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First, They Excluded the Irish

President Trump may block entry to foreigners who need public benefits—a proposal rooted in 19th-century laws targeting a wave of impoverished immigrants.



Brian Snyder / Reuters

EMMA GREEN

FEB 2, 2017 | POLITICS

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A new draft executive order is floating around Washington. On Tuesday, *The Washington Post* [reported](#) that the Trump administration may be considering a measure that would “deny admission to any alien who is likely to become a public charge,” meaning they would need benefits like food stamps, housing assistance, or Medicaid. Current law already allows immigration officers to deny people admission if they may become dependent on these programs, but in 1999, the government [issued](#) a guidance narrowing the scope and applicability of this clause. In recent years, Republican politicians have [frequently accused](#) the Obama administration of not enforcing the measure at all.

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The United States has a long history of denying public support to immigrants. Some policies were put into place not too long ago—Bill Clinton’s 1996 welfare-reform legislation severely restricted immigrants’ access to benefits, as the *Post* points out. The country also has a long history of denying entry to immigrants who come from poverty, as the historian Hidetaka Hirota [writes](#) in his new book, *Expelling the Poor*. The language of the Trump administration’s alleged new proposal is not a departure from past policies, but a continuation. And as in the past, the new policy may lead to discrimination, whether implicit or overt.

I talked with Hirota, a visiting assistant professor at the City College of New York, about the way poverty has shaped government policies on immigration. Our conversation has been edited for clarity and length.

Emma Green: What’s the historical connection between poverty and immigration restrictions in the United States?

poverty. The British colonists introduced a law which regulated the movement of the poor, including the expulsion of poor people from their territory. That model developed into [passenger laws](#) for prohibiting the landing of poor people. The critical turning point came in the 1840s and '50s, when a large number of impoverished Irish immigrants arrived in the United States. New York and Massachusetts were two major receiving states. They responded by enhancing and strengthening their laws to more effectively restrict the immigration of poor Irish people.

This really laid a framework for immigration control in the United States. In the 1870s, when the U.S. Supreme Court [declared](#) some of the state passenger laws unconstitutional, these two states started a campaign to transform their state laws into federal laws. The result was America's first national immigration laws.

Green: How do you tease apart Americans' economic reasons for wanting to keep immigrants out versus cultural or religious prejudice?

Hirota: These laws were targeted against poor immigrants, rather than against all Irish immigrants. In that sense, the poverty of immigrants was at the core of state-level immigration policy.

But at the same time, such policy would not have developed if there was no strong cultural and religious prejudice, especially against Irish Catholics. Ethnic prejudice really facilitated the formation of state policies that targeted the destitute.

“Law enforcement was never equal. It was always shaped by the enforcing officers’ personal prejudices and racism.”

Green: What was the distinction in early American immigration laws between those who were poor and those who had skills or were wealthy?

were poor and didn't have financial resources, you wouldn't be allowed to enter the United States unless the shipmaster paid a bond to the government—money that could be spent if people became paupers and required public assistance.

According to *The Washington Post*, the Trump administration will seek to deny any alien who is “[likely to become a public charge](#).” This clause has a notorious history, precisely because of the vagueness and subjective nature of the adjective “likely.” The term comes from state-level passenger laws. Massachusetts used the term in the 18th century, and New York did, too.

The tricky thing about this clause is that officers could reject immigrants even if they were not actually paupers—officers could interpret the adjective “likely” in any way they liked. The clause was a convenient tool to inject religious, ethnic, and racial prejudice into technically neutral immigration law.

Green: One thing that's been clear in the last week or so, since President Trump released his first executive order on immigration and refugees, is that low-level bureaucrats and officers [have a lot of power](#) to interpret and enforce the law as they like. What power have those kinds of people had historically in shaping American immigration?

Hirota: From the moment of the introduction of the clause, it was abused by officers who already had personal prejudices against particular immigrants. In the mid-19th century, the target was the Irish. Even if an immigrant had a sufficient amount of money at the time of arrival, immigration officers excluded some people on the ground that there was no demand for their employment. So officers regarded them as “likely to become a public charge.”

One immigration scholar in the early 20th century noted that this clause was used as the “miscellaneous” reason to exclude immigrants when officials didn't like them but couldn't find appropriate grounds for their rejection. The vagueness of “likely” gave flexible ground for exclusion, to the extent that anyone could be denied landing.

‘leeches’ on American taxpayers.”

Green: It seems like a large portion of the people who have made arduous journeys over sea and land to come to the United States were doing so in hopes of finding a better economic life. Was there ever a time when immigrants were not largely poor?

Hirota: The vast majority of immigrants were poor, that’s for sure. The distinction nativists and immigration officers hoped to make was whether an immigrant could work or not. As long as a person appeared to be employable, that’s fine.

But the criteria for self-sufficiency remained vague so that officers could determine certain groups of immigrants as non-self-sufficient. Even though many of the immigrants were poor, some were more likely to be labeled as paupers than others. Law enforcement was never equal. It was always shaped by the enforcing officers’ personal prejudices and racism.

Green: How does this compare to immigration policy today? What’s similar and different?

Hirota: I see more parallels than differences, honestly. Trump’s potential executive order is targeted against immigrants who will allegedly consume public taxpayer funds. In the 19th century, anti-Irish nativists called immigrants “leeches” on American taxpayers, saying they should be deported back to Ireland as soon as possible.

The people “threatening” the United States have changed. Earlier, it was the Irish, and then later, it was the Chinese and Asians. Now it’s Muslims and undocumented immigrants from Latin America. But I think the fundamental language—such as “national security” and “national peace”—remain the same. Immigration control is always justified as a matter of the community’s right to protect its citizens from

essay.

“Poverty-based immigration control can be really dangerous, precisely because it seems racially and ethnically neutral.”

Green: People sometimes portray the U.S. as a land that welcomes strangers and immigrants with open arms, pointing to Emma Lazarus and the Statue of Liberty as evidence. Those who protested against Trump’s executive order at airports this past weekend certainly relied on that narrative.

But that’s a fiction, right? The United States has always had strong policies of exclusion accompanying its welcoming spirit.

Hirota: The United States has been a nation of immigrants and a major receptor of those seeking freedom—no doubt. It is a U.S. tradition to accept people who need to come to this country.

But at the same time, the unfortunate historical fact is that nativism has been integral to the American experience. We want to be welcoming. But the fact is that some forms of restriction have always existed in the U.S.

Green: What’s the long-term legacy of America’s immigration restrictions?

Hirota: One of the most important long-term legacies is what immigration scholars call the [plenary-power doctrine](#). It’s basically a doctrine that assumes that congressional immigration policy is beyond judicial review for constitutionality. Within that framework, immigration officers could do anything with undesirable foreigners or aliens.

The doctrine is now weaker than it was, but still, it’s at play in immigration policy. Law enforcers have massive power over the fate of newcomers. And the roots of

The “likely to become a public charge” clause—poverty-based immigration control—can be really dangerous, precisely because it seems racially and ethnically neutral. Historically, the clause allowed racial and religious bigotry to flourish by giving too much power to law enforcers.

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