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Citizenship

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Citizenship, as we know it, is a technology of modern state power. It is the elementary political form by which people—embodied persons embedded in dense and complex webs of social relations—are reduced to "individuals" who may be abstractly figured as "equals" before the law. The modernity of this form of power derives precisely from the notion that the rule of man (as in a monarchy or an aristocracy) has been irreversibly replaced by the rule of law. As abstract individuals, therefore, all citizens are ostensibly equal, commensurable, effectively interchangeable, as the law is supposed to apply uniformly to all, and no one is supposed to be enduringly subjected to personalistic and hierarchical forms of domination and dependency. Citizenship therefore corresponds to a social order in which everyone is presumed to voluntarily and "freely" engage in exchange, whether it be the exchange of goods for money, or much more commonly, the exchange of the capacity to labor for money wages. In short, citizenship is a political form that abides by the abstract rules that govern the capitalist marketplace.

The legitimacy of modern state power, furthermore, is presented as originating from a mythical covenant, a "social contract," among naturally free and equal individuals. Thus, the power of the state is purported to derive from the natural-born power for self-government that is said to reside within each and every individual. Once people are gathered together into some sort of political "community," the effective freedom and equality that are considered to be everyone's birthright become not an individual power of self-government but a collective one. Citizenship, then, is necessary to translate this wild, "natural" freedom into the sort of politically and juridically defined liberty that can be used to justify the authority of the state as the "democratic" expression of a popular will. The state's sovereignty now appears to be legitimate, ostensibly derived from the innate and natural sovereignty of "the people."

In the name of freedom and equality, in other words, citizenship serves to subject people as "individuals" to state power. Simultaneously, citizenship inscribes people as proper "members" belonging to an imaginary, abstract, and artificial political community of equals, usually called "the nation." This is how citizenship serves to stitch together such exalted notions as "freedom," "equality," "democracy," and "human rights" with state power and nationalism.

As citizens, we are fashioned as the supposedly free and equal subjects of "democratic" self-government, while in fact citizenship is how we are made the *objects* of modern state power. Likewise, despite its broadly inclusive and egalitarian mystique, once we locate citizenship as a kind of legal personhood within a polity defined by the territorial borders and juridical boundaries of a state, it becomes clearer that citizenship is always an inherently exclusionary and divisive framework for the production of various degrees of non-citizenship and thus, legal non-personhood. In this respect, we can only properly assess the true meaning of citizenship from a global perspective that is not confined within the borders of any particular state formation. Nonetheless, each citizenship tends to be configured at precisely the "national" scale of a particular (territorially defined) state, and can be properly examined only in the context of the sociopolitical history that has been shaped and disciplined—indeed, *bordered*—by that particular (nation-)state.

In the United States, citizenship was never originally intended to include people who were not considered to be "white." The very first Congress enacted the newly independent nation's very first law explicitly dealing with citizenship through the Naturalization Act of 1790, in which no immigrant would be permitted to become a citizen unless he were "a free, white person." Just three years earlier, in 1787, the Constitution had already been proclaimed on the basis of upholding the notion that enslaved Africans and African Americans were not persons in any substantive sense, that they were merely property. Similarly, the Constitution treated the Indigenous peoples of North America as entirely "outside" the U.S. "nation" and beyond the pale of "civilization." Because Blacks and Native Americans were deemed to be inherently and irreversibly inferior, they were judged to be incapable of self-control and thus incompetent for self-government, and hence disqualified from any prospect of citizenship. By a cruel and twisted logic, those who were enslaved were likewise presumed to have somehow found themselves in that condition because of a "natural" weakness, a "slavishness" that was alleged to be inherent in their racial non-whiteness. It followed by the same merciless logic that citizenship, associated with the capacity for self-government, would be guarded as the preserve of so-called whites—even if the law never troubled itself with providing a definition of this commonsense category of the social regime of white supremacy. The racial whiteness of these prospective migrants, furthermore, was coupled with their status as "free," meaning that even if they were considered to be "white," they could not become U.S. citizens if they were indentured laborers or otherwise dependent upon and dominated by the rule of a master. Their citizenship—their equality before the law—would have to correspond to their social condition as "free" labor, able to sell their capacity to work for a wage in the marketplace. From its inception, therefore, U.S. "democracy" had white supremacy as its defining bedrock, and U.S. nationhood was forged through an unabashed white nationalism.

The problem of Latina/o citizenship consequently always turned on the question of race. The first major historical episode in the encounter between Latinas/os and citizenship in the United States ensued from the war of conquest through which the United States invaded and militarily occupied Mexico. After having debated whether or not to take the whole country and herd the majority of Mexicans onto the equivalent of Indian reservations, the view that prevailed was that the United States wanted as much Mexican land as possible inhabited by as few Mexicans as possible. Thus, with the conclusion of the war in 1848, the Treaty of Guadalupe Hidalgo established a new border roughly corresponding to the Rio Grande (Río Bravo), by which roughly half of Mexico's national territory was annexed. The newly colonized Mexicans who already resided in the occupied territories of what has since come to be known as the U.S. Southwest were given the choice to leave, to retain their Mexican citizenship and thus become "foreigners" in their native land, or to do nothing and automatically become subjects of the United States, to "be admitted, at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States according to the principles of the Constitution" (Griswold del Castillo 1990, 189–90). This language is sometimes mistakenly interpreted to mean that the Mexican inhabitants of the newly conquered territories were assured U.S. citizenship. In fact, this language subtly deferred the decision about citizenship to the adoption of the respective state constitutions, which eventually instituted white supremacist provisions for the citizenship of "white Mexicans" only (Griswold del Castillo 1990; De Genova

2005, 215–21). The great majority of former Mexican citizens who might have been entitled under the treaty's apparent protections saw their putative citizenship systematically subverted. Most were despoiled of their land, and their ostensible civil rights were routinely violated, often through outright racist terror.

The very limited extent to which the treaty genuinely enabled citizenship status for Mexicans, however unstable and insecure, came only with the compulsory requirement that citizenship be racialized as the preserve of "white" men. This was put to the test in a racial prerequisite case for the Naturalization Act of 1790—*In re Rodriguez* (1897). In that case, a federal court in Texas considered the application for citizenship of Ricardo Rodríguez, a migrant from Mexico, whose petition for naturalization was initially rejected on the grounds, simply enough, that he was "not a white person," that he was "one of the six million [Mexican] Indians of unmixed blood." For his part, Rodríguez declared that he was a descendant of neither Indigenous nor Spanish ancestors, and identified himself racially, quite frankly, to be a "pure-blooded Mexican." Rodríguez's legal defense was formulated by T. M. Paschal. Notably, Paschal concurred that Rodríguez was truly an undesirable candidate for naturalization and could rightly be denied eligibility for citizenship on the basis that he was indeed racially an Indian, and otherwise an ignorant Mexican, illiterate in both English and Spanish. However, the racial prerequisite cases for naturalization simply did not apply to Mexicans, Paschal contended, because the Treaty of Guadalupe Hidalgo had extended to Mexicans the same rights and privileges enjoyed by whites and therefore had treated Mexicans, de facto, as virtual "whites." Mexican migrants, he reasoned, had therefore to be granted the right to apply for citizenship as an exception to the racial rule, out of respect for federal law. Positing the absurd legal fiction that Rodríguez was "white" according to the treaty's provisions of citizenship for Mexicans, the court concluded that the applicant was indeed eligible for naturalization (De León 1979; Haney López 1996, 61–62; Martinez 1997b; Menchaca 2001, 215–76, 282–85; Gómez 2007, 139–41; Molina 2010). Apart from these legal casuistries, the *In re Rodriguez* decision became the basis, for a time, for a special exception made for Mexicans within the U.S. immigration and naturalization regime during the early twentieth century. The incorporation of Mexican/migrant labor nonetheless relied precisely upon the racial subjugation of Mexicans in order to secure their subordination as labor. Thus, by 1930, in the wake of mass migration from Mexico during the first decades of the twentieth century, the U.S. Census Bureau had come to officially designate "Mexican" as a separate and distinct "racial" category (Gómez 2007, 152; Molina 2010, 197). In 1933, furthermore, the U.S. Supreme Court revisited the issue of Mexicans' putative whiteness by treaty, and called the *Rodriguez* precedent into question (Haney López 1996, 242n37).

The other major formative encounter of Latinas/os with the regime of U.S. citizenship, historically, was the colonization of Puerto Rico following the Spanish-American War of 1898. In an echo of the Treaty of Guadalupe Hidalgo, the Treaty of Paris, which concluded the war with Spain, declared, "The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress." Whereas Spanish inhabitants of the newly annexed colonies could choose to retain their Spanish citizenship, the "natives" were stripped of any former citizenship and summarily reduced to colonial subjects of the United States (Perea 2001, 156). The fact that U.S. political and legal authorities considered Puerto Ricans to be an "alien race" was the recurrent justification for excluding them from U.S. citizenship (Perea 2001, 155–61).

Then, two decades later, the Jones Act of 1917 unilaterally conferred U.S. citizenship upon Puerto Ricans, collectively, and legally abolished their prior quasi-status as "citizens of Puerto Rico." Without the consent or participation of the Puerto Rican people in the change of their juridical status, and in flagrant disregard for any organized expression of their political desires, the grant of U.S. citizenship was an unequivocal affront to Puerto Rican sovereignty and independence aspirations (Cabranes 1979; Cabán 1999; Burnett and Marshall 2001). In effect, the extension of citizenship to Puerto Ricans irrevocably tied the fate of Puerto Rico to the United States (Carr 1984; Cabán 1999). Furthermore, the law's passage in 1917, on the eve of the U.S. entry into World War I, ensured for many Puerto Ricans that the most palpable significance of their newfound citizenship status was that it made Puerto Rican men eligible to be drafted into the U.S. military. Approximately sixty thousand Puerto Ricans—more than 12 percent of the island's adult male population—were conscripted into military service during the First World War (Carr 1984, 65). Puerto Ricans' citizenship, while expanding their legal "duties" to the U.S. nation-state, did not even safeguard for them the full protection of the Bill of Rights or other constitutional guarantees of the presumed "rights" of citizens (Smith 1997, 433; 2001). In the 1922 decision of *Balzac v. Porto Rico*, the U.S. Supreme Court ruled, for example, that in an officially "unincorporated territory" such as Puerto Rico, the constitutional right to trial by jury did not apply (Cabranes 1979, 49; Burnett and Marshall 2001; Rivera Ramos 2001; Thornburgh 2001). In addition to the extension of U.S. citizenship, the Jones Act established that the island's governor would continue to be imposed from the mainland and thus would be a federally appointed (non-Puerto Rican) U.S. official. Likewise, the U.S. president and Congress would retain veto powers over any act of the new Puerto Rican legislature, and thus would never be beholden to any legislative expression of the Puerto Rican people (Carr 1984, 54–55). Meanwhile, Puerto Rico would have no representation in the U.S. Congress, and the island's inhabitants would not be permitted to vote in U.S. national elections. This restriction on Puerto Rican citizenship remains in force today, such that the mainland-versus-island residence distinction sustains an unequal two-tier structure for Puerto Rican political rights. Inasmuch as they were denied equal rights to political participation, Puerto Ricans were thus bestowed with a decidedly "second-class" citizenship as the juridical expression of their colonial subordination.

Hence, rather than the presumptive ideal of inclusion and belonging, citizenship for Latinas/os has long been a technology for their racial subordination, deployed as a means for their unequal, contradictory, and differential inclusion/exclusion within the legal regime of the U.S. state (De Genova and Ramos-Zayas 2003; De Genova 2005). In this light, rather than the customary liberal plea for the belated realization of the egalitarian promises of citizenship, our greatest challenge is to cultivate a radically open-ended imagination about how to enact various forms of political struggle beyond and against the treacherous allure of citizenship (De Genova 2010).

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