



**IMAGO DEI, IMMIGRATION, AND NATIONAL SECURITY:
WHOM THEN SHALL WE WELCOME, AND WHY DOES IT MATTER?**

Live Training: Saturday, February 17, 2024
9:00-9:50am

Presenter:

Stephen Casey, Esq.

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Regent University Schools of Law and Divinity; Class of 2008

J.D.; Master of Arts in Biblical Interpretation

Information About the Program:

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Biographies

Stephen Casey, Esq.

Stephen Casey began his legal career adult career operating nuclear power plants in the US Navy. After graduating from LeTourneau University (Double Major: Biblical Studies/History-Political Science), Mr. Casey attended Regent University, earning a pre-doctoral MA in Biblical Interpretation and a J.D., graduating in 2008.

Following a clerkship at the Texas Supreme Court, Mr. Casey opened his own law practice, serving clients in both paid and pro-bono capacities for the last 15 years. For a brief period, Mr. Casey operated a non-profit pro-life litigation firm along with another Regent Law graduate, Greg Terra.

Through his litigation experience with people from all walks of life and legal challenges, Mr. Casey began to see the effect of our national immigration policies and how they negatively affected both citizens and immigrants. He began to study immigration policy, its origins, and noticed the near absence of any biblical foundation within its structure. Prompted by an article in IMPRIMIS by Edward Erler, and drawing on his theological training, Mr. Casey began to explore the theological foundations of immigration, citizenship, and found the current system of beliefs not aligned with the Founders' approach to citizenship nor aligned with the biblical perspectives toward the sojourner.

It is by resetting and thinking forward from the biblical truths, from which many of the Founders began their thinking, that we can properly assess how to construct a national policy for immigration that honors the image of God in both citizen and immigrant, and provides peace for both.

PROGRAM AGENDA

<u>Time</u>	<u>Topic</u>	<u>Speaker</u>
9:00-9:50	Welcome and roadmap: Historical Background on Immigration Law	Stephen Casey, Esq.
10:00-10:40	Language Access and Serving Migrant Farmworkers	Associate Dean Beth Lyon, <i>Cornell Law School</i>
10:50-11:40	Immigration + Families Panel: Women/Children/Disability	Anne Kelsey, <i>Young Center</i> Esther Limb, <i>HerJustice</i> Dr. C. Rick Ellis Sheila Marble, <i>Catholic Charities</i>
12:00-12:50	Overlap of Immigration and Human Trafficking	Emily Milnes, <i>Pepperdine</i> Esther Limb, <i>HerJustice</i> Kellisia Hazlewood, Esq. Brittany Dunn, <i>Safehouse Project</i>
1:00-1:40	Keynote: Personal story, theology, etc.	Karen Gonzalez
1:45-2:20	Conclusion: Next Steps You Can Take	Prof. Hugo Valverde

Session agenda

9:00-9:15	Welcome and roadmap	Current Landscape
9:15-9:30	Historical Background	Sources of Law
9:30-9:50	Solutions and proposals	Challenges ahead

WRITTEN MATERIALS

Title: “Imago Dei, Immigration, and National Security: WHOM SHALL WE WELCOME, AND HOW SHOULD THAT HAPPEN?”

Source Material: M. Daniel Carroll. *Christians at the Border: Immigration, Church, & the Bible*, Brazos Press (2013); Roger Daniels, *Guarding the Golden Door: American Immigration Policy and Immigrants Since 1882*, Hill and Wang (2004); Lucy E. Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law*, The University of North Carolina Press (1995); Wilson Cunha, “*The Bible and the Immigrant*,” Article; Edward J. Erler, *Birthright Citizenship and Dual Citizenship: Harbingers of Administrative Tyranny*,” IMPRIMIS July 2008, Vol. 37 No. 7. The Holy Bible (ESV);

I. Introduction

A. Greeting and Opening Remarks

1. Welcome; thanks to sponsors (Journal/Fed Soc/Regent)
2. No less appropriate time than current national and international focus on US immigration
 - a. Texas border crisis
 - b. Shelby Park
 - c. Razor wire battle
 - d. Bouys in Rio Grande
 - e. Raises important issues of the federalism as expressed in the U.S. Constitution between the US and the states.
 - f. Both major political parties bring a magnifying glass to motivate their voter base.
3. Unique about Regent
 - a. Christian leadership to change the world
 - b. How do we think about this issue?
 - c. We serve an omnipotent God who desires human flourishing
 - d. We serve a creative God who is our Counselor and the Prince of Peace
 - e. The current model has no peace (opening prayer lead in)

Give roadmap for talk: explore briefly what factors influence and impact immigration policy when we are attempting to honor the Imago Dei as present in both immigrant and citizen

B. Given the foregoing, what are the fountainheads or tributaries of influence that begin our investigation of US immigration policy?

1. Bible
2. Declaration of Independence
3. US Constitution (14th Amendment)
4. US Immigration Historical Policy
5. National Identity
6. National Security

C. Exploring the Fountainheads

1. Bible
 - a. Imago Dei
 - (1) Created in the image of God: Genesis 1:26
 - a) M. Daniel Carroll
 - i. Intrinsic in how we exist (mind/will/emotions)
 - ii. Relational in how we relate to each other and to God

- iii. Functional in that we are required to exhibit heavenly approaches to issues, which God equips us to do

(2) Responsible for those created in God's image: Genesis 9:5. Cf. Amos 1-4; God cares about international relationships and international actions.

b. Sojourners

(1) Terminology (mainly OT):

- a) Ger: mainly translated "alien," "stranger," and "sojourner" in OT legal material
- b) Tosab: usually used in parallel with the idea of hired worker.
- c) Nokri (bennekar) and zar: simply a non-Israelite; can be matter of fact usage, but often simply refers to something foreign and, given the theological nation-state of Israel, something corrupting. Can refer to short-term residents.
- d) It's clear with different words there are "value" judgments naturally made between various groups' reasons for being there and social utility.

(2) Legal issues

- a) Contrast with other nations' laws. Very little mention in other ancient laws, except regarding how to deal with land when one moves away for a while. The Bible has a lot of legal references.
- b) Prohibition of taking advantage of sojourners. Deut 24:14
- c) Can participate in all aspects of commerce, including slave trade. Lev. 25.
- d) Deserved Sabbath rest. Ex. 23:12.
- e) Deserved wages. Deut. 24:14-15.
- f) Were not to be oppressed. Ex. 23:9
- g) Were honored under gleaning laws. Lev 19:10, 23:22; Deut 24:19.
- h) Were honored under three-year tithe. Deut. 14:28-29, 26:12-14.
- i) Were treated equally under legal system. Deut. 1:16-17, 24:17-18, 27:19.
- j) Charged with (and punished for disobeying) to do no wrong or violence to foreigner. Jer 22:3; Ez. 22:7; Mal. 3:5; Ps. 94:6.:

- k) True religious measure: treat foreigner rightly:
Jer. 7:6; Zech 7:8-10.

(3) Various reasons for sojourning

- a) Famine/Hunger: Gen. 12:10-20 (Abram); Gen 26;1 (Isaac); Gen 41 (Jacob sends sons); Ruth 1 (Elimelech to Moab; Naomi to Bethlehem)
- b) Forced Exile/Escapees: [Exile] Gen 37 (Joseph); Daniel 1 (Daniel and others); 2 Kings 17, 18 (Israelites); 2Kings 24 (Judah) | Escapees: Exodus 2 (Moses); 1 Sam 27 (David) Jeremiah 40 (Jeremiah and Baruch)
- c) God's calling: Gen 15 (Abram); Luke 3 (Joseph, Mary, Jesus)

(4) Assimilation

- a) Participation in religious/national life: Sabbath, Day of Atonement, Passover, Feast of Weeks, Feast of Tabernacles, Firstfruits.
- b) Permitted to sacrifice for unintentional sin. Num 15:27-29
- c) Allowed access to cities of refuge. Num. 35:15
- d) Present at covenant renewal ceremony in Deut. 29.
- e) Had expectations and duties.
 - i. Present at reading of law. Deut. 31:10-13.
 - ii. Subject to:
 - a. criminal penalties. Lev. 24:22.
 - b. Some dietary restrictions. Ex. 12:19.
 - c. Sexual prohibitions. Lev. 18:26
 - d. Purity laws. Num. 19:10
 - e. Feast regulations. Num 9:14.
 - f. Idolatry prohibitions and blasphemy laws. Lev. 20:1-2, 24:10-16, Num. 15:30-31.
- f) Tension in assimilation
 - i. Some dietary laws didn't apply. Deut. 14:21 (carrion)
 - ii. Treated with various degrees of reciprocity. Deut 23:3-8, but contrast with Ruth (Moabitess)
 - iii. Solomon's prayer of dedication (including God's hearing the prayer of a foreigner). 1 Kings 8:41-43.

c. Borders/Communities

(1) National borders abounded in the Bible:

- a) Most known: God gave land to Israel. Joshua 1:4
- b) Prior to God's giving of that land, it belonged to another people. Genesis 1:18-20.
- c) Prohibition on moving a neighbor's boundary mark. Proverbs 22:28.

(2) Tribal boundaries within Israel when dividing the land. Joshua Chapters 13-21.

(3) Recognition of permission to cross borders by the Israelites Numbers 21:21 (Moses asking permission to cross Sihon's kingdom).

(4) In short, exclusive ownership of land is not ungodly.

d. Rule of Law

(1) Old Testament

- a) high view of obedience to authorities: Eccl 8:2;
- b) Derived because the king was supposed to be obedient to God. Deut 17:14.

(2) New Testament

- a) similarly high view of obedience to authorities to the degree it does not directly conflict with God's law: Jesus (Matthew 17); Peter and John (Acts 4); Paul (Romans 13); Peter (1 Pet. 2:13-17)
- b) Derived so to be a witness to God for ungodly rulers. 1 Peter 2:13-17.

2. Declaration of Independence

- a. Natural Rights: life liberty pursuit of happiness from the Creator
- b. Complete overhaul/revolution on what it means to belong to a body politic: rejection of soil sovereignty and adoption of consent-based citizenship

(1) Contract law: consent of both parties; raises problems for both birthright citizenship and dual citizenship.

c. Birthright Citizenship

(1) Citizenship as we understand it was unknown in British common law.

(2) Not present in Blackstone's *Commentaries on the Laws of England*, which was the defacto legal primer of the day.

(3) Similarly understood by other British legal commentaries re conflicts of laws.

- (4) British citizens were “subjects” who owed “intrinsic” allegiance, which could not be forfeited, canceled, or altered.
- (5) Declaration wholly rejected the concept of birthright citizenship as historically practiced in England.
- (6) Children lack capacity
 - a) Because it follows consent parameters and not those of birth (before a child could make a decision), children cannot consent to citizenship because as legal minors, they lack capacity to enter into a legal relationship,
 - b) Parents could not give something to their children to which the children do not have a pre-existing right as it was never offered to them.
 - c) Children of parents subject to the jurisdiction of a foreign nation are still subject to that nation’s citizenship.

3. Constitution

- a. Citizenship not defined in 1787.
- b. 14th Amendment (1868) defined in a two-part conjunctive clause “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.”
- c. Two components
 - (1) Born or naturalized in the US
 - (2) Subject to the jurisdiction thereof
 - (3) If we only focus on being born, the “subject to the jurisdiction thereof” is superfluous.
 - (4) Senator Jacob Howard, author of the citizenship clause, referenced the following:
 - a) Excluded American Indians (who owed allegiance to their tribes)
 - b) Excluded persons born in the US who are foreigners, aliens, or who belong to the families of ambassadors or foreign ministers. This was consistent with British common law.

4. US Immigration Statutory History (large movements)

- a. 1868 Expatriation Act
 - (1) Permitted American citizens to renounce their allegiance and alienate their citizenship.
 - (2) Passed the same year the 14th Amendment’s citizenship clause was ratified.
 - (3) Same author as citizenship clause

- b. Chinese Exclusion Act of 1882 (borne from 40 years of economic expansion coupled with xenophobia). Barred introduction of Chinese labor; prohibited most Chinese claims to citizenship. Not repealed until 1943 (WWII-driven).
- c. Immigration Act of 1921 and Johnson-Reed Act of 1924 (introduced quotas based on % of population in the 1910 census. Xenophobia based in a myopic view of world immigration dynamics. Driven by migration of Irish and Southern Europeans.
- d. 1942 Bracero Agreement (brought in inexpensive agricultural labor). Fought by unions and shut down in 1965. The labor demand never ended and largely shifted in name with the same intent.
- e. Immigration and Nationality Act of 1952 (preserved the quota system using different calculations than the 1924 Johnson-Reed Act)
 - (1) Various tweaks along the way of the quota numbers
 - a) 1965 Hart-Cellar Immigration Bill
- f. Immigration Reform and Control Act (ICRA) of 1986 (strengthened border and provided general amnesty)
 - (1) Tweaked by Immigration Act of 1990
- g. Various other attempts at comprehensive reform:
 - (1) Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRIRA)
 - a) Tweaked by Personal Responsibility and Work Opportunity Reconciliation Act of 1996
 - (2) Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005
 - (3) Security Through Regularized Immigration and a Vibrant Economy Act of 2007 (STRIVE); House bill
 - (4) Secure America and Orderly Immigration Act of 2005; Senate Bill
 - (5) Comprehensive Immigration Reform Act of 2006
 - (6) Comprehensive Immigration Reform Act of 2007
 - (7) Development, Relief, and Education for Alien Minors of 2001 (DREAM)
 - (8) DACA
- h. *US v. Wong Kim Ark*, 169 U.S. 649 (1895):
 - (1) Question presented: whether a child born in the United States, of parents of Chinese descent, who, at the time of his birth, are subjects of the Emperor of China, but have a permanent [****9] domicile and residence in the United States, and are there carrying on business, and are not employed in any diplomatic or

official capacity under the Emperor of China, becomes at the time of his birth a citizen of the United States, by virtue of the **first clause** of the Fourteenth Amendment of the Constitution, "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) Reasons that children born in England were natural born subjects unless parents were enemy combatants or ambassadors
- (3) The dissent clearly lays out the distinction between English common law as it concerns private and individual rights vs. its applicability to political relationships and power.

5. National Identity

- a. What makes our nation unique? What ties us together?

(1) Based on principles emphasized at the founding:

- a) Rule of Law
- b) Individual Rights
- c) Personal Property
- d) Limited Government

(2) These set us apart from the world at that time

(3) These have been imitated by countries across the globe with varying success based on the foundation of the culture, but always growing in their power, demonstrating the success of the ideals.

(4) Battle over English as standard language

6. National Security

- a. Fentanyl crisis (2021 saw 233% increase in seizure of fentanyl at US border). Fox News

- b. Terrorism (736 known or suspected terrorists apprehended at U.S. Border in fiscal 2023). MSN

- c. General lawlessness

- d. Attractive nuisance theory

(1) The US has a valuable offering for work and citizenship.

(2) We have made the path to it fraught with danger and delay, both physical and bureaucratic.

D. Various solutions/proposals

- 1. Mass deportations
- 2. Path to citizenship
- 3. Amnesty
- 4. Open borders
- 5. Various political pundits
- 6. What is missing? The simultaneous need for:

- a. Recognition of the intrinsic worth of both citizen and immigrant.
- b. National boundaries.
- c. Availability of citizenship based on why we became a nation: consent of the governed.