency to bend over backward so as *not* to offend foreigners, *not* to step on their constitutional toes (a pathology for which I have coined the term "xenophilia"); two, a taboo on any expression of nationalism; and three, general muddled thinking.

As a participant in this discussion (see my letter in the Wall Street Journal, April 24, 1980), I have received letters both from irate immigrants who damn me for suggesting that their legal rights differ from those of U.S. citizens and from lawyers who laud my views and request case-law information about this matter

I am not a lawyer but a sociologist. It is from that perspective that I wish to shed some light on the issue. While sociology has acquired an awfully bad reputation in recent years, it is because *bad sociology has driven out good sociology*. It must be remembered that sociology actually began as the antithesis of what it symbolizes today. When Auguste Comte and other Europeans founded the new science, it represented precisely the refreshing and common-sensical new perspective that viewed society as a living and breathing organism. Far from translating common sense into incomprehensible jargon and providing mystifications for bureaucracy and incompetence, sociology at one time represented the only perspective that could bring to all of us a clear, coherent and relatively simple understanding of our society, of what ails it, and of how to cure it.

Today, as America flounders on the verge of chaos, it is in sore need of *good* sociology. It is with the help of sociology that I shall deal with the matter of legal rights in the United States.

My irate immigrant correspondent reminded me that he, too, feels that he is protected by the law against such things as the police breaking down his door or the government arbitrarily seizing his property. This is something to be *hoped* for, but not taken for granted. If it were true, as this individual writes, that "it is a fundamental principle of constitutional law that it applies to and, protects all persons within the U.S., not just citizens," then the seizure of Iranian assets, the deportation of Iranian diplomats, restricting Iran's UN representatives to a mile radius - indeed the deportation of any foreign criminals would be criminal.

The truth of the matter is that the Constitution and American law in general do *not* apply uniformly to all individuals who are physically in the U.S. Even naturalized citizens are to a degree second-class citizens. Henry Kissinger, for example, does not have the constitutional right to become president of the United States.

There has been altogether much taken for granted - much American good will and hospitality. It is good to remember that there is a whole *gradation* of legal persons - from illegal aliens to legal aliens to naturalized citizens to born Americans. Each has more rights than the preceding one. If the citizen misbehaves, he is subject to American laws. Insofar as the foreigner can *in addition* also be deported, he is in a sense more obligated to be on his best behavior.

The fact that people are deported and extradited from country to country points to an inherent conflict between two principles: an individual's territorial location at a given time and his national origin. The radicals who wish to apply American legal rights uniformly to all persons physically within the boundaries of the U.S. appear to be using only the territorial criterion, to the total exclusion of national origin.

This is wrong. In actuality, until a person becomes naturalized into a new citizenship, the

nation-state of which he is a citizen retains to a great extent jurisdiction and indeed also protection over him. When a U.S. citizen travels overseas, he is to a large extent protected by his citizenship against arbitrary actions by foreign authorities (and this is what makes the Iranian exception so outrageous); the same cannot be said for a stateless person. In sum, it is ludicrous to argue that the jurisdiction of a nation-state (a legal concept) coincides with its boundaries (a geographical concept).

But there are additional difficulties, especially in the United States: more than in any other society, the status of "American" has frequently been *achieved* rather than *ascribed*. Millions upon millions came to these shores, spent many years abiding by the specific rules and regulations of the immigration game and ultimately acquired citizenship. To achieve American citizenship meant new rights and responsibilities, a new pride and a new commitment to one's new country. Surely there must be a difference between being a citizen and not being one. Otherwise, what would be the point of it all? Merely added burdens such as military service? While much of this remains to be sorted out from a legal standpoint (I realize that some aliens used to be drafted), there should be no doubt whatsoever that the status of citizen is both legally and sociologically fundamentally different from that of the alien.

The devaluation of American citizenship is one of the regrettable trends of recent years. Fortunately, the millions of refugees and immigrants who continue to pour into the nation that remains the symbol of freedom in the world - witness the Vietnamese and now the Cuban boat people - *do* retain a cherished conception of what it signifies to become a citizen of the new land.

While my remarks are in no way meant to suggest discrimination or hostility towards non-citizens, I aim to remind the public of the value and privilege of being an American.

To argue, as do muddle-headed liberals, that any visitor to these shores has the same rights as a citizen is both untrue and undesirable. Were all legal distinctions to vanish (which is a utopian impossibility) this would further damage the already sorely tested social bond of our society. To be an American does not have to entail a haughty chauvinism. But it should mean a healthy dose of self-love and a distinct social identity. In the absence of any such self-love and identity, American society will continue to degenerate into chaos and privatism, identifying only with their narrow ethnic, sexual, demographic or regional memberships, each working for private or special interests rather than for the well-being of society.

For years Americans have been on a quest for their "roots," apparently not satisfied to be plain Americans, even though in the eyes of the world that is a clear and unambiguous identity. I have seen third- and fourth-generation American kids travel through Poland, Germany or Italy, telling the natives with a Texas slur or a Chicago twang that they, too, are Poles, Germans or Italians. Of course the natives laughed, and so did I.

Thus the citizenship issue ultimately boils down to one of *social membership*. To claim, as my critics have done, that there is no legal difference between the citizen and the alien is to abolish the concept of societal membership. If that succeeds, society itself falls apart at the seams. This is the fundamental lesson of sociology.