

# “Obnoxious To Their Very Nature” : Asian Americans and Constitutional Citizenship\*

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[T]he American of Asian descent remains the symbolic “alien,” the *metonym* for Asia who by definition cannot be imagined as sharing in America (Lowe, 1996, p. 6).

## INTRODUCTION

The terms Asian American and American citizenship stand in curious juxtaposition. It might be thought that the latter easily embraces the former, but historically this has not been the case. For more than a century and a half, Asian Americans were barred from naturalization; and they continue to be viewed as a group whose loyalty to America remains in doubt. Recent controversies involving Asian Americans, namely the “Asian connection” in the campaign finance scandal of 1996 and the prosecution of nuclear scientist Wen Ho Lee, raise important questions as to whether Asian Americans are considered unsuited to participate in democratic engagement, and how such a perception might shape different discourses of citizenship. This is an understudied area, and this essay constitutes an initial attempt to think through the contradictory relationship of Asian American racialization and theories of citizenship.

As described by Lisa Lowe (1996), the Asian immigrant functions as a phantasmic site on which the United States nation projects a series of anxieties regarding internal and external threats to the coherence of the national body. American Orientalism is the term some have devised to describe how the national identity of the United States has been constructed in opposition to Asians and Asian Americans – who are categorized as “foreigners,” in contrast to “citizens” (Aoki, 1996; Gotanda, 1985, 1992). Defined antithetically against those who enjoy citizenship, the fitness of Asian Americans for integration into our national body becomes suspect. But what is meant by the term “citizenship” bears elaboration.

In a recent writing, Linda Bosniak (2000a) untangles the ways in which notions of citizenship implicate several distinct discourses, namely citizenship as legal status, citizenship as rights, citizenship as political activity, and citizenship as identity/solidarity. Citizenship as legal status

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means who can possess the legal status of a citizen – in the United States, as granted by the Constitution or by statute. Citizenship as rights signifies the rights necessary to achieve full and equal membership in society. As described by T. H. Marshall (1964), this approach tracks efforts to gain the enjoyment of civil, political and social rights in Western capitalist societies. In the context of the United States, citizenship as rights is premised on a liberal notion of rights, and the failure to be fully enfranchised through the enjoyment of rights guaranteed under the Constitution is often described as exclusion or as “second-class citizenship” (Black, 1970; Karst, 1989). Citizenship as political activity posits political engagement in the community as the basis for citizenship, as exemplified both by republican theories that played a key role in the founding of American democracy, as well as by a recent renaissance of civic republicanism (Michelman, 1977-78; Sunstein, 1985). Lastly, citizenship as identity, or citizenship as solidarity, refers to people’s collective experience of themselves, their affective ties of identification and solidarity (Bosniak, 2000a).

Race cuts against the promise of each of these citizenship discourses, and the racialization of Asian Americans<sup>1</sup> seems at odds, especially with the latter two discourses of political activity and identity. By focusing on the experience of Asian Americans vis-à-vis each of these citizenship discourses, we can begin to theorize why. In examining the relationship of these discourses to each other, we can differentiate them through understanding the first two – citizenship as legal status and citizenship as rights – as sites where the citizen functions as an object, the passive recipient of rights. The third discourse, citizenship as political activity, requires the citizen to function as an active subject,<sup>2</sup> and the fourth discourse, citizenship as identity, refers to the citizen’s sense of subjectivity.

Citizenship for Asian Americans in the form of legal status or rights has not guaranteed that Asian Americans will be understood as citizen-subjects or will be considered to subjectively stand in for the

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1. I am aware that in this essay, I am primarily using the experiences of Chinese and Japanese Americans to define what I am calling “Asian American” experiences. This is a source of concern, because of the frequent and problematic use of Chinese and Japanese Americans to function as a metonym for all of Asian America, which is an extremely heterogeneous entity. There are enormous differences within the identity category “Asian American” along lines of class, gender, immigration history, and sexuality, as well as along lines of ancestry. The term has been used to encompass people with origins in countries as diverse as China, Japan, the Philippines, India, Bangladesh, Pakistan, Sri Lanka, Vietnam, Thailand, Cambodia, Laos, Singapore, Malaysia, East Timor, Indonesia, Burma, and Tibet. Nonetheless, I think there is some salience in the experiences I am using to represent this category, since—despite the heterogeneity within the category—Asian American has often been homogenized to mean Chinese and Japanese Americans vis-à-vis the state and national culture.

2. I am using the subject/object distinction here differently than as has traditionally been invoked in jurisprudence which has contrasted the object of rights—the fetus, the child, the slave—with the subject—the person, the adult, or the citizen. Legal liberalism has used the subject/object distinction to distinguish the rights-bearing subject from the object who does not. I am making a different distinction, suggesting, instead, that the idea of citizenship through political activity constructs the citizen-subject, while the idea of citizenship as liberal rights assumes a more passive recipient of rights.

American citizenry. We could understand these different discourses as temporally ordered. While in the contemporary moment Asian Americans may be perceived as legitimate recipients of formal rights, there is discomfort associated with their being conceptualized as political subjects whose activity constitutes the American nation. There is, perhaps, even more discomfort associated with the idea that Asian Americans can represent the United States citizenry as a matter of identity. What follows sketches in more detail the relationship of each of these different citizenship discourses to the racial identity of Asian Americans.

### I. CITIZENSHIP AS LEGAL STATUS

A historical overview indicates how racial exclusion has shaped the ability of Asian Americans to formally acquire citizenship. Citizenship in the United States is granted through birth, or through naturalization. The United States Constitution initially included no definition of citizenship, although Congress was given the authority to adopt "an uniform Rule of Naturalization." The first federal citizenship statute, passed by Congress in 1790, limited naturalization to "free white" aliens. Following the Civil War, Congress discussed the wisdom of striking racial restrictions to naturalization, but concerns about granting the privileges of citizenship to Native Americans and Chinese immigrants precluded such a shift. Thus, the statute was amended to permit naturalization of "aliens of African nativity or African descent." From 1870 until 1952, the racial bars led to much litigation. The reasoning by courts as to who was allowed to be "white" for these purposes variously followed rationales of "scientific evidence," "common sense" (Haney Lopez, 1996) and the non-citizen's ability to perform characteristics associated with whiteness (Tehranian, 2000).

Inability to naturalize established the basis for upholding alien land laws, which prevented "aliens ineligible to citizenship" from owning land (Aoki, 1998). These laws were explicitly passed for the purpose of disenfranchising Asian immigrants from the right to own, rent, or devise agricultural property. The racially defined inability to own property, to naturalize, and to immigrate, created a triple burden that constituted, in opposition to the citizen, the "alien": one unable to engage in the basic functions of the citizen, and therefore politically powerless.

Racial eligibility for naturalization intersected with gender. From 1855 until 1922, non-citizen women who married United States citizens or legal permanent residents who naturalized acquired United States citizenship.<sup>3</sup> However, these rules did not apply to women subject to the racial bars to naturalization. This meant that until 1870 the only wives welcomed into the American polity were free white wives. The logic of dependent citizenship was extended in 1907 to United States citizen wives as well, so that U.S. citizen women – of any race – who married

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3. For an important analysis of the relationship between citizenship and marriage, see Cott (1998).

non-citizen men were stripped of their citizenship, since the wife was to take the nationality of her husband. The law was partially repealed in 1922, but it continued to take away U.S. citizenship from women who married men ineligible to naturalize. This primarily affected women who married Asian men, and was the law until 1931 (Bredbenner, 1998).

Racial restrictions on naturalization were selectively lifted in the twentieth century, first, in the 1943 Magnuson Act, when Congress, for foreign policy reasons during WWII, allowed Chinese to become naturalized citizens (Gotanda, 1996). This was followed in 1946 when Filipinos and Indians were allowed to naturalize. In 1950, the racial bar was lifted for those from Guam, followed 2 years later by the removal of the racial criteria for naturalization altogether.

At the same time that racial exclusion was codified in the laws governing naturalization, the United States deviated from the common law rules inherited from England regarding birthright citizenship<sup>4</sup> based on territory, since not all persons born in the U.S. were deemed citizens. Chief Justice Taney's opinion in *Dred Scott v. Sandford* (1857)<sup>5</sup> held that free blacks born in the United States were not citizens. Taney reasoned that:

[t]he words "people of the United States" and "citizens" are synonymous terms, and mean the same thing. They both describe the political body, who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the government through their representatives. They are what we familiarly call the "sovereign people," and every citizen is one of this people, and a constituent member of this sovereignty.<sup>6</sup>

In equating "citizens," the "people of the United States," and the "political body," Justice Taney chose to define the sovereign body of the people as consisting of only one class of citizens, explicitly excluding blacks.

The first sentence of the Fourteenth Amendment, of course, was written to reject Taney's judgment. It provides that "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." Brook Thomas has suggested that a second founding moment of the republic has been considered the Civil War and the amendments that reconstituted the nation. At this second founding moment, blacks may have been considered by some to be included in the sovereign body of the people, but the Chinese still were not (Thomas, 1998, p. 705), as shown by the naturalization statute.<sup>7</sup>

4. Two doctrines govern citizenship by birth: *jus soli* – citizenship by soil, that confers citizenship to a person based on the place of birth; and *jus sanguinis* – citizenship by blood or descent, that confers citizenship based upon the citizenship of the person's parents at the time of birth. *Jus sanguinis* is principally an issue for children born abroad of U.S. citizen parents and is not a focus here.

5. *Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857).

6. *Id.* at 404.

7. Contemporaneously, in *Plessy v. Ferguson*, Justice Harlan referred to "a race so different from our own that we do not permit those belonging to it to become citizens of the United States"—which he contrasted with "citizens of the black race in Louisiana, many of whom, perhaps, risked their lives for the preservation of the Union," 163 U.S. 537, 561 (1896). For a discussion, see Chin (1996).

The exclusion was lifted, to some degree, by the Supreme Court's 1898 decision in *Wong Kim Ark*, which held that Chinese born in the United States would be entitled to birthright citizenship. The Court found that the Fourteenth Amendment was plain in its application as to "all persons" – aside from "children of members of the Indian tribes, standing in a peculiar relation to the National Government."<sup>8</sup> It is doubtful that *Wong Kim Ark* represented any significant shift in the acceptance of the Chinese as citizens. The consequences of holding otherwise would have been severe, since, as the Court observed, a contrary result would cast doubt on the citizenship of "thousands of persons of English, Scotch, Irish, German or other European parentage, who have always been considered and treated as citizens of the United States."<sup>9</sup> Furthermore, with the restrictions on the immigration of Chinese in place since the 1880s, the Court's decision would recognize birthright citizenship for relatively few Chinese Americans.

## II. CITIZENSHIP AS RIGHTS

Classic liberalism holds that the government is created by the people to protect inalienable rights supposedly possessed by all individuals. Citizenship defines the class of full rights-holders; to be designated a citizen means that one has become conscious of one's identity as a free subject destined to be given state protection of certain rights.

As described by T. H. Marshall (1964), the rights that citizenship protects have followed a particular order in Western capitalist democracies. First are civil rights – born of the classic liberal concern to protect individuals against state power; these rights, in effect, police the state, and are primarily championed or vindicated in the courts. Second are political rights – the formal ability to participate as full and presumptively autonomous members in the governance of polities, primarily by broad extension of the suffrage. Last to come have been social rights, that impose affirmative legal-constitutional obligations on the state in the form of economic welfare and security, the right to share in full in the social heritage, and the right to live the life of a civilized being according to the standards prevailing in the society.

In the United States, discussions of rights-based citizenship focus on the promise of protection guaranteed by the Fourteenth Amendment and full membership in the community of rights. Every individual is presumptively entitled to be treated by the organized society as a respected, responsible, and participating member; equal citizenship forbids an inferior or dependent caste, or treatment of some as non-participants (Karst, 1988, Sunstein, 1994). Some constitutional theorists such as Kenneth Karst (2000) and William Forbath (1999) have recently pushed for the recognition of material equality as fundamentally constitutive of equal and

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8. 169 U.S. 649, 682 (1898). Native Americans continued to be barred from birthright citizenship until federal legislation was passed in 1924. Whether U.S. citizenship was desired or should be considered regressive is a subject of controversy and not addressed here.

9. *Id.* at 694.

effective citizenship, although most attention has focused on what Marshall called political and civil rights.

Liberalism promises the progressive incorporation of previously excluded social groups through expansion of "the circle of belonging" (Karst, 1989). This is not obsolete as a strategy when one, for example, considers the condition of non-citizens (Bosniak, 2000b). The requirement that the subject of liberalism be the "abstract citizen" of the political state, where all "citizens" are accorded "equal rights," is worth something to those who have not been accorded rights in the past.

But at the same time, for racialized subjects, the fiction of "equal citizenship" can mean denying the continuing effects of racial exclusion through the government's failure to protect civil, political and social rights for persons of color. "Equal citizenship" and racial exclusion from such were not thought to contradict each other at the nation's founding, for liberalism conditioned eligibility of universal rights upon one's possession of a particular subjectivity. Those designated as being unable to exercise reason were deemed incapable of consent. The world was split into two: made up of those who had attained the capacity to guide themselves to their own improvement, and those outside history, mired in stagnation and despotic custom (Mahmud, 1999). For African Americans, for example, exclusion from citizenship was rationalized through the argument that blacks lacked the capacity for rational thought, independence, and self-control that was essential for self-governance (Roberts, 1996). Even after formal legal citizenship was granted to African Americans, the belief was that citizenship had to be cultivated, so that they could learn to live in the United States as "responsible free men" (Franke, 1999).

The historical contradictions at the core of America's liberalism continue to be replicated in the present day. Liberal notions of citizenship suppress particular and local differences, separating one's abstract will from the specifics of social conditions, such as the racialized body. The liberal state stands apart from the differences in civil society, permitting it to ignore the ways in which structures of exploitation have been sedimented in the United States (Prashad, 2000). Jurisprudentially, this has been accomplished in the modern era through a discourse of colorblindness, which mandates formal equality but not substantive equality, guaranteeing equality of process, without attention to unequal effects. This discourse also equates the acknowledgment of race with racism, so that race-conscious attempts at mediating racial discrimination are met with charges of racism. More recently, the discourse of liberal multiculturalism has been used to manage difference through highlighting cultural specificity, while minimizing the role of race and racism in maintaining white privilege.<sup>10</sup> Neither colorblind universality nor the

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10. I would distinguish liberal multiculturalism from a stronger multiculturalism that questions the fundamental premises of what are considered to be core values. Importantly, I would also differentiate multiculturalism from a crude cultural relativism to which it is often analogized and suggest that there may be a way to accompany the value of multiculturalism with a critical perspective espousing anti-subordination. See Volpp (2000).

depoliticized aestheticization of difference can satisfactorily address existing subordination.

Liberal theory cannot explain why Asian Americans can be cast "both as persons and populations to be integrated into the national political sphere," and thus deserving of the protection of rights, and "as the contradictory, confusing, unintelligible elements to be marginalized and returned to their alien origins" (Lowe, 1996, p. 4). While there is no question that American law mandates that Asian Americans be afforded the rights of all citizenry under abstract principles of egalitarian plurality, their racial location still functions to disrupt the enjoyment of full political and social equality.<sup>11</sup>

### III. CITIZENSHIP AS POLITICAL ACTIVITY

The idea that citizenship is defined through political engagement is important both historically, and for its recent renaissance in legal theory.<sup>12</sup> Against monarchism and feudalism, classic civic republicanism maintained that the protection of the common good was the goal of society; that citizens had to be virtuous, through subordinating their private ends to this public good; that to be virtuous, citizens had to exercise their own political will and be active in political life; and that they were entitled to equality under a representative, democratic system of laws. The integrity of the republican order was fragile, and perpetually threatened by corruption.

At the founding of the republic, ownership of property was considered a fundamental prerequisite to the making of the good citizen. Owning property tied the citizen's fate to that of the larger polity. This gave the citizen a stake in the important political controversies of the day, but also provided a shield against the state and private parties. As we know, Asian Americans were made racially ineligible to participate in the citizen's prerogative of property ownership.<sup>13</sup>

In the 1970s and 1980s, legal theorists such as Cass Sunstein and Frank Michelman began to embrace the idea of civic republicanism as a model of how citizens could come together to decide matters of the public good in a process of self-government, so that citizenship would manifest itself in broadly guaranteed rights of participation (Sunstein, 1985; Michelman, 1977-78). In a much-cited essay on constitutional citizenship, Paul Brest (1986) advocated a turn from a liberal, consumer conception of democracy to one where participation is considered an essential human

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11. As a concrete example, there are serious questions as to why Wen Ho Lee was imprisoned in solitary confinement for nine months—which would constitute a grave violation of his civil rights—when former CIA Director John Deutsch received no punishment for similarly downloading computer data.

12. In separating liberal theory from civic republicanism. I recognize that there has been concern that the difference between these two theories has been greatly overblown. See, for example, Stolzenberg (1998) and Williams (1998). Nonetheless, I have found it useful to separate liberalism from republicanism for the purposes of this essay, in order to differentiate how each theory implicates notions of citizenship.

13. Race played a fundamental role in also shaping the entitlement to property of other groups: African Americans were themselves considered property, and Native Americans and Mexican Americans were dispossessed of their property. See Luna (1999).

good. The idea that civic participation in the political community constitutes the core of what we mean by "citizenship" remains popular.<sup>14</sup>

In response to the interest in civic republicanism, Derrick Bell and Preeta Bansal (1988) have criticized the assumption that a social consensus can emerge from reasoned deliberation by individuals who think rationally and who can abstract from their private experiences to collectively determine the common good. They argue that any consensus ideology in America will inevitably be one of racial domination, whereby the interests of blacks are suppressed to promote the common good. Racial reforms have come about not through civic virtue, but through the convergence of minority interests with those of whites (Bell, 1980). This skepticism about the promise of neo-civic republicanism is lent force by its historical origins. The founders of the republic cast onto African Americans and Indians those qualities they felt republicans should not have, so that they were devoid of virtue in a society which required such (Takaki, 1979).<sup>15</sup> Who was to participate in the republic was also limited along gender lines. Linda Kerber (1998) has examined how freeing women from civic obligations that men were to fulfill – treating them as "ladies" without obligations, such as military service – served to legitimate their disenfranchisement from rights, such as voting.

What has not been a focus of inquiry are the particular ways in which Asian Americans have historically been thought incapable of membership in a civic republic, and the extent to which these historic assumptions still hold sway in the contemporary stereotyping of Asian American communities. Doubt that the Chinese were fit for citizenship in a republic is evident in early debates about their citizenship. In discussing whether the racial bar on naturalization should be completely lifted, prior to the 1870 legislation, Senator Cowan warned:

Whether this door [of citizenship] shall now be thrown open to the Asiatic population . . . [for the Pacific Coast this would mean] an end to republican government there, because it is very well ascertained that those people have no appreciation of that form of government; it seems to be obnoxious to their very nature; they seem to be incapable either of understanding or carrying it out.<sup>16</sup>

Similarly, the 1877 Report of the Joint Special Committee to Investigate Chinese Immigration stated:

[T]he Chinese do not desire to become citizens of this country, and have no knowledge or appreciation of our institutions. Very few of them learn to speak our language . . . To admit these vast numbers of aliens to citizenship and the ballot would practically destroy republican institutions on the Pacific coast, for the Chinese have no comprehension of any form

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14. The impulse to reinvigorate citizenship, through reviving the civic republican ideal, has been called a romantic one (White and Hunt, 2000. p. 94).

15. Later, common assumptions about the unique fitness of the "Anglo-Saxon race" for self-rule, were used to justify the failure to extend constitutional citizenship to the inhabitants of U.S. territories (Smith, 1997, p. 434). I am not examining here the decision to only accord statutory and not constitutional citizenship to Puerto Ricans. For a discussion of that point, see Roman (1998).

16. Statement of Senator Cowan, 57 Cong. Globe, 42nd Cong., 1st Sess. 499 (1866).



of government but despotism, and have not the words in their own language to describe intelligibly the principles of our representative system.<sup>17</sup>

As Rogers Smith has described, the survival of “republican institutions” was for some the primary threat posed by Chinese immigration, since republics required “a homogenous population,” not what one representative called an “ethnological animal show” (Smith, 1997, p. 362). Chinese immigrants were thought incapable of assimilation into American understandings of republican government. They were believed to understand only despotic government and political absolutism, not democratic principles. Chinese immigrants were constructed as a foreign group whose deep-seated, ineradicable cultural, political, and religious differences rendered them undesirable as prospective members of the polity (Torok, 1996).

At that time, while Chinese immigrants were thought to be under the yoke of despotic control, China was not perceived as an imminent military threat to the national military security of the United States. By contrast, from the early 1900s onward, Japanese immigrants were so perceived, which led to new forms of Asian American stereotypes, namely the idea of disloyalty and allegiance to a threatening foreign military power. Japanese Americans were portrayed as an imminent “fifth column” threat within the United States, waiting to be activated at the emperor’s command, so that the plowshares of Japanese immigrant farmers would transform into swords at the whim of a foreign power (Aoki, 1998).

This portrayal of Chinese and Japanese Americans as under the sway of their foreign sovereigns presaged Japanese American internment, when nearly 120,000 persons of Japanese descent, including U.S. citizens, were swept up into remote camps for the duration of World War II. It was considered too administratively onerous to distinguish those who were loyal from those who were not; so Japanese ancestry served to signify presumptive disloyalty to the United States. Here, race fundamentally contradicted the purported promise of citizenship as rights, in the form of racial ancestry trumping the fact of U.S. citizenship.

The subsequent importance of assumptions of disloyalty, and pressure to demonstrate loyalty to the United States in order to be perceived as incorporated in the national body, as “American,” cannot be understated. During World War II, in his capacity as Executive Secretary for the Japanese American Citizens League, Mike Masaoka proposed a “suicide battalion” of Japanese Americans whose loyalty would be assured by having families and friends held by the government as hostages. He also recommended to the U.S. Government in 1942 that Japanese Americans be branded, stamped, and put under the supervision of the federal government. As Chris Iijima (1998) has documented, “super-patriotic” narratives in the form, for example, of the 442nd regiment – the Japanese American regiment that sustained the most injury during WWII – grounded the

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17. S. Rep. No. 689, 44th Cong., 2nd Sess. (1877), quoted in Torok (1996), pp. 55-56.

subsequent successful movement for Japanese American redress from the United States government.

With the advent of "Red China" as a military threat to the United States, political loyalty of Chinese Americans also became suspect. Stereotypes that once were projected onto Japanese Americans were now projected onto Red China – that "the Chinese" were fanatical, cruel, militaristic, devious, inhuman, and inscrutable (Aoki, 1996). For Filipino, Korean, Cambodian, and Vietnamese Americans, U.S. colonialism, neocolonialism and war directly led to their location in the United States – shaping their racialization sharply in relation to U.S. imperialism as "little brown brothers" and enemy aliens.

With the repeal of race-based limits on immigration and the removal of racial bars to citizenship, Asian Americans could begin building citizenship through political activity. Whether contemporary racialization of Asian Americans still bars full civic participation deserves critical attention. The recent election of Gary Locke as the first Asian American governor of a state on the U.S. mainland and the recent appointment of Norman Mineta to be Secretary of Commerce for the remainder of the Clinton Administration might seem to signify that all is well. However, only three of the 435 members of the House of Representatives are Asian American, and there are only two senators who are Asian American – roughly a quarter of the numbers that might be expected if there were a form of proportional representation.<sup>18</sup>

In addition, there are disturbing echoes of historical stereotypes in recent controversies involving Asian Americans. The "Asian connection" in the campaign finance scandal of 1996 centered on two men, John Huang and Charlie Yah-lin Trie – both naturalized U.S. citizens – who were donors and fundraisers for President Clinton's re-election and the Democratic National Committee. In the months before the 1996 election, the media and Clinton's challengers attacked Clinton for using Huang to raise money from illegal foreign sources, particularly from James Riady, the owner of the Indonesia-based Lippo Group. Soon the idea that there was a foreign Asian plot to buy influence in Washington, DC became major news. The *National Review* created an infamous cover, featuring Clinton, Hillary Rodham Clinton, and Al Gore with buck teeth, and in putative "Asian" dress. "Asian" and "Asian American" became conflated with each other and with political corruption and foreign subversion (Wang, 1998; Wu and Nicholson, 1997). This concern still rages, as exemplified by the use of repeated shots of Gore fundraising at the Hsi Lai Buddhist Temple in California in an attempt to discredit him.

Whether or not illegal fundraising was conducted, the coverage of these events by the media and their use by both political parties have been

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18. I am including Representatives Matsui, Mink, Wu, Senators Akaka and Inouye in this calculation and am not including non-voting delegates Underwood and Faleomavaega of Guam and American Samoa. The current Asian American population is estimated at four percent of the total U.S. population.

racist.<sup>19</sup> The Democratic National Committee, for example, decided to only accept money from U.S. citizens, and audited its roll of donors for “dirty money,” which was equated with Asian and Asian American donations. In a frightening linkage to the Chinese being driven out of West Coast communities a century ago, Michael Lewis of the New York Times wrote, “This fear of Asians isn’t all bad. If riding a few Asians out of Washington on a rail helps to generate public support for campaign finance reform, well then, hitch up the ponies, giddyap!” (Chen & Minami, 1998, p. 373).

More recently, Wen Ho Lee, a physicist with the Los Alamos research laboratories, was indicted for negligent handling of secret data, in the form of downloading data on his home computer. Born in Taiwan, Lee is a naturalized U.S. citizen. While Lee was terminated from Los Alamos because of allegations that he gave data to the People’s Republic of China as a spy,<sup>20</sup> the government now admits he did not provide classified information to any foreign government, and has only alleged that he mishandled classified information. While Lee was indicted with more than 50 counts under the Atomic Energy Act – the only person ever charged under this act – and was subsequently held in solitary confinement without bail in federal prison for nine months, the federal government ultimately dropped all but one charge of downloading data, to which Lee pled, followed by an apology by the federal district judge for how Lee had been treated. Former counterintelligence chiefs of the Los Alamos lab and the Energy Department have said that Lee became a suspect because of ethnicity, and there is a strong argument that he is the victim of racial profiling.<sup>21</sup> The search warrant was obtained on the U.S. Attorney’s affidavit that he was “overseas ethnic Chinese” (Gotanda, 2000).<sup>22</sup>

While the “Asian connection” and the treatment of Wen Ho Lee might seem isolated incidents, the media attention they have garnered has been both enormous and suggestive of a particular racialization of Asian Americans. This racialization is constituted through the implication that Asians and Asian Americans are indistinguishable, creating the presumption that Asian Americans enter the republic with a continuing allegiance to their country of origin, rendering them subject to corruption and disloyalty, and foreclosing their ability to function as subjects. While there is a reluctance in this colorblind era to recognize the role of historical racialization in shaping present day realities, it seems clear that earlier constructions of Asian Americans continue to exert a powerful influence. The perception that the political activity of Asian Americans is somehow at odds with “American” political interests serves to deny Asian Americans

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19. For the fundraising affair, the implication has been that Huang and Trie represent all Asian Americans, and that all Asian Americans who participate in politics are somehow linked to the scandal (Wu and Nicholson, 1999).

20. As has been noted, the idea that a Taiwanese would spy for the People’s Republic of China makes little sense.

21. For example, Robert Vrooman, the former chief of security at Los Alamos, has stated publicly that Lee was singled out because of his ethnicity.

22. For information about the campaign on behalf of Wen Ho Lee, see <http://wenholee.org>.

the effective political subjecthood essential to full citizenship.

#### IV. CITIZENSHIP AS IDENTITY

Citizenship is also understood as people's collective experience of themselves, in terms of their belonging to a particular community as expressed on the terrain of culture. In this manner, as well, citizenship has served as a proxy for race, so that "American" is equated with being white, and Asians are perceived to stand in for those who are excluded from national membership. Thus the infamous headline, "American beats out Kwan" reported by MSNBC in 1998, suggesting that the white American skater, Tara Lipinski, was victorious over the purportedly non-American Michelle Kwan. Asian Americans are racialized both as non-white, and as non-citizens, foreign and unassimilable (Chang, 1999; Gotanda, 1985). From the advent of Asian immigration, there has been a persistent view that the racial identity of Asians who are U.S. citizens by birth or naturalization is characterized by their being distinctly foreign.<sup>23</sup> In fact, "citizen" and "Asian" could be said to function as antonyms in the United States context.

This dissonance can begin to be explained as a product of the discourse of Orientalism. Edward Said (1978) described Orientalism as a master discourse of European civilization that constructs and polarizes the East and the West. Western representations of the East serve not only to define those who are the objects of the Orientalizing gaze, but also the West, which is defined through its opposition to the East, so that, for example, the West is defined as "modern," "democratic," and "progressive," through the East being defined as "primitive," "barbaric," and "despotic." In the context of the United States, while American Orientalism has turned to North Africa, the Middle East, and Turkey, it has also focused heavily on East Asia in defining "America" in contradistinction to the "East."

Earlier fears of a "yellow peril" that would eat away the American nation from within have now publicly been replaced with a new, ostensibly favorable characterization of Asian Americans as the "model minority." The final lifting of racial exclusion in immigration in 1965, and the eradication of racial bars to naturalization and to property ownership did correlate with a large turn in perceptions of Asian Americans. The idea of the "model minority" is that a strong work ethic and family cohesion has led to Asian American economic success, without the need to rely on government welfare. As many have documented, the idea of the model minority is a myth that belies poverty and disenfranchisement, including high welfare use by certain Asian American communities. It is also used to discipline other persons of color in the United States. For the purposes of this essay, the most salient fact to note is that the success touted here is economic success – not political. In other words, the idea that Asian

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23. As Kevin Johnson (1997, pp. 354-357) describes, Latinas and Latinos have also consistently been perceived as foreigners to the United States.

Americans somehow constitute a model minority is not incompatible with the idea that Asian Americans are still largely incapable of democratic engagement. Many have argued that the yellow peril still lurks, that the idea of the model minority has always coexisted with the idea of the Asian American as the "gook" (Lee, 1999, p. 11). Thus, even while the model minority is promised the putative ability to assimilate easily into the nation, Asian Americans continue to serve as agents of foreign or multinational capital in the U.S. imagination.

Through the lens of the Asian American experience, we can begin to perceive how the fourth category of citizenship, citizenship as identity, is not created through the enjoyment of the first three categories of citizenship, but rather appears ontologically separate. While many scholars approach citizenship as identity as if it were derivative of citizenship's other dimensions, it seems as if the guarantees of citizenship as status, rights and politics are insufficient to produce citizenship as identity.<sup>24</sup> In fact, the relationship citizenship as identity appears to bear to the first three kinds of citizenship is more complicated. I would argue that it is not only nonequivalent to the citizenship produced through political and legal activities; sentiments concerning the identity of citizenship can reduce the ability to exercise citizenship as a political or legal matter. Thus, the general failure to identify Asian Americans as constituting American national identity reappears to haunt the access of Asian Americans to the first three categories of citizenship.

This should not surprise. Race has always fundamentally contradicted the promise of liberal democracy. The racially exclusive origins of liberalism and civic republicanism were starkly at odds with their purported goals. While membership in the citizenry has been widened, simply adding rights with an accompanying logic of colorblindness will not translate into substantive enjoyment of citizenship. Ideas about race will continue to disrupt the ability of Asian Americans to function and be identified as citizens. To be Asian American suggests in the American imagination the idea that one acts according to cultural dictates somehow fundamentally different from those known in the United States. One's Asianness seems to be the difference one must suppress in order to be a full citizen. There is a danger to try to define citizenship in isolation from identity, since particularities will determine how successfully such citizenship can be accessed and enjoyed. It is imperative to address all four citizenship discourses if one is truly in search of the guarantee of constitutional citizenship, for only with access to all four forms of citizenship can one be deemed a full citizen.

## V. CONCLUSION

While much has been written about the presumption of Asian American disloyalty, what has not been previously examined is the manner

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24. See Bosniak (2000a), p. 479, making this point, asserting that the sentiment of citizenship has independent sources other than how citizenship is conceived and practiced in our legal and political worlds.

in which assumptions about Asian American character are particularly at odds with the requirements for the member of the civic republic. This dissonance explains the particular site of recent controversies involving Asian Americans.

That the political engagement of Asian Americans in the American republic will inevitably be accompanied by concerns about their loyalty, their trustworthiness, and their ability to prioritize national as opposed to foreign interests is a form of cultural racism. To be seen as primarily governed by group loyalty to one's country of origin suggests a limited capacity for agency, will, or rational thought. This is obviously dehumanizing, since our beliefs as to what is "human" rest on such capacities.<sup>25</sup> The differentiation of who is allowed to be "human," through discourses about racial inferiority, has been fundamental to the creation of many modern democracies. The American rights-bearing subject was allowed to consolidate through the very exclusion of certain racialized subjects.<sup>26</sup>

The boundaries of the nation are constructed through excluding certain groups. The "imagined community" of the American nation, peopled by "citizens," has relied on difference from the Asian alien to fuse its identity. Discourses of democracy rest on an image of anti-democracy, in the form of despotic societies whose members are incapable of civic activity. The idea that there are "Asian values" that are antithetical to "Western values" of liberty and equality helps solidify this conclusion. The fusion of anti-democratic with Asia, and Asian with Asian American suggests that Asian Americans are somehow fundamentally incapable of taking part in the democratic political processes. To the extent that Asian Americans and Asians are fungible in the American imagination, the fact that neo-Confucianism is used to explain economic development in Asia at the expense of "Western values" of individualism and freedom encourages the perception that Asian Americans are somehow unable to grasp the principles of Western political engagement.

The discourse of constitutional citizenship claims that all citizens ought to be treated equally. But, as I have suggested, there are particular assumptions about Asian Americans that have forever rendered their presumptive fitness for citizenship suspect. The frequent responses to assaults on the citizenship of the Asian American – namely the assertion that "I am an American!" (Chang, 1999) and attempts at demonstrating patriotism and loyalty – have been inadequate. Such attempts fail to recognize why particular stereotypes are thrust upon Asian Americans, and

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25. The differentiation of "Asian" from "human" was exemplified through a story that likened Chinese people to insects. The Washington Post ran a story in 1999, describing the arrest of Lee:

China's spying, they say, more typically involves cajoling morsels of information out of visiting foreign experts and tasking thousands of Chinese abroad to bring secrets home one at a time like ants carrying grains of sand. The Chinese have been assembling such grains of sand since at least the fourth century BC, when the military philosopher Sun Tzu noted the value of espionage in his classic work, *The Art of War*.

(*Washington Post*, 1999, p. A7).

26. Gender based exclusion also created the rights-bearing subject. See Kerber (1998), Smith (1997).

the connection of these stereotypes to the legacy of contradictions in citizenship. What is called for are new forms of struggle that understand the limits of solely seeking membership in the national political body, and that instead undertake its transformation through the creation of political solidarities across racial and national boundaries.

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