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Pedro Caban

University at Albany, State University of New York, pcaban@albany.edu

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The Puerto Rican Colonial Matrix: The Etiology of Citizenship—An Introduction

PEDRO CABÁN

ABSTRACT

The extension of U.S. citizenship to Puerto Rico has been the object of voluminous scholarly and legal research. The present essay serves as both an introduction to and analysis of the four articles that comprise this special issue of *CENTRO Journal*. Each of the articles employs a different analytical lens to focus on the intersecting dimensions of citizenship, colonialism, and empire. The essay identifies common themes among the articles with the aim of presenting a unified narrative of the individual contributions. It historicizes the study of Puerto Rican citizenship status by reviewing the modalities of political exclusion the U.S. practiced against racialized populations as it built an “Empire of Freedom” founded on a belief in Anglo-Saxon superiority. Also, the essay begins to elaborate a common theoretical framework to hypothesize how demographic changes, national strategic and security concerns, and shifts in the domestic and international political economy influenced the formation of U.S. citizenship policy toward Puerto Rico. [Key words: U.S. citizenship, Puerto Rico, colonialism, imperialism, Jones Act, 1917]

The author (pcaban@albany.edu) is Professor of Latin American, Caribbean and U.S. Latino Studies at the University at Albany, and Director of Graduate Programs. He is author of *Constructing a Colonial People: Puerto Rico and the United States, 1898–1932* (Westview Press, 1999). Cabán has written extensively on the political economy of colonialism in Puerto Rico, and the history and role of race and ethnic studies in higher education, among other subjects. His most recent publication is “Critical Junctures and Puerto Rican Studies,” in *Latino(a) Research Review* (2011–12).

THE CITIZENSHIP STATUS OF PUERTO RICO'S INHABITANTS HAS PROVEN TO BE ONE OF THE MOST VEXING CONSTITUTIONAL ISSUES FOR UNITED STATES COLONIAL RULE.

Of all the unresolved or contested legal issues inherent in U.S. colonial rule in Puerto Rico, citizenship has also been unquestionably the most litigious. Congress and the U.S. federal court system have accorded a remarkable amount of time and resources to the issue of extending U.S. citizenship to Puerto Rico. Not surprisingly, the citizenship status of Puerto Ricans has been the subject of abundant scholarly literature and legal analysis. I venture to say that no single feature of Puerto Rico's colonial experience has garnered such attention.

The four articles that comprise this special issue demonstrate the continued interest the subject generates. The articles revisit the complicated legal and political history of the extension of U.S. citizenship to Puerto Rico. However, each article attempts to contribute to this copious body of intellectual production by focusing a new analytical lens on the multiple dimensions of citizenship, and its intersections with empire, race, and representation. The themes addressed in these articles are distinctive, and each article raises intriguing insights about the development of the U.S. state as an imperial power during the American century.

Jacqueline Font-Guzmán discusses the cases of Puerto Ricans who renounced their U.S. citizenship in order to affirm a distinctive Puerto Rican nationality. This act of resistance is an affirmation of cultural nationalism by “remaking the Puerto Rican” as an agent whose identity is not contingent on validation by a foreign power. Charles Venator-Santiago undertakes a legal history of the extension of U.S. citizenship to Puerto Rico, and describes the unusual citizenship legislation Congress enacted “in order to affirm the inclusive exclusion of Puerto Ricans” within a developing global empire. Rick Baldoz and César Ayala explore the paradoxical inconsistency in U.S. colonial policy: Why did Congress treat Filipinos so differently than it did Puerto Ricans? The authors describe a U.S. Congress vexed with expanding the geographic reach of the empire and obsessed with denying the colonial subject admission into the body politic. Edgardo Meléndez documents the importance of “alien exclusion” in the construction of citizenship. By defining Puerto Ricans as “aliens” both legally and in racial/cultural terms, Congress acted to prevent Puerto Rico's incorporation into the U.S. He further argues that “alien exclusion” is at the heart of a “colonial citizenship”

that applies exclusively to Puerto Ricans. Collectively, the authors have scrutinized the Congressional debates and Supreme Court hearings and opinions pursuant to extending citizenship to Puerto Rico and in the process generate new insights into the making of the American empire.

The four studies address a number of common themes that I will discuss in more detail in the following pages. However, I want to highlight themes that are consistent among the articles. First, the racialization of Puerto Ricans as inherently inferior to the Anglo-Saxon colonizer figured decisively in the federal government's machinations to exclude Puerto Ricans from the body politic. Although gradually, the government's reliance on explicitly racist depictions to legalize Puerto Rican's exclusion may have subsided, the shibboleth of their cultural incompatibility and "alien" nature was concocted to deprive Puerto Ricans of full citizenship. The U.S. was perpetually plagued by an imperial thirst to retain Puerto Rico as a strategic territorial possession and by a determination to devise legal fictions to disenfranchise its inhabitants. The papers compellingly make the case that by denying Puerto Ricans full citizenship, the U.S. was conveying its refusal to recognize the legitimacy of their claims for equality. As each of the authors suggests, the U.S. was aware that granting 14th Amendment citizenship rights to the inhabitants of Puerto Rico was no symbolic act. If conferred full citizenship, Puerto Ricans would have the capacity to actualize their cultural nationalism into a political force that would undermine the racist underpinnings of the U.S. imperial project.

Jaqueline Font-Guzmán discusses the "beliefs and experiences of Puerto Ricans" who assert their Puerto Rican cultural national identity by renouncing U.S. citizenship. The article goes beyond the goal of "sharing narratives," on the ways in which Puerto Ricans have chosen to "negate U.S. citizenship," and seeks to illustrate that citizenship is a "subjective experience that leads to agency." Whether "citizenship leads to agency," as the author states, is an intriguing proposition, but may in fact be impossible to theoretically sustain. Given the highly visible struggles of disenfranchised undocumented immigrants in the U.S. to gain citizenship, an equally plausible proposition is that denial of citizenship leads to agency, as people claim the rights denied them but granted to others during a different historical moment.

Font-Guzmán analyzes the multiple meanings of citizenship as experienced by Puerto Ricans who have petitioned the federal government for a Certificate of Loss of Nationality. Citizenship is alternatively treated as a legal construct, a subjective experience, a cultural identity, and an instance of political nationalism. While the author navigates among the various dimensions of Puerto Rican citizenship, she emphasizes seminal legal cases to demonstrate how Puerto Ricans seek to construct and sustain their nationality as a distinctive identity separate from that of U.S. citizenship. Her

analysis reveals how by renouncing U.S. citizenship Puerto Rican *independentistas* exposed the inconsistencies and contradictions of colonial rule. But more importantly, she reveals that the act of renouncing U.S. citizenship and asserting Puerto Rican citizenship is not solely a legal matter. The logic-defying rationale employed by the federal courts to deny these certificates has created an opportunity for multiple levels of resistance to U.S. possession of Puerto Rico.

The very process of legally renouncing U.S. citizenship requires Puerto Ricans to submit to the laws of the very colonial authority whose legitimacy over Puerto Rico they do not acknowledge.

Although Font-Guzmán does not discuss it, readers may be struck by the irony that in petitioning the federal government for a Certificate of Loss of Nationality, Puerto Rican independence advocates acknowledge the legal authority, and thus legitimacy, of the U.S. courts to rule on their political status. The very process of legally renouncing U.S. citizenship requires Puerto Ricans to submit to the laws of the very colonial authority whose legitimacy over Puerto Rico they do not acknowledge. This exercise in defiance of a colonial authority is profoundly contradictory; the very process of negation of a foreign sovereignty requires acknowledgement of that sovereignty. This is an interesting conundrum, but is so characteristic of the contradictions, absurdities, and profound ambiguities of the distinctly U.S. model of colonial rule that has been imposed on Puerto Rico. The federal government's presumption that Puerto Rico has slid into a politically somnolent stage comfortable with its "Commonwealth status," has been periodically disrupted by defiant acts that reveal the durability of Puerto Rican nationalism. These acts take the form of legal charges filed by petitioners to compel defendants (usually an executive agency) to appear before the federal courts. While the Puerto Ricans filing these charges fully expect an adverse judgment, they nonetheless compel the federal courts to return to the bothersome task of reasserting to the world that Puerto Rico is a territorial possession whose inhabitants are denied the internationally recognized right of self-determination.

As further context, it should be noted that an autonomous nation-state possesses sovereign authority to determine the conditions of membership in the polity, and it establishes the process through which such political membership is secured. The federal government does not acknowledge that the people of Puerto Rico have a separate nationality. Puerto Ricans are U.S. citizens who happen to reside in Puerto

Rico. In other words, the citizens of Puerto Rico acting through their government are prohibited from determining the membership of their polity. Although the government of Puerto Rico does issue Certificates of Puerto Rican Citizenship, the conditions for issuance of this document must be in compliance with federal law and the Constitution. The government cannot deprive a U.S. citizen who does not sign a Certificate of Puerto Rican Citizenship the benefits, rights, and privileges that accrue to the signatories of that document.

Despite its effort to portray Puerto Rican citizenship as a distinctive attribute, the Puerto Rican Supreme Court acknowledged its legal limitations in *Ramírez v. Mari Brás*:

This citizenship is not the national citizenship of an independent state, but neither does it signify mere domicile. It is the one that corresponds to a political collectivity that forms part of a federal system, in which dual citizenship is inherent. (Author's translation)

The court's action was consistent with the Supreme Court ruling in *Saenz v. Roe* that citizenship in a state is a matter of constitutional law. State citizenship is defined as residence in a state (Schuck 2000: 223). Amendments to the U.S. Constitution and various Supreme Court rulings have established the inviolability of the principle that rights extended to some citizens cannot be denied to others.¹

Notions of Puerto Rican nationhood are complicated by the fact that it is a nationhood that exists in a physical space over which the Puerto Rican government does not exercise sovereignty. Any citizen of the U.S. can settle in Puerto Rico and be entitled to the same rights and privileges of a native Puerto Rican who has lived his or her entire life on the island.

The federal government does not recognize Puerto Rican citizenship as a distinctive nationality that is independent of U.S. citizenship. In a 1998 case that is also relevant to Font-Guzmán's study, Alberto O. Lozada Colón petitioned the Supreme Court to overturn the State Department's decision to deny his petition for renunciation of U.S. citizenship. Lozada Colón argued "that Puerto Rico is a distinct and separate entity with an independent national history and identity" and he challenged "the Secretary of State's position that renunciation of U.S. citizenship must entail renunciation of Puerto Rican citizenship as well." The Court concurred with the State Department's reasoning that the legal right to reside in the U.S. is inherent in U.S. nationality, "unless the renunciant demonstrates that residence will be as an alien properly documented under U.S. law." In this instance, according to the federal government, Puerto Rico is part of the U.S.²

Font-Guzmán provides a good overview of contemporary instances in which strategically positioned colonized citizens deftly exposed the absurdity of Puerto Rico's

so-called autonomy. By renouncing U.S. citizenship, Puerto Ricans not only rejected a “foreign” citizenship that is imposed on the residents of the nation, they also embraced an alternative culturally and linguistically identifiable nationality. Federal law recognizes a territorially based U.S. citizenship that is distinctive only in that the political rights of the residents of Puerto Rico are different from those of U.S. citizens who reside in states that comprise the union. But it is citizenship that is diminished. It is a lesser, debased citizenship reserved for the subjects of a colony.

Puerto Rican independence advocates have challenged colonialism in the U.S. courts, with the knowledge that their petitions will ultimately fail to alter the status quo. Why engage in this seemingly futile exercise? The objective is to turn the legal infrastructure of colonialism on its head, that is, to use the legal instruments that sustain colonialism to expose its injustices, particularly the denial of equality to Puerto Ricans. While renouncing U.S. citizenship is ultimately a symbolic act, it is indispensable for sustaining Puerto Rican nationalism. As Font-Guzmán suggests, renunciation is a form of resistance to colonialism that is included in the substantial archive of acts of defiance that sustains Puerto Rico’s cultural nationalism.

Charles Venator-Santiago provides a legal history of the evolving citizenship status of individuals born in Puerto Rico and explores the relationship between citizenship and distinctive moments in the development of empire. By historicizing and contextualizing the link between colonial citizens and imperial projects, he postulates a series of structural determinants of U.S. citizenship legislation. In other words, congressional legislation on the “civil rights and political status of the native inhabitants” of Puerto Rico is a component of a systemic response by the U.S. state and capital to changes at the global level. This is a novel approach that subsumes discrete explanations for U.S. colonial policies—such as the citizenship status of subject populations—under a theory of global capitalist expansion.

Venator-Santiago proposes a relationship between legal constructions of citizenship and distinct phases in the development of the U.S. empire. The author links the type of U.S. citizenship Congress legislated for Puerto Ricans to distinctive “traditions” of empire building: colonialism, imperialism, and global expansionism. He also identifies three distinct types of statutory citizenship that Congress has conferred on Puerto Ricans, each seemingly granting Puerto Ricans a progressively more secure political status.

Venator-Santiago distinguishes colonialism from imperialism, arguing that the former was premised on territorial annexation, while the latter was based on acquisition “through mere occupation.” He discusses the constitutional basis the U.S. government employed to legislate different citizenship statuses for people living in annexed ter-

ritories (incorporated) and for those living in occupied territories (unincorporated). Specifically, he notes that “the colonial tradition” treated territories as “a constitutional part of the definition of the U.S.,” while the “imperialist tradition” treated occupied territories as situated “outside of the jurisdiction of the U.S.” Puerto Rico, according to Venator-Santiago, is in the latter category, and for this reason Congress was not legally obligated to extend full 14th Amendment citizen rights to Puerto Rico. Under the provisions of the territorial clause, the U.S. could impose indefinite military rule in Puerto Rico.³

Puerto Rico manifests the classic syndrome of colonialism: incorporated into the empire, but not part of the empire.

As do the other authors in this issue, Venator-Santiago shows that an embedded racist logic of Anglo-Saxon racial superiority, which entailed the racialization of Puerto Ricans as inherently inferior, was manifestly decisive in Congress's decision to deny them citizenship rights to participate as equal members in the polity during much of the twentieth century. He employs the term “inclusive exclusion” to describe how Congress strategically deployed U.S. citizenship to include “island-born Puerto Ricans” as colonial subjects of the “U.S. global Empire,” while excluding them from the citizenship protections and privileges of the 14th Amendment.⁴ Venator-Santiago's use of inclusive exclusion is suggestive of the concept, expressed by Justice White in *Bidwell v. Downes*, that Puerto Rico “was foreign to the United States in a domestic sense.” Puerto Rico manifests the classic syndrome of colonialism: incorporated into the empire, but not part of the empire. Through their labor and lives, Puerto Ricans have been extensively involved in U.S. state-orchestrated foreign policy adventures and have been fully absorbed into the national economy. But as Venator-Santiago observes, Puerto Ricans have been denied full participation in the polity that controls their destiny. His discussion of inclusion and exclusion captures the enduring paradox of Puerto Rico's colonial situation.

Venator-Santiago notes that the “fragility of the statutory citizenship extended to the island,” has remained unaltered ever since the U.S. acquired Puerto Rico. Underlining this “fragility” is the Supreme Court decision in *Rogers v. Bellei* that 14th Amendment citizenship applies only to persons born or naturalized in the U.S. The Court reaffirmed Congress's constitutional authority under the Citizenship Clause of the 14th Amendment to determine the status of a person born outside the U.S.⁵ Can

Puerto Ricans overcome “the constitutional inferiority” of their statutory U.S. citizenship through naturalization (Perez 2008)? The Court decided that since they already possess U.S. citizenship, Puerto Ricans are excluded from the naturalization provisions of the 14th Amendment.

Venator-Santiago’s discussion of the relationship between shifting legal definitions of U.S. citizenship as applied to “island-born Puerto Ricans” and the evolution of the U.S. as a global power is a novel approach that will stimulate new research on Puerto Rico’s enduring coloniality. However, the explanatory utility of his approach might be sharpened if changes in citizenship legislation were more explicitly linked to definable historical periods, rather than subsumed under major reconfigurations of the state-capital nexus. Two examples illuminate my point. For over a decade before U.S. entry into World War I, Puerto Rican independence activism proved particularly frustrating for colonial administrators. The Bureau of Insular Affairs of the War Department was among the first government agencies to call for U.S. citizenship for Puerto Ricans. The BIA argued that the imposition of U.S. citizenship would signal to independence forces that the U.S. would not relinquish its sovereignty over Puerto Rico.

In 1917, on the eve of U.S. entry into the European War, Governor Arthur Yager emphasized the colonial logic behind the extension of citizenship: “the fact that we make them citizens of the United States simply means that we have determined practically that the American flag will never be lowered in Puerto Rico” (Cabranes 1979: 82). A strategic priority for the U.S., before it embarked on war in Europe, was to impose political stability in its Puerto Rican colony by undermining the independence forces (Cabán 1999: 191–4, 201–3).

The 1940 Nationality Act, which contained provisions that explicitly applied to Puerto Rico, is another instance in which foreign policy and citizenship policy are intertwined. What explains the timing and possible motivations for the U.S. government to codify its diverse national laws into a comprehensive code at that moment? Various provisions of the Nationality Act were motivated by national security concerns at a time when U.S. leaders were convinced of the inevitability of the nation’s entry into World War II. The law included a provision for Loss of Nationality and specified a lengthy list of particular offenses that could result in the revocation of U.S. citizenship. Like the Jones Act of 1917, the Nationality Act of 1940 was enacted when Europe was engulfed in war.

Rick Baldoz and César Ayala have written an informative study on one of the most vexing problems confronting the U.S. after acquiring Spain’s former colonies: to “enlarge the geographic borders of the imperial polity without necessarily expanding the boundaries of national citizenship.”⁶ They examine the contentious congressional

debates and court rulings pursuant to the defeat of Spain and the cession of its territories to the U.S. in 1898. They observe that “the evolution of colonial policy in Puerto Rico and the Philippines complicates our understanding of how borders and national communities were made and remade in the age of U.S. empire.” The authors look at the historical record in an effort to understand “the paradoxical treatment of the Filipinos and Puerto Ricans during the early decades of American rule.” U.S. policy toward overseas territories acquired from Spain “was inconsistent from one territory to another,” resulting in “different formulas of partial incorporation.” After the Treaty of Paris, the U.S. adopted a “gradated process” of “bordering” the nation.

Since Congress was not bound to apply the Constitution to the territories, its authority to determine the political and civil rights of the inhabitants was exempted from judicial review.

The authors highlight the importance of “racial and demographic differences between the two colonies” to explain the U.S. government’s differential treatment of the colonies. In support of the authors’ point is the action by Congress to register its profound contempt for the Philippines as negotiations were taking place in Paris. The week before the Treaty of Paris was signed, Congress enacted a joint resolution to permanently exclude Filipinos from the America polity. The resolution proclaimed that the Treaty “is not intended to incorporate the inhabitants of the Philippine Islands into citizenship of the United States, nor is it intended to permanently annex said islands as an integral part of the territory of the United States” (*New York Times* 1899). Indeed, “Congress was loath to establish a constitutional precedent in its treatment of Puerto Rico that would apply to the Philippines. It was determined to devise different colonial policies for Puerto Rico and the Philippines” (Cabán 1999: 88). Representative William E. William exposed the government’s cynicism regarding the political rights of the people of the Philippines and Puerto Rico when he remarked, “I understand full well that the Administration does not care a fig for Puerto Rico,” and asserted that the Foraker Act “is not for the mere sake of deriving revenue from the island, but as a precedent for our future guidance and control of the Philippines.” Secretary of State Elihu Root was opposed to extending the Constitution to the inhabitants of the overseas territories. He opined “that the people of the islands have no right to have them treated as States, or to have them treated as territories previously held by the United States” (Cabán 1999: 88–9). Since Congress was not bound to apply the Constitution

to the territories, its authority to determine the political and civil rights of the inhabitants was exempted from judicial review. The Insular Cases ultimately reaffirmed that Congress had the constitutional authority to treat the colonies differently.

I would historicize Baldoz and Ayala's thesis by pointing out that the legal debacle after the cession of the insular territories in 1898 was not the first occasion in which the U.S. debated the liminal issue of transitioning to a different phase of empire building. In the late eighteenth century, U.S. leaders envisaged the nation's continuous westward continental expansion, to wit, Thomas Jefferson's "Empire of Liberty." They realized that their imperial ambitions would invariably require the acquisition either through purchase of the Spanish territories of Mexico or war. In 1846, the U.S. went to war against the Republic of Mexico. In the aftermath of the Mexican defeat, the federal government had to contend with the reality that demography could limit the nation's territorial ambitions. Given its decisive military victory, the U.S. could potentially annex the whole of Mexico and its people. But the Polk administration feared the adverse effects for the American polity of politically incorporating this large population. A partisan and ideologically divided Congress debated whether all of Mexico should be annexed to the Union, as it fretted over the citizenship status of the inhabitants of the territories to be annexed. While Democrats called for annexing all of Mexico, the Whigs warned of the dangers of incorporating the Mexican population into the U.S. polity. A representative from Vermont echoed a popular fear that the U.S. could not possibly incorporate eight million unassimilable Mexicans: "We should destroy our own nationality by such an act. We shall cease to be the people we are." The Polk administration shared these views. Secretary of State James Buchanan asked, "How should we govern the mongrel race that inhabits [Mexico]?" Senator John C. Calhoun proclaimed, "we have never dreamt of incorporating into our Union any but the Caucasian race—the free white race." He joined Buchanan in rejecting any notion that the U.S. could "incorporate a people so dissimilar from us in every respect so little qualified for free and popular government without the disruption of our institutions" (Horsman 1981: 241). Half a century later, xenophobic U.S. government officials uttered virtually identical racial caricatures about Filipinos and Puerto Ricans.

The Polk administration ultimately chose a less demographically threatening path: it forced Mexico to relinquish half of its national territory, which was populated by approximately 80,000 Mexican and an undetermined number of Native Americans (Nostrand 1975). The population in the conquered territories was sufficiently small and so widely dispersed that it posed little threat to the integrity of the Anglo-Saxon breed. Article IX of the Treaty of Guadalupe Hidalgo, which formally ended the Mexican American War, stipulated that while Mexicans "shall be incorporated into the

Union,” they would be “admitted at the proper time (to be judged by the Congress of the United States) to the enjoyment of all the rights of the citizens of the United States according to the principles of the Constitution.”

According to Baldoz and Ayala, the extent and nature of the colonial subjects' political incorporation was defined “on the basis of racial hierarchies.” No doubt the white-black racial binary heavily inflected all debates on the political status of alien, foreign-speaking peoples who were devoid of superior Anglo-Saxon values. Whether a racial hierarchy guided the policy makers' reasoning on where these populations fit within the polity is an intriguing question. However, it is also difficult to accurately gauge variations in the depth of racial hostility the U.S. had for Filipinos, Puerto Ricans, Mexicans, Native Americans, blacks, and Chinese. Moreover, it is difficult to discern from the record whether there was a conscious effort by the U.S. government to devise a scale of human revulsion to apply to non-white populations. They were all despised.

I would also emphasize that policy makers' racial attitudes toward Puerto Ricans and Filipinos were affected by their understanding of America's westward expansion, which was heavily imbued with a continuous and evolving racialist logic that justified specific exclusionary practices against subject and vanquished people, be they enslaved African Americans, displaced Native Americans who were targeted for genocide, Mexicans in the conquered territories who were dispossessed of property and rights and converted into a captive labor force or Chinese laborers who were imported, deported, and excluded after their labor was no longer of use for American capitalist development. America's savage treatment of non-white populations before the War of 1898 influenced the federal government's policies toward Puerto Rico, the Philippines, and Cuba. The Insular Cases reveal that the logic for excluding Puerto Ricans and Filipinos relied on imaginative legal concoctions based on a peculiar alchemy of Anglo-Saxon racial superiority and providential selection, and was well formed before the War of 1898.

After the defeat of Spain, the McKinley administration called on Congress to enact legislation to administer the two hugely different overseas possessions. While racial considerations are critical for understanding Congress's different treatment of the two colonies, we should not overlook how the prospective roles envisaged for these colonies in the emerging global empire influenced colonial policy. The Philippines were critical for the U.S. to gain access to the fabled and internationally contested China market. On the Philippines, the U.S. built vital coaling stations that were essential to mount a robust naval and commercial presence deep in the Pacific. Puerto Rico was a strategic asset necessary for the forward defense of the future trans-isthmian canal, and was envisioned as playing a critical role in expanding U.S. commercial interests

in Latin America. Puerto Rico, along with Cuba and Hawaii, would emerge as a major investment site for U.S. sugar corporations that produced vast quantities of this cheap source of calories for an impoverished industrial proletariat.

Edgardo Meléndez has written a meticulously documented and lucid exposition of critical debates on the extension of U.S. citizenship to the residents of Puerto Rico before the enactment of the Jones Act. He has compiled and analyzed a comprehensive array of primary and seminal secondary sources to interrogate the tortured logic, legal and otherwise, that characterized the heated and protracted congressional and Supreme Court deliberations on citizenship for Puerto Rico. Meléndez introduces the concept of “alien exclusion” to demonstrate how embedded notions of Anglo-Saxon exceptionalism and racial superiority were constitutive of legal opinions leading to the exclusion of Puerto Ricans as fully vested citizens of the U.S. He emphasizes the importance of “alien exclusion” as a driving, but unexplicated, principle that permeated these debates. Meléndez makes a compelling case that excluding aliens from the body politic, and constructing a legal edifice for denying aliens constitutional rights and privileges, were critical elements of an unfolding imperial project.

The U.S. imperial venture took the form of a uniquely American commercial expansion under the watchful eye of a bellicose central government determined to wrest new overseas markets for its emerging multinational enterprises.

I would augment his analysis by noting that the debates over the political and civil rights of the inhabitants of Puerto Rico and the Philippines were incidental to a larger preoccupation. After the Civil War, the U.S. had transcended the formative stage of incorporating territory on the continent into the union. On the eve of the new century, the U.S. was anxious to embark on global imperialist adventure and ready to rival long-established European powers and a heavily militarized Japan with regional territorial ambitions. But, in contrast to its rivals, the U.S. did not envisage expropriating huge swaths of foreign lands, occupying them militarily, and directly ruling them as colonial possessions. The U.S. imperial venture took the form of a uniquely American commercial expansion under the watchful eye of a bellicose central government determined to wrest new overseas markets for its emerging multinational enterprises.

The outcome of the legal wrangling over the civil and political rights of the inhabitants of the expropriated possessions of Spain would determine the political destiny not only of these subject populations, but also of the inhabitants of future territories

the U.S. might acquire through conquest or treaty. The backdrop for congressional debates and Supreme Court rulings was the reconceptualization of the Constitution as the constitutive document for building an Anglo-Saxon Empire of Liberty, and turning it into an expansive legal device to empower the U.S. to hold territories populated by alien peoples in perpetuity, while denying them the right to participate as equal members in the American polity. These possessions and their inhabitants were vital to the emerging empire. U.S. firms coveted the subject population's cheap labor power and the possessions abundant natural resources, envisioning the possessions as highly lucrative captive markets for capitalist production.

The founders of the Constitution had decisively relegated the black slave to a marginal status, and envisioned either the extermination or displacement of Native Americans that impeded Anglo-Saxon exploitation of the new nation's natural resources. As I noted earlier, the Treaty of Guadalupe Hidalgo was the first instance in which Congress dealt with the incorporation of the inhabitants of territories acquired from a foreign nation. However, the citizenship status of Mexicans in the ceded territories did not generate much controversy. Congress essentially procrastinated and decided that at a future date it would determine when the Mexicans under its sovereignty would be granted the rights of U.S. citizenship. The systematic, unrelenting, and ruthless campaign to eradicate the political, social, and legal power of Mexicans who chose to remain in the ceded territories made the issue of their citizenship irrelevant. Puerto Rico was a totally different case, with close to a million inhabitants living on a tropical island that was virtually unknown to the American populace and its representatives in Congress. The Philippines, with a population of almost eight million, was a greater menace to a nation committed to preserving its whiteness. The Treaty of Guadalupe Hidalgo did commit the federal government to grant Mexicans the same rights as U.S. citizens, although it did not stipulate when it would do so. In contrast, the Treaty of Paris of 1898 did not obligate the U.S. to extend citizenship to the inhabitants of the insular territories. The Treaty crisply stated, "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."

Meléndez's concept of "alien exclusion" could be used as a lens to view the federal government's facile corruption of liberal ideals enshrined in the Constitution. The resolution of the citizenship status of Puerto Ricans was never a matter of dispassionate legal reasoning grounded in precedence and mindful of the human and civil rights enshrined in the Constitution, but a rather churlish affair in which the intent was to confine Puerto Ricans and Filipinos to "the periphery of the American empire."

Meléndez's discussion of "alien exclusion" yields another important insight, the *sui generis* citizenship status Congress created for Puerto Ricans, which he labels as a "colonial citizenship." According to Meléndez, Puerto Ricans were not relegated to a second-class citizenship. Instead, they were uniquely "colonial citizens." Citing *Balzac v. the People of Porto Rico*, Meléndez notes that the Supreme Court ruled that "the colonial nature of the territory was sufficient to merit the exclusion of these new citizens from full membership and participation in the American polity."⁷ His astute distinction between second-class citizenship and colonial citizenship is important for a number of reasons. The former category is analytically imprecise. It is an amorphous and ambiguous residual category to which all who are not first-class citizens are relegated. Such an indiscriminate lumping of citizenship statuses obscures the highly particular forms and sources of racial discrimination that have shaped the narrative of U.S. exceptionalism. Diplomatically tucked away in a footnote, Meléndez challenges Rogers Smith's (1997) positioning of Puerto Ricans in a third category of a "four-part hierarchical structure of citizenship laws." Meléndez questions Smith's depiction of Puerto Ricans as second class citizens, who are incapable of exercising an "improvident grant of formal citizenship." According to Meléndez, "whatever restrictions on citizenship rights exist in Puerto Rico are due to the colonial nature of the territory." In the process, he reveals a profound contradiction in how Puerto Ricans were treated by the new colonial authorities. Puerto Ricans were racialized and subjected to an undefined policy of "alien exclusion." But the legal racialization of Puerto Ricans was confined to the territory, where they were subjected to a colonial citizenship. Meléndez suggests the metamorphosis of the term "alien" as a legal construct into a racial category; in other words, "alien" became a substitute for race as applied to Puerto Ricans.

A hyper-patriotic Congress identified Puerto Ricans as excludable aliens and unassimilable wards in retribution for their persistent challenges to the colonial regime established by the Foraker Act.

Conclusion

A deeply held conviction of Anglo-Saxon racial exceptionalism influenced congressional action on the political status of the inhabitants of the insular possessions. On the eve of the twentieth century, the U.S. political leadership continued to fulsomely express a belief in Anglo-Saxon supremacy that the nation's founders would have heartily embraced. Puerto Rico's durable cultural, religious, and linguistic traits were factors used to rationalize the

exclusion of its people from the U.S. body politic. A hyper-patriotic Congress identified Puerto Ricans as excludable aliens and unassimilable wards in retribution for their persistent challenges to the colonial regime established by the Foraker Act. The racial antipathy toward Filipinos was more extreme, and they were never granted U.S. citizenship. Until Congress granted the Philippines independence in 1946, the residents of the islands were classified as Philippine citizens and U.S. nationals.

The federal government's reliance on explicitly racist theories to rationalize its colonial policies appears to have become more muted during debates pursuant to passage of the Jones Act. Demographic changes in the U.S. steadily altered the discourse on the primacy of Anglo Saxonism. For approximately thirty years, from 1880 through 1910, unprecedented European immigration demographically transformed the U.S. In the face of profound cultural and linguistic changes, Anglo-Saxon exceptionalism became increasingly difficult to sustain as a discourse for national unity and imperial expansion. By 1910, almost three quarters of immigrants entering the U.S. were from Eastern and Southern European countries. Literally scores of millions were technically eligible for naturalization; a 14th Amendment citizenship status that was not revocable the way statutory citizenship conferred on Puerto Ricans was. The U.S. recognized the need to Americanize these immigrants (Cabán 2001). By 1917, the growing presence of Irish, Jewish, and Eastern and Southern European immigrant communities chipped away at Anglo-Saxons' political strength in urban centers.

Were Puerto Ricans excluded by the end of the Progressive era from the American body politic because they were not white (and thus culturally incompatible) rather than because they were not Anglo-Saxon (and thus inherently inferior)?

It would be instructive to examine whether the shifting constructions of Puerto Rican citizenship reflected evolutionary changes in the racialist thinking of U.S. policy makers as the salience of Anglo-Saxon supremacy slowly gave way to a new vision of distinctiveness of a fictionalized superior Caucasian race. Were Puerto Ricans excluded by the end of the Progressive era from the American body politic because they were not white (and thus culturally incompatible) rather than because they were not Anglo-Saxon (and thus inherently inferior)? Could this new racialization of the Puerto Rican explain in part changes in the type of U.S. citizenship extended to Puerto Rico?

Congress and the courts portrayed Puerto Ricans as so racially and cultural different as to preclude their full incorporation as citizens. Ironically, the *Balzac v Porto*

Rico decision suggests that the presumed cultural incompatibility of Puerto Ricans was inconsequential if they chose to reside in the continental U.S. In other words, once they were legally residing within the “national borders” of the U.S. polity, the presumed array of cultural liabilities that made Puerto Ricans unacceptable appeared to have vanished. However, Puerto Ricans living in the U.S. were confined to a statutory citizenship and were denied the opportunity to apply for naturalized citizenship. In other words, while Puerto Ricans were U.S. citizens, they could not become Americans. Puerto Ricans could not overcome their “lack of whiteness” to become full members of the American polity.

It is significant to note that the author of the Jones Act was adamantly opposed to granting Puerto Rico statehood and insisted that conferring U.S. citizenship on Puerto Ricans must be unconnected to statehood.

We can only speculate as to why Congress and the Supreme Court struggled so mightily to devise a constitutionally valid reason to restrict Puerto Ricans to a statutory citizenship. Numerically, Puerto Ricans did not pose a threat to the integrity of American culture and civic values. In 1900, the Puerto Rican population numbered approximately 953,000, barely 1.2 percent of the U.S. population of 76 million. The millions of non-English-speaking, non-Protestant immigrants from Southern and Eastern Europe posed a much more viable threat to the U.S. These immigrants were a source of national preoccupation and precipitated virulent nativist reactions.⁸ Naturally, the problem was not that absorbing Puerto Ricans into the body politic as equal citizens threatened American institutions and values. The real concern was whether a people who were confined to a limited physical space not subject to colonial resettlement by Anglo Americans, who constituted a culturally and linguistically definable group with legal and political institutions alien to the U.S., should be allowed to have a collective voice in the shaping of U.S. national policy. If Puerto Rico had been incorporated into the union in 1900, it would have been the 27th most populated state. With seven representatives and two senators, Puerto Rico would have had substantial leverage. It is significant to note that the author of the Jones Act was adamantly opposed to granting Puerto Rico statehood and insisted that conferring U.S. citizenship on Puerto Ricans must be unconnected to statehood. Congressman William A. Jones warned, “If Porto Rico were admitted to statehood there would be two senators and at least half a dozen Porto Rican representatives; and the fear exists that they might exercise a decisive influence in the United States Congress and practically enact laws for the government of the United States” (Cabán 1999: 201).

The Supreme Court has relied on demonstrably tortured judicial reasoning and manifestly convoluted interpretations of existing law to relegate Puerto Ricans to an inferior citizenship. Given how cynically Congress and the courts have employed the Constitution to inflict injury on racialized people, it is difficult to discern a morally sustainable legal basis for continued denial of full citizenship rights to Puerto Ricans.

The final decision on Puerto Rico's territorial status was influenced by a realization that incorporating the nation of Puerto Rico would alter the national political landscape. Although the U.S. set about to "Americanize" Puerto Ricans, it was apparent to colonial officials that Puerto Ricans effectively subverted programs that were ostensibly designed to assimilate them into the dominant culture. The cases of New Mexico and Hawaii show that incorporated territorial status and eventual statehood were contingent on the level of whiteness of the population of the state. Annexation as a state of the union depended on the white settlers asserting their hegemony over the original inhabitants of those territories. But in Puerto Rico, the U.S. confronted the sobering reality that the Puerto Rican population could not be displaced. The alternative was to rule Puerto Rico as a colonial possession and to create a historically unprecedented citizenship status, one that barely survived constitutional scrutiny. These papers demonstrate the lengths to which the federal government has gone to impose a colonial citizenship on Puerto Ricans, as well the determination of Puerto Ricans to disrupt U.S. colonial administration.

NOTES

¹ States do pass laws that restrict actions of its citizenry, but these must be inclusionary. Particular categories of citizens would be subjected to the same restrictions, i.e., laws against underage drinking, electoral residency laws, etc.

² *Alberto O. Lozada Colon v. Department of State: No. 99-259.*

³ The Northwest Ordinance provided for the installation of temporary civilian administrations by the central government. These territories were organized into states and eventually admitted to the Union. In contrast, the Puerto Rican and the Philippine territories were initially administered by an occupying military authority with indefinite tenure.

⁴ The term is the title of Adi Ophir's edited book on Israeli occupation of Palestine (2009). Agnes Czajka (2005) also used the term in her discussion of punitive high security incarceration which describes perfectly the psychological torture of Puerto Rican political prisoners in federal prisons.

⁵ "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."

⁶ Waldinger discusses a similar contemporary challenge for the U.S. He argues that in responding

to public calls for controls on immigration, the government's response "has been to widen formal differences between the people of the state and all the other people *in the state*" (2011: 221).

⁷ The imperious renaming of Puerto Rico for the convenience of linguistically challenged colonial administrators is yet another callous manifestation of imperial hubris.

⁸ According to University of Wisconsin Professor Edward A. Ross, who studied European immigration, "the blood now being injected into the veins of our people is sub-common." He advocated limiting immigration if the U.S. was to be saved from "race suicide" (Cabán 2001: 27).

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