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BOSNIAK'S *The Citizen and the Alien* AND AYELET SHACHAR'S
The Birthright Lottery

Denaturalizing Citizenship: An Introduction

Leti Volpp*

*UC Berkeley School of Law, lvolpp@law.berkeley.edu

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Denaturalizing Citizenship: An Introduction*

Leti Volpp

Abstract

This introductory essay describes how the two remarkable books that are the subject of this Symposium, Linda Bosniak's *The Citizen and the Alien* and Ayelet Shachar's *The Birthright Lottery*, denaturalize familiar conceptions of citizenship. The essay then conveys how each of the ten interlocutors invited to respond to Bosniak and Shachar address one particular question raised by both books, namely the relationship between national membership and bounded territory, to showcase the depth and complexity of this interdisciplinary conversation.

*Professor of Law, UC Berkeley School of Law. My profound thanks to all of the authors in this Symposium, to Richard Perry for his comments on this introductory essay, and to Quyen Vo for superb assistance in bringing this issue to fruition.

What, exactly, is citizenship, and what is its relationship to inequality? This symposium examines this question through a focus upon two extraordinary books that have already become core texts in the fields of citizenship and migration: Linda Bosniak's *The Citizen and the Alien: Dilemmas of Contemporary Membership* (2006), and Ayelet Shachar's *The Birthright Lottery: Citizenship and Global Inequality* (2009). Both Bosniak and Shachar seek to denaturalize citizenship, to unsettle its familiar dimensions, in an effort for readers to better understand how citizenship can and cannot work towards justice.

Bosniak denaturalizes citizenship through pulling it apart conceptually, disentangling the ideas that underlie citizenship's investments. She simultaneously examines two worlds of citizenship: the universal inclusion of political membership, and the bounded community of the nation-state underpinning immigration law. In juxtaposing these two worlds, she shows how liberal nationalist thought juggles competing normative commitments to the universal and particular via a "splitting strategy" (Bosniak 2006: 124-26, 139). This strategy separates the norms that govern the hard edges of the border's regulation of aliens from those that govern the soft interior of what we might consider "we the people," producing an elision of the exclusions that result from citizenship, particularly for aliens. In an incisive and powerful analysis of the internal intellectual scaffolding of the very idea of citizenship, Bosniak provokes a profound rethinking of axiomatic beliefs about citizenship and membership.

Shachar denaturalizes citizenship by forcefully challenging the idea that the birthright transmission of membership is apolitical and natural. Rather, she argues, the unburdened intergenerational transfer of citizenship functions as a form of inherited property in a dramatically unjust world. She offers two distinct prescriptions to fix the global inequality caused by this transmission. The first is a global redistribution scheme in the form of a "birthright privilege levy" imposed upon the citizens of the most privileged states, which would require that privilege to be shared with citizens of the least privileged states, in the form of funds or service. The second is what she calls the principle of *jus nexi*, which she posits as an alternative method of determining citizenship, premised, not upon the accident of birth linked to blood or soil, but upon "genuine connection" to a society, determined through actual participation in a community (Shachar 2009: 167-71, 179). With an argument that is both passionately made and carefully reasoned, Shachar radically upends conventional thinking about the transfer mechanism of citizenship.

For this special symposium, ten leading theorists of citizenship and immigration theory were invited to respond to these two books, in what was staged as an interdisciplinary conversation. Bosniak and Shachar were then asked to reply.

There is too much rich material in these contributions to adequately convey in the space of an introductory essay. But let me shine a spotlight on how these theorists have responded to one particular thread in a rich tapestry of ideas, so that I may communicate the exciting breadth of this symposium. There are a multiplicity of possible themes that could be chosen for this purpose; this particular thread is the relationship between national membership and bounded territory. The relationship between national membership and bounded territory is made “natural” in diverse ways (Maalki 1992; Somerville 2006; Stevens 1999), and is a topic ripe for denaturalization.

One group of theorists would push Bosniak and Shachar to unpack the relationship between membership and a bounded territory that is explicit or implicit in their books. Thus, some point to noncitizens’ transnational ties, others to external citizenship rights and the denationalization of citizenship, and still others to the rights of those who are not territorially present. Others defend the relationship between membership and a bounded territory as morally or practically necessary; still others ask how that relationship between membership and territory came to be.

Saskia Sassen’s focus is the impact of globalization in transforming citizenship. She critiques persistent beliefs about the relationship between the global and the national which position the two in a zero sum, bifurcated relationship. Rather, writes Sassen, the national is a strategic institutional location for the global; globalization is experienced in the language of the national. Changes in citizenship, which may reduce the distance between citizen and alien, which Sassen calls “denationalization,” are resulting from globalization dynamics in the territorial and institutional organization of state authority. Thus, she argues, nation-based citizenship theory inadequately frames the relationship between membership and territory. In pressing for a transnational understanding of citizenship, Sassen notes that immigrants are citizens, but just not of their country of immigration.

Rainer Bauböck also points to the multiplicity of migrants’ ties to particular societies. Why, he asks, call aliens “noncitizens,” when few, in fact, are stateless? The majority of aliens are “external citizens” of their countries of origin, who, he notes, experience the “sticky quality” of citizenship as it travels across international borders with its holders. External citizenship can profoundly shape the legal position of aliens, through both protections, and constraints. Thus, Bauböck proposes what he calls a “constellation perspective,” which examines the relationship between citizen and alien formed by the interaction of regimes of sending and receiving countries; an interaction that jointly determines the position of migrants. Rather than give up altogether on bounded communities, he suggests we imagine them embedded in “overlapping, nested and interdependent constellations.”

Rogers Smith, like Bauböck and Sassen, is interested in what we might call a transnational understanding of citizenship, but his explicit focus on constitutional democracies and their obligations leads him to an innovative proposal as to what democracies owe to those considered territorial outsiders. This proposal, which he calls *jus constituti*, would obligate a constitutional democracy to include as equal citizens those whose identities have been pervasively constituted by the coercive enforcement of that democracy's governmental measures. Smith is concerned with how an outsider's identity (namely, her core personal values and affiliations) might have been shaped by governmental force, and the obligations of membership that might ensue. Thus, recognizing the coercion exerted by modern democracies as well as the democratic commitment to the moral worth of human beings, Smith suggests that those, for example, born and raised under extensive colonial governance, are entitled to the option of full citizenship in the colonial power, if they so wish.

Clarissa Hayward is, like Smith, deeply concerned with the question of power and the rights of territorial outsiders. Following Robert Dahl's "principle of affected interests," she argues that distributing rights according to citizenship, when citizenship is understood as membership in a territorially bounded polity, fails to attend to the way in which power traverses borders. Democracy would require a focus on interests, not upon territory, in determining the *demos*. While territory often functions as a stand-in for interests, it is not a very good one, says Hayward; often, the two do not line up. Thus, a focus on resident stakeholders, or territorially present noncitizens, and any prescription that relies upon citizenship in bounded polities would be inadequate. Hayward asks us to construct institutions that define rights along lines of interests and power, not territoriality and belonging.

That deterritorialized conceptions of democracy might be compelled by affected interests is also argued by Sarah Song. She examines the normative defenses that can be made to bounded solidarity: the value ascribed to a shared national culture and the ties that result; the idea of fair play to territorially present residents; the willingness to engage in redistributive welfare schemes that result from feelings of bounded solidarity; and the importance of bounded solidarity for democratic participation. Yet she also suggests that each of these accounts of bounded solidarity must meet the challenge of the territorial outsider, whether based, as Hayward also recommends, on Dahl's principle of affected interests, or on the principle of coercion. And Song ultimately asserts that the concept of citizenship appears too limited for thinking about justice, responsibility, and democracy in a transnational context.

Territorial outsiders are a shared concern for Mark Tushnet, who posits the idea of a national citizenship in which those outside its territory can still belong. This would be what he calls a "creedal citizenship," which he defines as a "set of

beliefs, not necessarily religious in content, but in which the adherent has some significant degree of emotional as well as cognitive investment.” Creedal citizenship, he suggests, offers a way to disconnect citizenship and territory without moving toward world citizenship. Sincere connection to a creed could lead to creedal citizenship for those not territorially present, who could be required to pay taxes and perform national service on the same terms as those within the territory.

That we need to attend to the ways in which lives actually do transcend national boundaries is addressed by Susan Coutin, who points our attention to what she calls a “nation of emigrants.” She shares a rich ethnographic account of how both personal histories and economic relations cross borders. Those noncitizens whose legal statuses confine them and result in their exclusion, either through social practices, or through the threat or reality of removal, experience what Coutin calls “fracturing,” requiring them to live simultaneously in multiple, incompatible worlds. Persons who are here, but not legally here, “perforate” the purported boundedness of the nation-state. This interpenetration of the bounded state by those not supposed to be inside, argues Coutin, is not merely contradictory, but a necessary condition of the notion of boundedness—a “wholeness produced by exclusion.”

These noncitizens who are not supposed to be here are judged as committing, in the words of Muneer Ahmad, an “original sin which can never be expiated.” This fact, he argues, cabins the ability to assert rights that presumptively derive from their territorial personhood. While territorial presence is thought to accord with, if not citizenship, at least some rights in the language of “persons” found in the Constitution, Ahmad argues that for noncitizens who are not considered fit for the right to have rights, territorial personhood is not sufficient. Rather, he says, immigrants must demonstrate a kind of *sub silentio* acting of qualities associated with citizenship. As with Coutin’s description of interpenetration of the bounded state, Ahmad posits the ostensible and contradictory opposites, alien/citizen as in a more complicated relationship, with the alien functioning as the unincorporated part of citizenship. And, he notes, bounded territory does not necessarily correlate with full membership, even for status citizens. Ahmad insists that we recognize tremendous intranational inequality in considering what he calls “developmental citizenship.”

In contrast to scholars calling attention to the injustices created by bounded territorial communities, David Abraham reminds us of the importance of bounded ways of life. The nation-state has been foundational to the social solidarity and social cohesion necessary for redistributive policies and identity formation. While the nation-state has fallen on “hard times,” this has also happened without adequate replacement for mechanisms that might mitigate injustice, only dreamed of in the form of world government, post-national or

global utopias. Thus, he argues, as imperfect as they may be, without nation-states, given the ravages of neoliberalism, we would be otherwise left with individual “choice” and the vagaries of the market, leaving us all worse off.

But how did bounded communities, and in particular, nation-states come to be? Peter Nyers forces us to think about origins of political community and citizenship in the nation-state. In particular, he draws our attention to the relationship between citizenship, alienage, and indigenous populations. While the indigenous do “not fit neatly onto the continuum of citizen-alien” and while territorial disputes that cross state boundaries cannot be captured by “borders, migration, or birthright citizenship,” settler societies rely upon the fact of treaties with indigenous peoples as a condition of possibility for citizenship to emerge. In addition, in asking us to rethink the question of origins and end points, Nyers suggests we consider persons, not only as end points of the justice or injustice produced by the state practice of citizenship, but also as political agents, engaged in “acts of citizenship” themselves.

Is citizenship in bounded communities a concept that is exclusionary, brutal, incomplete, necessary, progressive, and/or all of the above? Does citizenship inevitably create inequality or does it hold out the best promise of equality? Can citizenship be newly imagined to be deployed against the inequality it perpetuates, via “alien citizenship” (Bosniak: 34) or a “birthright privilege levy” (Shachar: 96) even while citizenship “stands against itself”? (Bosniak: 16). The multiplicity of answers found in this Symposium reflects the complexity of the concept of citizenship as well as the tremendous talents of these theorists. This Symposium shakes core ideas about citizenship; we are provoked to think about citizenship and inequality in new and path-breaking ways.

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