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978-0-521-79394-0 - Genealogies of Citizenship: Markets, Statelessness, and the Right to Have Rights

Margaret R. Somers

Excerpt

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Theorizing citizenship rights and statelessness

Citizenship is man's basic right for it is nothing less than the right to have rights. Remove this priceless possession and there remains a stateless person, disgraced and degraded in the eyes of his countrymen. His very existence is at the sufferance of the state within whose borders he happens to be . . . [H]e will presumably enjoy, at most, only the limited rights and privileges of aliens, and like the alien he might even be . . . deprived of the right to assert any rights.

(Earl Warren, Chief Justice, US Supreme Court, 1958)¹

This book is about citizenship rights – what they are, how we think about them, why they are currently in peril. Through a mix of historical, conceptual, and epistemological lenses, I engage these questions by creating multiple genealogies of citizenship and statelessness – genealogies that range from the story of Hurricane Katrina's racial apartheid to contested narratives of civil society and the public sphere, from the Trojan horse of social capital to historical epistemologies of concept formation and the metanarrative of Anglo-American citizenship theory. Common to all these are conflicts over the balance of power among the institutions, practices and discourses of states, markets, and civil societies. Whether these conflicts result in regimes of relatively democratic socially inclusive citizenship rights or regimes of social exclusion and statelessness largely depends on the ability of civil society, the public sphere, and the social state to exert countervailing force against the corrosive effects of market-driven governance. My central

¹ This version of "the right to have rights" is taken from a Supreme Court opinion written by Chief Justice Earl Warren in 1958. In a case called *Perez v. Brownell*, the Court narrowly upheld an order stripping a man of United States citizenship. Warren wrote an impassioned dissent, however, which over the next thirty years provided a basis for the Supreme Court to shield native-born citizens from the government's efforts to "denationalize" them, and also to protect naturalized citizens against efforts to denaturalize them.

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claim is that ideal-typical democratic and socially inclusive citizenship regimes rest on a delicate balance of power among state, market, and citizens in civil society, which is mediated through collective adjudications in the public sphere. Disproportionate market power disrupts this carefully constructed balance, as the risks and costs of managing human frailties under capitalism once shouldered by government and corporations get displaced onto individual workers and vulnerable families.

Rights imperiled

Today, global society is drastically out of balance. With the United States in the vanguard, we are in an era in which market fundamentalism – the drive to subject all of social life and the public sphere to market mechanisms – has become the prevailing ideational regime. An ideational regime is comprised of those public narratives and assumptions that have become widely taken for granted in the political culture; it sets the parameters for what counts as worthwhile argument in social and political debates. Through the alarm of “citizenship imperiled,” I caution that the rise of market fundamentalism to the position of dominant ideational regime has created a radically unbalanced power dynamic between the market and state on the one side, and civil society on the other. Inequality in America has reached a level not seen since the Gilded Age, as a once thriving middle class feels itself on the brink of collapse into the ranks of the invisible working poor.² Indeed, three decades of what has become market-driven governance are transforming growing numbers of once rights-bearing citizens into socially excluded internally rightless and stateless persons.³ A political culture that tolerates, even legitimates, these brute disparities in life chances has a corrosive effect not only on citizenship and human rights, but equally on perceptions of what we owe each other as fellow humans.

The most prominent force in this eroding of rights is what I call the *contractualization of citizenship* – an effort to reorganize the relationship between the state and the citizenry, from noncontractual rights and obligations to the principles and practices of quid pro quo market exchange. The contractualization of citizenship effectively collapses the boundaries that protect the public sphere and civil society from market

² On the current state of economic inequality in America, see *American Prospect* (2007), *The Economist* (2007), Frank (2007a), Gross (2007), Kuttner (2007), Mischel (2006), *New York Times Magazine* (2007), and Uchitelle (2007).

³ The post-9/11 surveillance society and the G. W. Bush administration have intensified this trend dramatically. They did not, however, create it.

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penetration. Contractualizing citizenship distorts the meaning of citizenship from that of shared fate among equals to that of conditional privilege. The growing moral authority of both market and contract makes social inclusion and moral worth no longer inherent rights but rather earned privileges that are wholly conditional upon the ability to exchange something of equal value. This is the model by which the structurally unemployed become *contractual malfeasants* (see chapter 2).

Much of market fundamentalism's great success has been facilitated by what Fred Block and I have dubbed *conversion narratives*. These are fear-inducing predictions intended to convert a culture's dominant narratives from social to market precepts by foretelling the dire moral and economic implications of continuing on the present social policy course. Among the most effective of these conversion narratives have been the "Personal Responsibility Crusade" (Hacker 2006) and "the Perversity Thesis" (Hirschman 1991; Somers and Block 2005). These are both public discourses that reassign responsibility and blame for social problems from structural conditions to alleged defects of individual moral character, such as dependency, indolence, irresponsibility, lack of initiative, promiscuity, and parasitism on the body politic. At the same time, market fundamentalist conversion narratives have worked to substitute alternative understandings of reality, which aim to normalize and justify the market's ever-increasing expansion into political, cultural, social, and civil sites once insulated from market penetration. The successful deployment of such conversion narratives has enabled market fundamentalist advocates over the last thirty-five years to delegitimize once popular legislative agendas that embodied a modest acceptance of the social ethos of shared fate, equal risk, and social justice, as well as a commitment to redressing centuries of gender and racial exclusions.

Throughout this volume I engage the epistemological aspects of both citizenship rights and statelessness by deconstructing numerous public discourses, disciplinary claims, and political conversion narratives. To explore the epistemological consequences of market fundamentalism and the contractualization of citizenship, I probe the shift from a primarily sociologically driven knowledge culture built on relational social assumptions to an economics-driven one based on market models of society.⁴ It is important to keep in mind that the different types of regimes

⁴ In discussing epistemological issues throughout this volume, and in other work, I use the term *knowledge culture* to characterize the same notion of an orthodox spectrum of what are considered competing truth claims, rather than a single hegemonic Truth. See especially chapter 7, as well as Somers 1996a, 1998.

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and spheres I discuss throughout the book are ideal types, not empirical claims about precise social entities. Empirically, in fact, civil societies, states, and public spheres are never autonomous or unpenetrated by markets, any more than any actual citizenship regime has or will ever achieve absolute solidarity, equality or full social inclusion (Zelizer 1997, 2005; Fraser 1989). Least of all are markets autonomous self-regulating entities; rather they are at root a set of social institutions comprising legal rules and relations (e.g. contractual obligations, legal exchanges, property rights), which structure, organize, and legitimate commodity exchanges. As such, markets are not merely embedded in but actually constituted by political institutions, social practices, and cultural constructs (Hodgson 1988; Krippner 2001; Sen 1981). For analytic and heuristic purposes, however, as well as to measure changes and variations in the degree of their interpenetration, it helps to conceive of the political, economic, and social domains as analytically separate spheres.

Following in this vein, market fundamentalism is itself an ideational movement, not an empirically viable reality. I accentuate its *ideational* quality to underscore a paradox: on the one hand, its ideology of absolute market freedom is almost totally at odds with actually existing successful market societies, which rely heavily on social institutions (e.g. laws and tax codes) to protect the rich from full market exposure while forcing market “freedoms” on the rest of us.⁵ On the other hand, this distance from reality seems to matter not at all, but even to contribute to the beguiling notion that prosperity is associated with complete market freedom. The visibility of so much wealth, coupled with the invisibility of poverty and the poor, seems only to lend credibility to the market as the arbiter of moral authority – one that is recalibrating our notions of citizenship rights and the citizen from that of social inclusion, shared fate, and membership to only conditional inclusion, quid pro quo exchange, and social exclusion for those whose worth falls short when measured by market metrics. Market-driven freedom may only be an illusion, but no matter. As a capacious vision, it has conquered the current social imaginary.

Nowhere has this conquest been more complete than in the United States. Thus my arguments about marketization’s worrisome effects on citizenship rights tend to focus on contemporary America. Yet from its

⁵ See especially Sunstein (2004); Block (1990); Polanyi (1957a, 1957b). This of course is the foundational precept of Polanyi-influenced institutional analysis with its critique of the “scarcity postulate” and the “self-regulating” market, as well as of the field of economic sociology. See e.g. Dobbin (2004); Granovetter and Swedberg (2001); Smelser and Swedberg (2005).

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inception, American society has been a culture divided by internal boundaries; the land of self-evident equal human rights has thrived uneasily on the backs of people considered neither fully human nor even partial rights-bearers (Smith 1993, 1999; Shklar 1991). And just as the parameters of the socially included are revealed only by demarcating the boundaries of the socially excluded, so too does the ideal of inclusive citizenship depend on recognizing citizenship's stateless Others. A benign view of citizenship has purchase only from the perspective of the insiders. It is the cold instrument of exclusion to those outside its borders, both internal borders based on race and gender exclusion, as well as nation-state ones based on xenophobia and nationalism. Market fundamentalism has by no means been the sole cause of today's social exclusions. Yet since the 1970s it has served to radically exacerbate the exclusions of race and class by first delegitimizing affirmative action and then grafting the impersonal cruelties of a "color-blind" market onto these preexisting "primordially" defined differences. The outcome has been an ever-growing superfluous population, no longer accommodated by a regime in which market value is the chief criterion for membership. This population makes up America's socially excluded and internally stateless who have lost the right to have rights, and they figure greatly in my opening chapters.

The right to have rights

Against the perilous movement to organize society exclusively by market principles, I argue that the fragile project of sustaining socially inclusive democratic rights requires the counteracting powers of a social state, a robust public sphere to hold it accountable, and a relationally sturdy civil society. Reconstructing the social, historical, and epistemological conditions that support or disable this project makes it possible to theorize more generally about the cluster of rights at the heart of democratic and socially inclusive citizenship regimes. Included among these are legal and civil freedoms, and equal access to justice; participatory rights in democratic governance; and the social inclusionary rights that allow for the meaningful exercise of all the others. Conceived as individual possessions, however, these rights are ethereal. Like all rights, rather, they are *public* goods, and thus can only be sustained by an alliance of public power, political membership, and social practices of equal moral recognition. Following Earl Warren (1958) and Hannah Arendt ([1951] 1979), this makes citizenship the *right to have rights*. The right to have rights is both normative and empirical. The term parses two distinct kinds of

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rights. The first is an existentially foundational right, without which the second set of rights has no meaning. It entails both *de jure* and *de facto* rights to membership in a political community – the scale of which can vary from local to national to global (Arendt herself was at once deeply skeptical and melancholic about the nation-state, even while she was reluctantly resigned to it). In line with Karl Polanyi ([1944] 2001) and T. H. Marshall ([1950] 1992), however, I stipulate that the first right to political membership must equally include the *de facto* right to *social* inclusion in civil society. By social inclusion I mean the right to *recognition* by others as a moral equal treated by the same standards and values and due the same level of respect and dignity as all other members.⁶ The second bundle of rights contains the civil–juridical ones, often summed up in Marshallian terms as civil, political, and social rights, and recently expanded to include such rights as cultural, economic, indigenous, and same-sex rights. In addition, I insist that both kinds of rights must include human rights, since they too require the recognition that only membership and social inclusion can ensure.

My conception of citizenship as the right to have rights is at once both “thinner” and “thicker” than many more familiar definitions. It is thinner because, unlike other approaches, for something to count as citizenship I do not require a foundation of any particular civil–juridical rights, such as those of participation or individual property rights. Membership alone is the minimalist definition of citizenship. This allows me to think comparatively about citizenship regimes as variable, along a continuum from lesser to greater degrees of democratic and rights-based social inclusiveness. At the same time my conception is thicker because it *does* require in the first instance the foundational right to political and social membership as well as both *de jure* and *de facto* inclusion and recognition. So unconditional is this primary requirement of social and political membership that I ascribe to it an ontological status. It is only this primary right of inclusion and membership that makes possible the mutual acknowledgement of the other as a *moral equal*, and thus worthy of equal social and political recognition. As philosopher Charles Taylor puts it: “Due recognition is not just a courtesy but a vital human need” (Taylor and Gutmann 1992).

The conflict between citizenship rights and human rights can to some extent now be challenged. To be sure, citizenship is a relational and inclusionary right whose claim to universality is only partial and internal

⁶ The origins of “recognition ethics” are in Hegel’s famous discourse on the master–slave relationship in his *Philosophy of Right* (Hegel 1955).

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as it has purchase only in the context of membership in a particular political and/or social body – usually, although not necessarily, conceived as a nation-state. Human rights, by contrast, are believed to be possessed by all humans for the simple reason of their being human. Thus human rights are called *natural* (presocial and prepolitical), as they are justified by the existence of humanity as such and not by any particular membership attachments. Human/natural rights theory stipulates that to discover the ontological truth of humanity, a person must be stripped metaphorically of all political and social attachments, and considered in her natural state in the perfect freedom of the “state of nature.” According to natural/human rights theory, even when totally unencumbered by all things social, this stateless person is by nature still a *rights-bearer*. Such is the optimism of the thought-experiment on which natural rights theory rests its claims.

My approach to citizenship theory, by contrast, draws from history, which is considerably more revealing, though much less consoling. Indeed, as Arendt demonstrates, the Holocaust provided us with a natural experiment of what happens to people when they *actually* are stateless, rather than simply metaphorically so. Arendt explains how the Nazis created the conditions that facilitated genocide. First, they revoked the citizenship of the German Jews; then they expelled them into the condition of statelessness. Now divested of all political attachments and social identity, Jews became unrecognizable as fellow humans. They became, in the words of Goebbels, the “scum of the earth,” wanted nowhere, and easily rounded up and shipped to extermination camps with virtually no objection from the Western nations. The lesson Arendt draws is that it is *not* freedom and autonomy *from* all social and political entities that liberate us to be rights-bearers. Bare life (Agamben 1998) in fact makes humans who are “nothing but human” as rightless as they are stateless (Arendt 1979). Instead, it is embeddedness, political membership, and social inclusion that are necessary to have any rights at all, especially the human right to life itself. My focus on inclusion and membership as the ontological preconditions for recognition blurs the radical dichotomy between human and citizenship rights. If recognition is the precondition not only to citizenship but also to human rights, and membership is the prerequisite to recognition, then human rights and citizenship rights are *both* rooted in that which endows us with our humanity – the recognition that comes only from attachments and inclusion. If we want to advance the cause of actual (rather than metaphysical) human rights, we must embrace them as being anything *but* natural. As Étienne Balibar has recently written “Man [sic] does not make citizenship; citizenship makes the man” (2004a: 35).

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Throughout the book I often use the term the citizenship *ethic* or *ethos* to denote not the actuality but the normative ideal embodied in the right to have rights – the foundational right to inclusion, membership, and recognition to which the term refers. But precisely because it is but an ideal and an aspiration, the right to have rights is sociologically incomplete unless complemented by institutional foundations, both historical and structural, that can explain the social requirements for its realization – or not. Thus my analysis of citizenship also contains a methodology for comparative empirical analysis. Specifically I deploy a structural model of a continuous triadic assemblage among the institutions of state, market, and civil society, with an internally free-floating public sphere. The model is situated on a continuum that makes it possible to measure how the relative levels of institutional power among competing institutions vary over time and space. I treat this model as the *architectonics* of different citizenship regimes, or the infrastructural design of how the parts fit together into a complex whole. Exploring the conditions and consequences of these spatial and temporal shifts of power makes it possible to theorize the genealogies of different citizenship regimes.⁷

The thesis I develop throughout this book is that rights must be recognized to be public goods. As such, socially inclusive democratic citizenship regimes (including human rights) can thrive only to the extent that egalitarian and solidaristic principles, practices, and institutions of civil society and the public commons are able to act with equal force against the exclusionary threats of market-driven politics. To accomplish this, the expansionary drives of both state and market must be impeded. Only in this way can market-driven governance be prevented from converting civil society and the public sphere into pathological reflections of undue market wealth and political power.

Multiple angles of vision: genealogy and history of the present

Throughout this book, I approach citizenship from diverse perspectives and multiple angles of vision. In this introduction, my aim is to signal the overall intellectual project and to present the unifying assumptions that guide my work as a whole and form the basis for a coherent intellectual agenda. This agenda is to craft a social theory of citizenship and sociology of rights. It is a project of compelling urgency in this age of increasing human rights abuses, global poverty, inequality, and social exclusion.⁸

⁷ See Somers (1993, 1994a) for examples of this methodology in practice.

⁸ See Somers and Roberts (forthcoming 2009).

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In each of the chapters I grapple with a set of questions that increasingly haunt me: Why are democratic citizenship regimes currently in peril? Why are rights and entitlements, long held to be self-evident characteristics of liberal democracies, under attack? What does citizenship imperiled look like? Why are the risks of market society (jobs, health, retirement, education, etc.) shifting away from government and corporate responsibility onto the increasingly vulnerable shoulders of individual workers and families? What are the consequences of citizenship in peril? What causes the differences in types of citizenship regimes? How and why are people included or excluded from different citizenship regimes? What sustains and legitimates practices of citizenship?

I explore these questions by constructing new stories and genealogies. Genealogy aims to take up “minor” or repressed knowledge – not to reproduce dominant mythologies. Foucault describes it as the “insurrection of subjugated knowledges” (Foucault 1997b: 7). By subjugated knowledges, he means those ways of seeing and understanding the world which have been disqualified for their supposed lack of rigor or “scientificity,” those knowledges that have been present but which are often made invisible.⁹ Following this reasoning, genealogies of citizenship should look very different when they focus on these “outsider” perspectives.¹⁰

Doing history as genealogy entails active practices of selection; like all practices these are driven by one’s place and concerns in the world. Thus while my analyses are infused by historical epistemologies, it is contemporary problems of late twentieth- and early twenty-first-century America and Europe that serve as points of departure in most of the chapters. My approach is that of a problem-driven “history of the present.” It draws its inspiration from many sources, including James Baldwin. “History,” Baldwin writes, “does not refer merely, or even principally, to the past. On the contrary, the great force of history comes from the fact that we carry it within us and are unconsciously controlled by it in many ways, and history is literally present in all we do.”¹¹ Also prominent in my thinking is the Faulknerian assumption that “the past is never dead; it’s not even past.” A history of the present rejects the conceit that it is possible to tell the past “as it was,” independent of

⁹ On genealogy see Dean (1994), Foucault (1979b).

¹⁰ I believe this is what Engin Isin tries to do in his *Being Political: Genealogies of Citizenship* (2002). Thanks to Deb Cohen for reminding me of this point.

¹¹ Baldwin, cited in Foner 2002, p. ix.

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contemporary concerns.¹² No story can be told nor any theory proposed that is not responding to prior (implicit or explicit) questions, and our questions are always the products of our situated selves. To be sure, historical writing must refer to “events, irruptions, discourses, and social practices” that occur within “a particular time-space.” But this in no way negates that it is “in fact an activity that is irrevocably linked to its current uses” (Dean 1994: 14).

From this point of view, it is folly to try to make sense of the present without recognizing the historical stories that live within it. Looking at the present social world through time and space changes not only what we actually can see, but also the meaning of that world. We cannot look forward until we look back to learn how we came to be who we are, and until we know what we have lost, or gained.¹³ This is the meaning of what I call causal narrativity: the present is always an episode in a much longer story; it is unintelligible without exploring the temporal and spatial narratives that come before and might come after, thereby constituting its inner life (Somers 1996a, 1998).

Some critics worry that a history of the present is the same thing as teleology, in which the present is viewed as the inexorable purposeful end-point of history, and the past is the necessary prologue to the present. But problem-driven histories of the present such as mine are just the opposite. Like path-dependence, they ask how – given multiple possible routes, times, places, and branches – our present social world was created. Indeed, in a fundamentally antiteleological move, my strategy is to denaturalize the present – to show that things we take as self-evident and necessary are in fact but contingent historical outcomes; they simply take on the appearance of being the only possible reality. These are the perspectives that I have used to fashion the book’s genealogies and narratives of citizenship – genealogies and narratives with causalities and meanings that only emerge by looking at the present through some very long and very wide lenses.

Indeed, underlying all of my work has been the central interplay between history, ideas, and theory. Although I have tried to make them stand on their own, many of the theoretical concepts and epistemological arguments I have developed have been driven by empirical historical puzzles. My exploration, for example, of a “historical epistemology of

¹² There is an enormous literature on Foucault’s uses of “genealogy” and “history of the present.” For especially enlightening discussions see Dean (1994); Davidson (2001); Gutting (1989); Hacking (1979, 1990b); Stoler (1995, 2002).

¹³ Daniel Mendelsohn (2006).