

Introduction

This book tells the story of “almost citizens” – the people of Puerto Rico who were deemed neither citizens nor aliens, and who lived in a land deemed neither foreign nor domestic. For them, citizenship functioned like terrain during war. It was a prize to be won and a field of battle whose strategic value shifted as the fight developed. This book follows the debates about the U.S. Constitution that swirled about them. It tends to the voices of federal judges and elected officials but also follows Puerto Rican politicians, labor organizers, litigants, lawyers, administrators of government agencies, and journalists in Puerto Rico and on the mainland. People in all of these groups had a view of what citizenship should look like, and the idea of citizenship took shape and changed only as they advanced their sometimes competing concepts in the media, in law, and through bureaucratic maneuvers.¹

The story begins at the very end of the nineteenth century as annexation of the islands that comprise Puerto Rico, Hawai‘i, Guam, American Samoa, and the Philippines was bringing millions of people of African, Asian, and indigenous Pacific Island descent under U.S. control. Would these people become U.S. citizens, and if so, what would that citizenship mean? Citizenship at this time did not always or automatically guarantee full rights to participate in public life. Although women were undoubtedly citizens, for example, only four states accorded them suffrage on an equal basis with men. Southern states were driving African American citizens from the ballot box and the public sphere. Among many other examples, Mexican American and Chinese American children were often required to attend segregated schools.² Most of those whose rights were thus constrained were nonetheless deemed “Americans.” And with the exception of Indians born into recognized tribes, all Americans were also U.S. citizens.

If there was ambiguity about the meaning of citizenship, there was much less ambiguity about whether citizenship would have to be conferred to the people of these annexed territories. The Civil War and the Thirteenth, Fourteenth, and Fifteenth Amendments had transformed the Constitution and dramatically

moved the racially heterogeneous United States toward rights, membership, and equality. I term this new constitutional regime the Reconstruction Constitution. It introduced near-universal citizenship, expanded rights, and eventual statehood. Specifically, all Americans other than Indians, regardless of race, were citizens. All citizens within U.S. sovereignty had full constitutional rights that for men potentially included voting rights. All U.S. lands other than the District of Columbia were or would become states.³

For more than three decades these provisions of the Reconstruction Constitution essentially put a halt to the territorial acquisitions that fueled U.S. empire. Before the Civil War, the United States was ever expanding, annexing lands and then killing, displacing, subordinating, or assimilating those already living there. By 1860, U.S. international borders spanned the continent. But from shortly after the Civil War until 1898, the prospect of having to acknowledge so many nonwhite persons as citizens, coupled with expectations that they would hold some key rights and that the annexed lands they occupied would one day become states, had kept the United States government from expanding its borders as an imperial strategy. To annex was to accept the fact under the Reconstruction Constitution that the resident population could one day wield decisive votes in the Electoral College, Congress, and proposals to amend the Constitution. Sharing the widespread racism of their day, most U.S. officials preferred no annexation of lands that held overwhelmingly nonwhite populations to their potential inclusion and participation in national governance.

Beginning in 1898, however, the constitutional legacies of Reconstruction that acted as a restraint on imperial annexation began to unwind. What rights the Reconstruction Constitution guaranteed or acknowledged, and who could or must enforce them, had been hotly debated from the outset. But whatever limits and protections this constitution had applied initially, they narrowed considerably during the late nineteenth century. Declines were steepest for African Americans, a tragedy that has been thoroughly and skillfully told by other historians.⁴ This study sits alongside that body of work and recounts the decline of the Reconstruction Constitution along a different dimension: as a durable and consequential constraint on that archetypal imperial form, annexation.

Three decades later the Reconstruction Constitution no longer impeded expansion of U.S. empire's borders. No single, dramatic decision marked the descent of this tradition at odds with unrestrained colonialism, or the triumph of the new imperial doctrine of "territorial nonincorporation." The shift came haltingly, laid out across a quarter century in a string of so-called *Insular Cases*.⁵ Aware of the change under way – the movement from a constraining constitutional view of imperial governance of newly acquired lands to a much more flexible vision – Congress was emboldened. It asserted the power to extend or withhold statehood, citizenship, and rights in whatever combinations it chose.⁶ Congress devised three novel, hybrid categories: lands that were neither

foreign nor domestic, nonindigenous people who were neither citizens nor aliens, and domestic citizens who had less than full constitutional rights. The defining trait among the triad was – and still is – uncertainty about their scope and meaning.

Citizenship proved to be a slippery and adaptable concept. As constitutional interpretations changed, U.S. officials and many Puerto Ricans put citizenship to new uses, seizing on its ambiguity and conceptual instability. Initially, islanders and federal officials regularly presented views of citizenship consistent with the Reconstruction Constitution. They envisioned it as an achievable – perhaps inevitable – gateway to rights, belonging, and self-government. As the Reconstruction Constitution declined as a restraint on empire, much of the rhetoric was reversed; citizenship was all but meaningless, a “perfectly empty gift” or even a dishonorable badge of colonial status. Yet, as some perceptive observers realized, citizenship retained vibrancy, even in the context of empire. It was a font of rights, a basis for claims, a means of exclusion, and a powerful symbol of membership.⁷

Almost Citizens expands our understanding of the decline of Reconstruction by considering how the legacy of the Civil War affected empire, and how Reconstruction and its legacies reverberated through imperial ambitions and designs. For example, some accounts of the decline of Northern whites as a resource in the struggle for African American rights point to the imperial turn as a final nail in the coffin. War with Spain and the ensuing expansion in 1898 and 1899 kindled nationalizing and racist impulses that tempered Northern opposition to Southern white supremacy. Cross-sectional reconciliation among whites followed, to African Americans’ detriment.⁸

Another body of work, and a growing one, has demonstrated the long half-life of the post-Civil War settlement. Well into the twentieth century, jurists, white supremacists, and African Americans continued to shape and be shaped by Reconstruction’s legacies. Some legal doctrines that impeded racial discrimination survived a decade beyond the Supreme Court’s approval of segregation in *Plessy v. Ferguson* (1896). Implementation of black disfranchisement and Jim Crow was not complete until the second decade of the twentieth century. The most influential white-supremacist accounts of post-Civil War federal efforts to reconstruct the South appeared in fiction, film, monuments, and academic history long after the 1890s. Conversely, African Americans’ own resistance to the solidifying racial caste system never ceased.⁹

In the same vein, these chapters show that well into the twentieth century, fights over the past of Reconstruction and the future of empire were inextricably intertwined.¹⁰ The aftermath of the Civil War provided both Republicans and Democrats with reasons to oppose the imperial turn. Republicans were the party of emancipation. After giving meaning to freedom by sanctifying the Reconstruction Constitution, they had to some extent been constrained by its

dictates, even at the cost of preventing otherwise desired annexations. At least formally, the party remained committed to African American voting rights, a stand at odds with colonial rule. Democrats denounced Reconstruction as a period of federal tyranny and black misrule. They celebrated its overthrow, which brought them to power throughout the former Confederacy. As members of the party of white supremacy, they abhorred the prospect of statehood, citizenship, and rights for nonwhite residents of the Philippines. And because Democratic dominance in the South remained tenuous, the prospect of national Republicans wielding federal power as colonial masters was also an outrage. Better not to annex such lands than to enter the imperial morass.

The War of 1898 shattered this uneasy truce. Following annexation, Puerto Rican political leaders strategically played on aspects of each party's vision of the Civil War and its aftermath to try to blunt colonial strands in U.S. law and policy. Some appealed to Republicans by casting themselves as racial equals who had struggled for such liberal-democratic ideals as emancipation. Others, courting Democrats, declared that empire was itself a parallel to Reconstruction. Colonial rule in Puerto Rico replicated federal occupation of the South after the Civil War. Democrats must redeem Puerto Rico into home rule.

At the same time, both Republicans and Democrats had reasons to reconcile Reconstruction and empire. Those reasons were rooted in racisms so ingrained among U.S. officials that they could not imagine a world structured otherwise. For the increasing numbers of Republican leaders who drew from the failure of Reconstruction the lesson that racially inferior peoples could not be entrusted with self-government, the methods of white-supremacist Southern Democrats had great appeal. Those Republicans favored imperial governance outside the strictures of the Reconstruction Constitution. Democrats spread Jim Crow and disfranchisement throughout the former Confederacy before they returned to national power in 1913. Thereafter, with their stranglehold on Southern politics all but unbreakable, they increasingly saw empire less as a threat to white-supremacist policies than as a new field for their implementation.

Citizenship occupies a powerful middle ground between officialdom and the populace. As a circulating idea that was also an official category, citizenship provided a language that spanned both domains. Essentially contested and unsettled, it could be customized to a variety of purposes. This book, in its approach, pursues a key goal for scholars of citizenship: it illuminates how modestly situated individuals, powerful actors, and large structural forces all interacted to bring about historical change.¹¹ Three remarkable Puerto Ricans who sought full citizenship from the United States will be our guides through the shifting political and constitutional landscape; together they illustrate the breadth and versatility of citizenship and its uses. Each initially pursued anticolonial constitutional change when the island was ruled by Spain. Federico Degetau y González was a member of Puerto Rico's liberal cosmopolitan elite. Like many

of his peers, he sought to mitigate Spanish imperial rule, not to end it. He favored either full integration of Puerto Rico into the Spanish polity as a coequal province, or broad autonomy for Puerto Rico to order its affairs without interference from its Spanish sovereign. Domingo Collazo had more revolutionary aspirations. A typesetter and journalist who emigrated to New York in 1889, he aimed to end Spanish rule in Puerto Rico. He would have preferred to accomplish that by insurrection, but if need be he would accept U.S. annexation. Santiago Iglesias rejected the primacy that Degetau and Collazo gave to the question of whether Spanish, U.S., or island authorities should govern Puerto Rico. His priority was a far-reaching social revolution that would transfer resources and power from island elites to members of the laboring classes. Citizenship and alterations in the government were instrumental, and secondary, to the achievement of this goal.¹²

As these chapters show, Degetau, Collazo, Iglesias, and many others used claims to citizenship and claims based on citizenship to harness governmental power. U.S. officials deployed it to co-opt people and justify coercing them. Cabinet members, judges, elected officials, and perhaps especially midlevel administrators all played prominent, complex, and intertwined roles, inspired by their own ambitions and goals.¹³ Where U.S. rule extended, collisions between popular and official visions of citizenship reliably followed.

From the July 1898 arrival of U.S. troops until the first islandwide elections under U.S. rule in late 1900, the law and politics of United States–Puerto Rico relations resembled a tropical storm system. Alliances, legal analyses, and political strategies spawned complex, unstable, and interconnected formations prone to dramatic changes in speed and direction. Initially, leading Puerto Ricans and U.S. officials envisioned a future subject to the Reconstruction Constitution. Puerto Ricans would receive citizenship and rights, and Puerto Rico would eventually become a state. But then Republican president William McKinley determined to annex the Philippines, whose people U.S. lawmakers broadly agreed were too numerous and racially “unfit” for citizenship and statehood.¹⁴

Indeed, race was all but annealed to citizenship, and both were conjoined with a Court that pursued empire-friendly ambiguity rather than clear defenses or repudiations of the Reconstruction Constitution. This dynamic, of judicial evasion and a powerful undertow of race and racism, recurs in all of the chapters that follow. By late 1900, U.S. War Department administrators and other key nonjudicial officials had set a course toward imperial governance of Puerto Rico and the Philippines. To speak of U.S. empire during these years was to reference these new insular policies, not the long history of continental subjugation.¹⁵ The officials’ approach appeared to require renunciation of ideals of Reconstruction, as Democrats demanded and Republicans seemed ready to concede. Degetau, Iglesias, and other Puerto Rican leaders charted alternate routes toward more liberal formulations, but prevailing conditions favored imperialism.

With the turn toward empire gathering strength, other federal officials hid from the storm, neither hindering the effort nor providing it with explicit constitutional validation. The Supreme Court exemplified this pattern of empire-friendly ambiguity in its 1901 *Insular Cases* decisions, none of which settled islanders' citizenship status or prospects for statehood. The most important of the cases, *Downes v. Bidwell*, had no majority opinion. Justice Edward Douglass White's influential concurrence proposed the new territorial nonincorporation doctrine. But he stopped short of identifying what rights it would or would not guarantee.

Nonetheless, empire rooted in racial hierarchy along the lines set by the War Department seemed at least temporarily safe. By 1901, Degetau was Puerto Rico's first nonvoting representative in Washington. Convinced that deep legal and political currents in the United States ran toward inclusion, he pressed Republicans to recognize Puerto Ricans as U.S. citizens. He focused particular efforts on administrators, whom he perceived as potential agents of legal change. His arguments equated the Puerto Rican racial character with that of white gentlemen such as himself. But highlighting paternalist benevolence in this way also focused attention on the islanders of color, whom he proposed to uplift. Rather than risk reversal, administrators evaded Degetau's claims.

Seeking to force the citizenship question that officials had steadfastly dodged, Degetau aligned himself with Isabel Gonzalez and Domingo Collazo in *Gonzales v. Williams* (1904), the test case for Puerto Ricans' citizenship. Shortly after immigration officials excluded Gonzalez as an undesirable alien, Collazo helped his niece launch her suit. Degetau then weighed in on Gonzalez's side as a friend of the Court. To the disappointment of all three, the Court promulgated empire, once again, through ambiguity. The Court held that Puerto Ricans were not subject to immigration laws as aliens – so it found no need to decide whether they were citizens. Doing this signaled the possibility that they were noncitizen nationals instead.

Although colonial governance of Puerto Rico and the Philippines was firmly in place by late 1904, it operated according to conflicting values, which Iglesias, Collazo, and the Bureau of Insular Affairs within the War Department all gambled could be resolved in their favor. The Court had neither rejected the Reconstruction Constitution as a constraint on empire nor expressly embraced the territorial nonincorporation doctrine. U.S. colonial governance was similarly equivocal.

For the overseers of U.S. empire, ambivalence, ambiguity, evasion, and inconsistency had benefits, which they enjoyed from 1904 to 1910. As federal interactions with mainland labor unrest demonstrated, pretending to uplift workers while condoning unchecked labor exploitation was a sustainable approach. In the same way, promoting decentralized and nonsystematic colonialism was a way to soothe Democrats' fear of centralized power while aligning with white supremacy.

Introduction

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Support for U.S. colonial rule over insular territories grew increasingly bipartisan after 1910. With Democrats' white-supremacist government in the South seemingly secure from federal intervention, Democrats united with Republicans in support of federally administered imperial white supremacy. Through 1917, the Supreme Court remained unwilling to adopt or reject the constitutionality of permanent colonies containing noncitizen subjects. It thereby implicitly delegated the issue to nonjudicial officials. Congress used this authority to promote colonialism at home, even as Woodrow Wilson demanded democracy abroad. To mitigate the embarrassment of having permanent noncitizen subjects, Congress legislated. It promised eventual independence to the Philippines, and for Puerto Rico it proposed a collective naturalization that foreclosed independence and brought no new rights.

Even as the Supreme Court confirmed after 1917 that the doctrine of territorial nonincorporation had replaced the Reconstruction Constitution as the dominant legal framework for overseas empire, citizenship retained relevance for Puerto Ricans and colonial officials. Nonincorporation determined rights by the status of a place, not of persons; constitutional rights did not apply in full in unincorporated lands, which would not necessarily become states; both outcomes marked Puerto Rico as subordinate and racially inferior. Nonetheless, Iglesias used citizenship to secure mainland labor's gains for islanders and to promote the American Federation of Labor's assertions of authority abroad. Collazo transformed stateside Puerto Ricans' votes into electoral power in New York City. Colonial officials emphasized the expressive significance of citizenship; to counter rising anticolonial sentiment in Puerto Rico, they touted it as a token of national belonging and equality. By 1926, the Court had declared territorial nonincorporation to be binding doctrine, and citizenship, Constitution, and empire had reached an ambivalent, unstable resting place.

The shift across the first quarter of the twentieth century was dramatic. Key leaders had once doubted that the deliberate U.S. turn toward empire could survive its confrontation with the Reconstruction Constitution. Only through a slow and creative process did administrators, elected officials, and judges together forge new and much more ambiguous doctrines to suit the less democratic and more exclusive contours of imperial power.¹⁶ Key Puerto Ricans struggled mightily against the change, and sometimes they were able to bend it to their own purposes. The pages that follow tell that story.