

# Coalitions and Collective Memories: A Search for Common Ground

by Ediberto Roman\*

*We're going to take this movement and . . . reach out to the poor people in all directions in this country . . . into the Southwest after Indians, into the West after the Chicanos, into Appalachia after poor whites, and into the ghettos after Negroes and Puerto Ricans. And we are going to bring them together and enlarge this campaign into something bigger than just a civil rights movement for Negroes.<sup>1</sup>*

— Dr. Martin Luther King, Jr.

*I never will forget one little blonde co-ed. . . . She demanded right in my face, "don't you believe there are any good white people?" . . . . "What can I do?" she exclaimed. I told her, "Nothing."*

. . . .

*I regret that I told her that. I wish . . . I could telephone her, or write to her, and tell her what I tell white people now when they present themselves as being sincere . . . I tell them that at least where my . . . organization is concerned, they can't join us . . . . Where the really sincere white people have got to do their "proving" of themselves is not among the black victims, but out on the battle lines of where America's*

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1. LANI GUINIER & GERALD TORRES, *THE MINER'S CANARY: ENLISTING RACE, RESISTING POWER, TRANSFORMING DEMOCRACY* (Harvard Univ. Press 2002) [hereinafter *MINER'S CANARY*].

*racism really is—and that's in their own home communities; America's racism is among their own fellow whites.*<sup>2</sup>

— Malcolm X

## I. INTRODUCTION

The above quotes from two path breakers of the civil rights era evince clashing visions of coalition building—one embracing inter-minority group coalitions and the other questioning their usefulness. Dr. Martin Luther King, Jr. in the name of social justice called for ever-expanding collaboration, which included whites; Malcolm X rejected such coalitions as unnecessary and misdirected. Though several decades old, these conflicting sentiments—one following an assimilationist model and the other more nationalist—are still the subject of academic debate. In fact, a considerable amount of legal scholarship, written primarily by scholars of color, has recently taken contrasting views regarding the efficacy and propriety of coalitional efforts. These scholars have included some of the academy's most accomplished authors, including Lani Guinier,<sup>3</sup> Gerald Torres,<sup>4</sup> Richard Delgado,<sup>5</sup> Haunani-Kay Trask,<sup>6</sup> Robert Williams,<sup>7</sup> Kevin Johnson,<sup>8</sup> and Eric Yamamoto.<sup>9</sup>

The following pages explore this contemporary debate, and ultimately sides in favor of inter-minority group coalitions, as they may be effective democratic vehicles towards social change. Part II examines the argument in favor of inter-minority group coalitions. Part III addresses the challenges to those positions, including the arguments posed by leading skeptics. Finally, Part IV rejects the cynicism associated with coalitions and proposes a concrete point of commonality that may help forge much needed common ground for many racial and ethnic outsider groups.

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2. ALEX HALEY & MALCOLM X, *THE AUTOBIOGRAPHY OF MALCOLM X* 256 (1965).

3. MINER'S CANARY, *supra* note 1.

4. *Id.*

5. Richard Delgado, *Linking Arms: Recent Books on Interracial Coalition as an Avenue of Social Reform*, 88 CORNELL L. REV. 855 (2003) (book review) [hereinafter Delgado, *Linking Arms*].

6. Haunani-Kay Trask, *Coalition-Building Between Natives and Non-Natives*, 43 STAN. L. REV. 1197 (1991).

7. Robert A. Williams, Jr., *Linking Arms Together: Multicultural Constitutionalism in a North American Indigenous Vision of Law and Peace*, 82 CAL. L. REV. 981 (1994).

8. Kevin R. Johnson, *The Struggle for Civil Rights: The Need For, and Impediments to, Political Coalitions Among and Within Minority Groups*, 63 LA. L. REV. 759 (2003) [hereinafter Johnson, *The Struggle for Civil Rights*].

9. ERIC YAMAMOTO, *INTERRACIAL JUSTICE: CONFLICT AND RECONCILIATION IN POST-CIVIL RIGHTS AMERICA* (1999).

## II. THE ADVOCATES

Those who advocate inter-minority coalitions<sup>10</sup> tend to emphasize changing national demographics, especially the growth of the Latino community. At least one advocate has termed the Latino community as the new “favored minority” and the new “majority minority” group,<sup>11</sup> noting that that community will become the largest minority group by the year 2050.<sup>12</sup> As one writer put it, the optimism associated with these coalitions stems from the old maxim that “there is power in numbers.”<sup>13</sup> These numbers are approaching the point where the coalitions legitimately expect to challenge racial hierarchy and white supremacy in the United States.<sup>14</sup>

In their recent book on the subject, *The Miner’s Canary*, Professors Guinier and Torres support a recasting of constructions of race in favor of the use of the term “political race,” which would include a host of different minority groups that could choose to join a coalition of the previously marginalized.<sup>15</sup> To the authors, this new construction can bolster the participation of previously marginalized groups.<sup>16</sup> They assert that “[p]olitical race is therefore a motivational project. Rebuilding a movement for change can happen only if we reclaim our democratic imagination.”<sup>17</sup> By way of example, these authors point to the dramatic way in which African-Americans and Mexican-Americans responded to a legal ruling against affirmative action in Texas.<sup>18</sup> After examining that effort, the authors summarize their thesis: “[the African-American

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10. While few would question the sincerity of their respective commitments to social justice, these advocates, who happen to represent various minority groups, have far from agreed on whether inter-minority group coalitions are a legitimate vehicle to achieve civil rights reform.

11. Adrien Katherine Wing, *Civil Rights In the Post 911 World: Critical Race Praxis, Coalition Building, and the War On Terrorism*, 63 LA. L. REV. 717, 745-46 (2003).

12. *Id.* at 745; see also Johnson, *The Struggle for Civil Rights*, *supra* note 8, at 767.

13. Johnson, *The Struggle for Civil Rights*, *supra* note 8, at 767.

14. *Id.*

15. MINER’S CANARY, *supra* note 1, at 12. Professor Robert Chang similarly calls for a recasting of labels or identity constructs. For instance, Chang uses the term “people of color” in a similar fashion to Torres and Guinier’s construction of “political race” in order to form a new political identity. Chang characterizes his label as part of “radical democracy” that “offers a way beyond coalitional politics.” ROBERT S. CHANG, *DISORIENTED: ASIAN AMERICANS, LAW, AND THE NATION-STATE* 129 (1999). Interestingly, despite his rejection of identity-based political coalitions, Chang’s proposal is in fact an explicit political coalition based on progressive politics. See *id.* at 129-30.

16. See MINER’S CANARY, *supra* note 1, at 12.

17. *Id.*

18. *Id.* at 74.

and Mexican-American] activism showed how collective racial identity can operate within the American paradigm, not as the limiting essentialism denounced by conservatives and neoliberals but rather as the locus for individual and communal participation.”<sup>19</sup>

In his book, *Interracial Justice*, Professor Eric Yamamoto similarly examines a host of reconciliation projects and coalition efforts.<sup>20</sup> Yamamoto calls for the mutual acknowledgment and recognition of the respective histories of each member of a coalition.<sup>21</sup> Other authors have likewise placed great value on the role of finding a common ground in any coalition effort.<sup>22</sup> Like Yamamoto, these authors tend to believe that finding such points of commonality is a necessary starting point for any coalition.<sup>23</sup> While advocating the need for traditional domestic minority groups to defend the rights of Arabs and Muslims, one writer traces the evolution of critical race scholars’ growing interest in coalitional politics in order to achieve civil rights reform.<sup>24</sup> She emphasizes the importance of finding a common understanding within groups.<sup>25</sup> Other scholars have championed such coalitions, stressing perceived common interests.<sup>26</sup> Examining Asian and Latino and Latina groups, another writer highlights each group’s shared views on “immigration, family, citizenship, nationhood, language, expression, culture, and global economic restructuring.”<sup>27</sup> Overall, these advocates not only use political pragmatism and democratic idealism as vehicles to promote their goals, but they also tend to look to constructions of identity and mutual interests as starting points for mobilization. Though most of these scholars note the need for shared experiences,

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19. *Id.* at 74-75.

20. *See generally*, YAMAMOTO, *supra* note 9.

21. *Id.* at 175-85.

22. *See, e.g.*, Mary Romero, *Historicizing and Symbolizing a Racial Ethnic Identity: Lessons for Coalition Building with a Social Justice Agenda*, 33 U.C. DAVIS L. REV. 1599 (2000).

23. Johnson, *The Struggle for Civil Rights*, *supra* note 8, at 774 (“At a minimum, dialogue and discussion will be required in any effort to hash out common ground on the modern conception of civil rights.”); *see also* Kevin R. Johnson, *Civil Rights and Immigration: Challenges for the Latino Community in the Twenty-First Century*, 8 LA RAZA L.J. 42, 56 (1995).

24. Wing, *supra* note 11, at 719-21.

25. *See id.* at 739.

26. Francisco Valdes, *Under Construction—LatCrit Consciousness, Community, and Theory*, 85 CAL. L. REV. 1087, 1140 (1997).

27. *Id.*

several nonetheless stress the need to acknowledge points of difference between members of any coalition.<sup>28</sup>

### III. THE CHALLENGES AND THE CYNICS

The search for common ground, though a foundational component of any coalition effort, is nonetheless often fraught with pitfalls. These pitfalls may be manifested in a variety of ways. For instance, in an effort to find commonalities, the realities of different histories of racial and ethnic groups may arise.<sup>29</sup> Finding rallying points between different groups with different experiences has historically proven to be difficult.<sup>30</sup> Many coalitions fail because of what is known as the zero-sum game—the gain of one minority group at the expense of another.<sup>31</sup> Both supporters and detractors of coalitions raise the specter of such

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28. See Athena D. Mutua, *Shifting Bottoms and Rotating Centers: Reflections on LatCrit III and the Black/White Paradigm*, 53 U. MIAMI L. REV. 1177, 1178 (1999) (“[T]he problems of building coalitions and developing political agendas bring us face-to-face with the reality that different racial and ethnic groups have distinct histories and interests, some of which collide.”); Romero, *supra* note 22, at 1599 (“Although groups centering on discrete identities struggled to find a rallying point from which to advocate social justice and coalition building, this has proven to be a difficult project.”); Enid Trucios-Haynes, *The Legacy of Racially Restrictive Immigration Laws and Policies and the Construction of the American National Identity*, 76 OR. L. REV. 369, 374 (1997) (“Alliances within and among communities of color require an understanding of the situated position of noncitizens of color within this racial hierarchy. Therefore, the hierarchies of race and oppression must be overcome to form effective intra-group and inter-group coalitions.”); CHANG, *supra* note 15, at 128 (“[T]raditional civil rights work and critical race theory must take into account the different experiences of different groups.”).

29. Mutua, *supra* note 28, at 1178; see also Tauyna Lovell Banks, *Both Edges of the Margin: Blacks and Asians in Mississippi Masala, Barriers to Coalition Building*, 5 ASIAN L.J. 7, 34-35 (1998); *Our Next Race Question: The Uneasiness Between Blacks and Latinos*, HARPER'S MAG., Apr. 1996, at 55 (panel discussion of Cornel West, Earl Shorris, and Jorge Klor de Alva); Kevin R. Johnson, *“Melting Pot” or “Ring of Fire”? Assimilation and the Mexican-American Experience*, 85 CAL. L. REV. 1259, 1274 (1997) (considering racism toward African-Americans among Latinos and Latinas); Toni Morrison, *On The Backs Of Blacks*, in ARGUING IMMIGRATION: THE DEBATE OVER THE CHANGING FACE OF AMERICA 97 (Nicolaus Mills ed., 1994) (contending that the final stage of immigrant assimilation requires adoption of racist attitudes toward African-Americans); Viet D. Dinh, *Races, Crime, and the Law*, 111 HARV. L. REV. 1289, 1292 (1998) (book review) (“Nonblack minorities . . . often distinguished themselves from and at times expressly denigrated blacks.”).

30. See generally Romero, *supra* note 22.

31. See Johnson, *The Struggle for Civil Rights*, *supra* note 8, at 776 (citing Orlando Patterson, *Race by the Numbers*, N.Y. TIMES, May 8, 2001, available at 2001 WLNR 3759630 (contending that the inclusion of [Latinos and Latinas] and other groups in affirmative-action programs had resulted in diminished political support for the programs, to the detriment of African-Americans)).

hierarchies within minority groups.<sup>32</sup> Professor Enid Trucios-Haynes, an advocate of coalition building, acknowledges “the hierarchies of race and oppression must be overcome to form effective intra-group and inter-group coalitions.”<sup>33</sup> On the other end of the coalitional divide, Professor Richard Delgado, one of the legal academy’s leading scholars, is skeptical of inter-minority group coalitions.<sup>34</sup> Delgado questions whether diverse minority groups will “be able to work together toward mutual goals—or [will] the current factionalism and distrust continue into the future . . . .”<sup>35</sup> Echoing one of the challenges raised by Yen Le Espiritu, Delgado observes the inevitability that within any given coalition there is likely to be at least one high-status, influential, and relatively assimilated group that expects to assume a position of power and authority over the coalition.<sup>36</sup> Delgado argues that “[t]his practice not only adopts the master’s tools and thus unwittingly strengthens his house, but it also weakens the coalition.”<sup>37</sup> As a metaphor for his skepticism, Delgado looked to the game of baseball, arguing that when fighting for social justice, outsider groups may more closely resemble a solitary batter instead of a member of the team playing the field.<sup>38</sup> In

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32. Compare Trucios-Haynes, *supra* note 28, with Delgado, *Linking Arms*, *supra* note 5.

33. Trucios-Haynes, *supra* note 28, at 374.

34. Richard Delgado, *Rodrigo’s Fifteenth Chronicle: Racial Mixture, Latino-Critical Scholarship, and the Black-White Binary*, 75 TEX. L. REV. 1181 (1997) (book review).

35. *Id.* at 1200. In one of his more recent pieces, Delgado raises numerous potential pitfalls, including the allure of minority groups aspiring to be white, the power of whiteness, the potential compromises that might be made with that power base, and the potential of intra-coalitional hierarchies. Delgado, *Linking Arms*, *supra* note 5, at 869-76.

36. Delgado, *Linking Arms*, *supra* note 5, at 873.

37. *Id.* Given the numerous historical examples of this phenomenon, Delgado’s challenge to coalition building is accordingly a formidable one. In fact, many scholars addressing inter-minority group coalitions have acknowledged the threat of internal strife within coalitions. See, e.g., Charles R. Lawrence III, *Race, Multiculturalism, and the Jurisprudence of Transformation*, 47 STAN. L. REV. 819, 828-29 (1995) (contending that coalition building is necessary for confronting our own internalized racist beliefs and the ways in which we participate in the maintenance of white supremacy); Johnson, *The Struggle for Civil Rights*, *supra* note 8, at 771 (noting that a major impediment to coalition efforts is racism between and within minority communities); Wing, *supra* note 11, at 742-47 (noting that black/white binary thinking “can lead groups not to understand one another, to look askance and to be disrespectful of others, and to think the other minority group is not as important, only the relationship with whites.”).

38. Delgado, *Linking Arms*, *supra* note 5, at 884. While Professor Delgado’s baseball analogy is interesting, given the economic and political prowess of whites in this society, ethnic and racial minorities in this land more closely resemble batters holding a flimsy plastic bat and not the classic sturdy wooden ones. Instead of looking at outsider groups as individual batters facing opposing teams, this essay suggests that a closer analogy may be gleaned by looking to different endeavors. Much like water buffalo facing a pride of

other words, Delgado suggests that outsider groups may be better off undertaking reform efforts individually rather than using concerted action.

#### IV. A NEW VISION OF COALITIONS?

It is true that in the long run coalitions may end, morph, or dwindle in significance. Nonetheless, real gains can be made while the coalitions are in effect. Groups come together because they view themselves in a similar situation, and as a result they share many, but not necessarily all, interests. This situation is similar to the formation of political parties, such as President Franklin Delano Roosevelt's reform of the coalition that made up the Democratic Party in the 1930s to include the poor and people of color.<sup>39</sup> And like the Roosevelt coalition, many coalitions can have significant impact.<sup>40</sup>

A recent and thought-provoking example of one such effort is the nationwide, grassroots mobilization by millions of Latinas and Latinos against the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005, otherwise known as H.R. 4437, a bill aimed at heightening penalties for illegal immigrants and their employers.<sup>41</sup> Among other things, this bill, if made law, would have created more than 1000 kilometers of fences and walls along the United States-Mexico border, would make illegal entry into the United States a felony, and would penalize a broad range of acts that would be considered aiding and abetting illegal immigrants.<sup>42</sup> The largest of the protests against H.R. 4437 occurred on April 10, 2006 in 102 cities; one locale alone included a crowd of over 500,000.<sup>43</sup> Estimates suggest that the protests included over one million people.<sup>44</sup> This reaction is not only the timeliest example of interethnic coalitions, but it is one whose impact

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lions or a solitary ball carrier in a football game, a sole combatant stands little chance when facing overwhelming numbers, but with a relatively few more compatriots, the chances of even partial success grow dramatically. Like a group of water buffalo creating a phalanx of protection, a few blockers in a game of football can protect a ball carrier from superior numbers.

39. See generally Richard H. Pildes, *The Constitutionalization of Democratic Politics*, 118 HARV. L. REV. 28 (2004); Mark Tushnet, *Foreword: The New Constitutional Order and the Chastening of Constitutional Aspiration*, 113 HARV. L. REV. 29 (1999).

40. See generally DALE ROGERS MARSHALL, *RACIAL POLITICS IN AMERICAN CITIES* (1980).

41. H.R. 4437, 109th Cong. (2005).

42. Jorge G. Castaneda, *Time to Step Up to the Plate*, NEWSWEEK INT'L, Feb. 20, 2006, at opinion page.

43. Wikipedia, 2006 United States immigrant reform protests, [http://en.wikipedia.org/wiki/2006\\_U.S.\\_immigrant\\_rights\\_protests](http://en.wikipedia.org/wiki/2006_U.S._immigrant_rights_protests) (last visited Mar. 15, 2007).

44. *Id.*

has captured national attention.<sup>45</sup> This coalition was formed without a central leader and arose from local activism, which included a handful of radio and television personalities calling for mobilization.<sup>46</sup> The coalition included many Latinas and Latinos from lands believed to be points of origination for many illegal immigrants and also included Latinas and Latinos such as Puerto Ricans, who, by virtue of their United States citizenship status, do not face immigration problems.<sup>47</sup> The sheer diversity of the flags represented at the protests speaks to the interethnic aspect of this grouping.<sup>48</sup> This coalition was also interracial, as evidenced by the New York area protests that included immigrants from Ireland and China.<sup>49</sup> Despite being faced by a congressional act and an abundance of conservative pundits characterizing immigration with nativistic terms such as “an invasion” and “un-American,”<sup>50</sup> this coalition created a national debate over a proposed law that would have otherwise negatively affected up to twelve million inhabitants with little or no public debate.<sup>51</sup>

These grassroots protests initiated early offers at compromise by moderates on both sides of the political aisles, including President George W. Bush, who advocated for a guest-worker program.<sup>52</sup>

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45. See Nicholas Confessore, *Thousands Rally in New York in Support of Immigrants' Rights*, N.Y. TIMES, Apr. 2, 2006, available at 2006 WLNR 5514799; Randal C. Archibold, *Latinos Protest in California In Latest Immigration March*, N.Y. TIMES, Apr. 2, 2006, available at 2006 WLNR 5514845 (reporting that over 500,000 people protested immigration reform during the March 25, 2006 protest).

46. See generally Nicole Lee, *Immigration Debate Sparks Rally*, FORT WAYNE NEWS SENTINEL, Mar. 31, 2006, available at 2006 WLNR 5396949.

47. See Ediberto Roman, *Immigration and the Allure of Inclusion*, 38 SETON HALL L. REV. 1349, 1365 (2006) (noting the preferred immigration status of Puerto Ricans that results from U.S. colonialism).

48. See Confessore, *supra* note 45.

49. See *Day Without Immigrants Being Held Today* (CNN television broadcast May 1, 2006).

50. See generally PATRICK BUCHANAN, *STATE OF EMERGENCY: THE THIRD WORLD INVASION AND CONQUEST OF AMERICA* (2006).

51. While at the time of this publication, the impact of this coalition is yet to be determined, it will likely be the impetus behind a compromise that results in the passage of a guest-worker program, which allows otherwise illegal immigrants to work legally in the United States, or a more lenient version of the House bill in the United States Senate, Senate Bill 1033. Senate Bill 1033 allows guest-worker programs and permits otherwise illegal immigrants to convert their status after undertaking certain tasks, including working, learning English, and paying taxes. Rachel L. Swarms, *Split over Immigration Reflects Nation's Struggle*, N.Y. TIMES, Mar. 29, 2006, available at 2006 WLNR 5217845 (discussing both the House of Representatives bill and the more lenient Senate bill).

52. Stephen Dinan, *Bush Signs the Fence Bill; Measure Boosts Agents, Pays for Border Barrier*, WASHINGTON TIMES, Oct. 5, 2006, available at 2006 WLNR 17255319.



However, at least for the moment, conservative opponents of immigration have the upperhand. Somewhat ironically, during Hispanic Heritage Month, President Bush signed the “homeland-security spending bill,” which funds the down payment for a 700-mile fence along the United States-Mexico border.<sup>53</sup> At the time of this writing, no significant coalitions have led protests in opposition to the “Secure Fence Act of 2006.”<sup>54</sup> Though the President ultimately signed the Fence Act, the National Council of La Raza noted that President Bush unsuccessfully advocated for comprehensive immigration reform before the 109th Congress.<sup>55</sup> This reform could have included the creation of a process toward granting citizenship to many illegal aliens who reside in the nation and the creation of a guest-worker program.

In September 2006 several members of the National Association of Latino Elected and Appointed Officials (NALEO)<sup>56</sup> advocated before Capitol Hill for comprehensive immigration reform.<sup>57</sup> In light of the democrats recently gaining control in Congress, it remains to be seen whether comprehensive reform—spurred by political pragmatists or effective coalitional efforts—is possible. Thus, the grassroots coalitional immigration protests were vivid examples of political mobilization, but their effectiveness remains in question.

Other examples of inter-minority group coalitions occur within the legal academy. For instance, Professor Richard Delgado, despite his skepticism on the subject, was instrumental in creating one such coalition. As a founder of the Critical Race Theory (CRT) movement, Professor Delgado was central in forming a jurisprudential movement that challenged dominant norms and narratives in the law. This movement was created by a racially and ethnically diverse group of legal scholars who dramatically changed both legal scholarship and arguably the legal academy. The CRT movement remains to this day an important and diverse group, with many offshoot movements, including

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53. *Id.*

54. H.R. 6061, 109th Cong. (2005). In September the House of Representatives passed enforcement-only bills: the Secure Fence Act, H.R. 6061, 109th Cong. (2006), the Immigration Law Enforcement Act, H.R. 6095, 109th Cong. (2006), the Community Protection Act, H.R. 6094, 109th Cong. (2006), and the Border Tunnel Prevention Act, H.R. 4830, 109th Cong. (2006).

55. Dinan, *supra* note 52.

56. NALEO is an organization comprised of over 6,000 elected and appointed officials. NALEO Home Page, <http://www.naleo.org> (last visited Mar. 15, 2007).

57. *Latino Elected Officials March the Halls of Congress to Press for Comprehensive Immigration Reform*, U.S. NEWSWIRE, Sept. 13, 2006.

LatCrit and Asian Crits.<sup>58</sup> The CRT coalition boosted diversity in law faculties, student bodies, and law school curricula while also substantively changing legal regimes. Even if, as some scholars have quietly suggested, the CRT movement has lost momentum, has effectively disbanded, or has been overtaken by related movements such as LatCrit, the CRT coalition achieved much, and virtually every writer addressing this subject has benefited from it.

Another example of a similar coalition arguably exists at my home institution. The Florida International University College of Law is, for the legal academy, a Petri dish for inter-minority group coalitional efforts. This young and dynamic institution commenced its operations as a diverse law school by traditional standards, with three of the school's first eleven tenured and tenure-track professors representing racial and ethnic minority groups. Through advocacy by these three

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58. See, e.g., Francisco Valdes, *Latina/o Ethnicities, Critical Race Theory, and Post-Identity Politics In Postmodern Legal Culture: From Practices to Possibilities*, 9 LA RAZA L.J. 1 (1996); Francisco Valdes, *Foreword: Poised at the Cusp: LatCrit Theory, Outsider Jurisprudence and Latina/o Self-Empowerment*, 2 HARV. LATINO L. REV. 1 (1997) (LATCRIT I); Elvia R. Arriola, *Difference, Solidarity and Law: Building Latina/o Communities Through LatCrit Theory*, 19 CHICANO-LATINO L. REV. 1 (1998) (LATCRIT II); Elizabeth M. Iglesias, *Identity, Democracy, Communicative Power, Inter/National Labor Rights and the Evolution of LatCrit Theory and Community*, 53 U. MIAMI L. REV. 575 (1999) (LATCRIT III) [hereinafter, Iglesias, *Identity*]; Dean Rex Perschbacher, *Rotating Centers, Expanding Frontiers: LatCrit Theory and Marginal Intersections*, 33 U.C. DAVIS L. REV. 751 (2000) (LATCRIT IV); Elizabeth M. Iglesias, *LatCrit Theory: Some Preliminary Notes Towards a Transatlantic Dialogue*, 9 U. MIAMI INT'L & COMP. L. REV. 1 (2000); Elizabeth M. Iglesias & Francisco Valdes, *Introduction: Expanding Directions, Exploding Parameters: Culture and Nation in LatCrit Coalitional Imagination*, 33 U. MICH. J.L. REFORM 203 (2000), 5 MICH. J. RACE & L. 787 (2000); Margaret E. Montoya, *Class in LatCrit: Theory and Praxis in a World of Economic Inequality*, 78 DENVER U. L. REV. 467 (2001) (LATCRIT V); Pedro A. Malavet, *Latcritical Encounters with Culture, In North-South Frameworks*, 55 FLA. L. REV. 1 (2003); Guadalupe T. Luna, *Latcrit VI: Latinas/os and the Americas: Centering North-South Frameworks in LatCrit Theory*, 54 RUTGERS L. REV. 803 (2002) (LATCRIT VI); Jo Carrillo, *Seventh Annual LatCrit Conference, LatCrit VII, Coalition Theory and Praxis: Social Justice Movements and LatCrit Community—Part I: A Few Thoughts About Using Visual Images in LatCrit*, 81 OR. L. REV. 587 (2002); Robert S. Chang, *LatCrit VII: Coalitional Theory and Praxis, Social Justice Movements and LatCrit Community, Progressive Pedagogy: Challenging Master Narratives with Racial and Ethnic Curricular and Faculty Diversity*, 13 BERKELEY LA RAZA L.J. 113 (2002) (LATCRIT VII); Deon Erasmus, *Law, Culture, and Society: LatCrit Theory and Transdisciplinary Approaches Law, Land, and Labor: Constructions of Property and Status in Local and Global Contexts, "Will She Speak, or Won't She? That is the Question": Comments on the Communal Land Rights Bill*, 16 FLA. J. INT'L L. 539 (2004); Francisco Valdes, *City and Citizen: Community-making as Legal Theory and Social Struggle*, 52 CLEV. ST. L. REV. 1 (2005) (LATCRIT VIII); Charles R. Venator Santiago, *Countering Kulturkampf Politics Through Critique and Justice Pedagogy*, 50 VILL. L. REV. 749 (2005).

professors, along with the support of many others, the faculty grew in numbers as well as in diversity, with nine of its twenty tenured and tenure-track professors and seventeen of its thirty-four tenured, tenure-track, and long-term contract faculty currently self-identifying as members of racial and ethnic minority groups. While this law school may invariably face the challenges raised by the skeptics, it is currently living the opportunities suggested by the advocates of coalitions.

#### A. *A Common Ground?*

Despite the debate concerning the ability of coalitions to achieve their goals, one thing seems clear: successful coalitions should construct identities of otherwise diverse groups in ways that can promote mobilization.<sup>59</sup> Coalitions need to learn how to articulate intergroup comparisons in ways that “energize new solidarities and promote more fluid and inclusive political identities by revealing new interconnections and commonalities among the oppressed”<sup>60</sup> Many writers on the subject agree with this view but fail to provide specific examples of how to find that common identity or common ground. In other words, these writers have failed to provide substantive examples of commonalities.

One fairly obvious, but at the same time obscure, common ground may be the shared history of oppression of many people of color in this land.<sup>61</sup> These collective memories, which include repeated denials of basic rights, form a starting point for commonalities. The following account is the actual, but rarely addressed, comparative analysis of this government’s treatment of people of color when those groups sought to become full members of the body politic. This common history and identity is the sad and shockingly similar exclusionary practice by the

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59. See Romero, *supra* note 22, at 1601.

60. Iglesias, *Identity*, *supra* note 58, at 583.

61. See, e.g., Angel Oquendo, *Re-Imagining the Latino / a Race*, 12 HARV. BLACKLETTER L.J. 93 (1995). Professor Oquendo argued for Latinas and Latinos to reject dividing and racialized labels such as “Black Hispanic,” and instead asked for the recollection and embracing of the common Latina and Latino history of struggle against oppression. *Id.* at 93. In this eloquent piece, Professor Oquendo also asked Latinas and Latinos to not lose sight of the value of their common language. *Id.* at 94. The very same argument was made by this Author at virtually the same time in another article. See Roman, *Common Ground: Perspectives on Latina-Latino Diversities*, 2 HARV. LATINO L. REV. 483, 486 (1997). Recognizing this commonality is also similar to the creation of a “chain of equivalents” based on an “appreciation of the interconnectedness of different [histories] of oppression.” See CHANG, *supra* note 15, at 131. While Chang rejects coalitions based on identity constructs, the use of the notion of equivalents is particularly applicable to this project’s effort to find commonality based on similar histories of struggle against oppression. It is a call for the collective memories of this land’s people of color who were repeatedly reminded of their partial membership or citizenship.

federal government against every single statistically significant minority group seeking to become citizens. One primary legal vehicle that this society used to operationalize that common practice of partial membership, or in other words, exclusion, was the plenary powers doctrine. My previous works assert that the period from roughly 1850 to 1900 was a consequential era for defining who could become a citizen.<sup>62</sup> The government's repeated response to minority group efforts to become formal members of society during this era was rejection. This historical fact is a significant common identity and point of common interest in the struggle for acceptance that may be a political rallying point for many marginalized groups.

The primary source for formal membership within this country, the Constitution's Citizenship Clause of the Fourteenth Amendment,<sup>63</sup> is a post-Reconstruction amendment specifically aimed to provide former slaves the rights associated with citizenship. Despite this amendment, the United States repeatedly denied people of color the right to full membership. Even when the United States granted the right, it withheld the full panoply of benefits associated classically with it.<sup>64</sup> Many of these injustices stem from century-old constitutional doctrines that gave the political branches of government complete or plenary power over these groups and established disparate treatment for the less favored.<sup>65</sup> Those over whom the United States government exercised

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62. See, e.g., EDIBERTO ROMAN, *THE OTHER AMERICAN COLONIES: AN INTERNATIONAL AND CONSTITUTIONAL LAW EXAMINATION OF THE UNITED STATES' NINETEENTH AND TWENTIETH CENTURY ISLAND CONQUESTS* (2006).

63. U.S. CONST. amend. XIV, § 1.

64. See, e.g., *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 272-73 (1995) (Ginsburg, J., dissenting). Justice Ginsburg noted that numerous instances of unequal treatment "reflective of a system of racial caste only recently ended, are evident in our workplaces, markets, and neighborhoods. Job applicants with identical resumes, qualifications, and interview styles still experience different receptions, depending on their race." *Id.* at 273.

65. See *Scott v. Sandford*, 60 U.S. 393, 404 (1857) (holding that African-Americans are not citizens as contemplated by the federal or state constitutions); *Goodell v. Jackson*, 20 Johns. 693, 712 (N.Y. Sup. Ct. 1823) (holding that Indians are not citizens but distinct tribes or nations); Natsu Taylor Saito, *Asserting Plenary Power Over The "Other": Indians, Immigrants, Colonial Subjects, and Why U.S. Jurisprudence Needs to Incorporate International Law*, 20 YALE L. & POL'Y REV. 427 (2002); Abel A. Bartley, *The Fourteenth Amendment: The Great Equalizer of the American People*, 36 AKRON L. REV. 473 (2003). Despite adoption of the Thirteenth Amendment, most former slaves found their status changed little. Bartley, *supra*, at 481. While the Amendment ensured that humans would no longer be considered property, it did not grant equality. *Id.* The institution of "Black Codes" in many states "returned the belief in sub-humans and restored the idea of human chattel . . . . Collectively, the 'Black codes' were intended to reduce the status of African Americans to a level just above slavery and to demolish thoughts of racial equality." *Id.* Since the adoption of the Constitution, the clause giving Congress "[p]ower to dispose of

complete power were in effect deemed by that same government not to be true citizens, but outsiders.<sup>66</sup> These doctrines were based on xenophobic, nativist, and racist sentiments. In the 1800s, the United States Supreme Court began articulating a doctrine that formally subordinated certain groups by allowing the government's political branches so-called plenary power to discriminate against indigenous peoples, inhabitants of the United States' overseas colonial possessions, and immigrants.<sup>67</sup> The doctrine was and continues to be used as a weapon to disenfranchise those groups universally recognized as the most vulnerable.<sup>68</sup> It is the plenary power doctrine and a similar one applied to African-Americans that formed the central constitutional vehicle to disenfranchise African-Americans and continues to support the subordination of indigenous peoples, as well as the inhabitants of the United States' island colonies.

During this era, the United States Supreme Court and Congress habitually rejected each and every statistically significant racial minority group seeking full citizenship status.<sup>69</sup> Between the mid-1800s to the early part of the 1900s—the period of “membership eugenics”—the United States Supreme Court issued a series of decisions ostensibly based upon immigration, national security, and overseas expansion, but ultimately established the inferior membership status of various minority groups. These cases include the infamous *Dred Scott v. Sandford*<sup>70</sup> and *Plessy v. Ferguson*<sup>71</sup> decisions with respect to

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and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States” has never been changed. U.S. CONST. art. IV, § 3, cl. 2. American Indians have long been subject to the plenary powers of the United States, variously attributed to the Constitution's war powers, U.S. CONST. art. I, § 8, cl. 11; treaty powers, U.S. CONST. art. II, § 2, cl. 2; and commerce clauses, U.S. CONST. art. I, § 8, cl. 3. Lawrence Baca, *The Legal Status of American Indians*, in 4 HANDBOOK OF AMERICAN INDIANS 230, 231 (1988). Finally, while the Thirteenth Amendment superseded the Constitution's article IV, section 2 requirement that slaves be returned to their owners, as noted earlier, it did not grant equality to persons of color. This deficiency facilitated the adoption of Jim Crow laws in several states, which were later ratified by the famous doctrine of “separate but equal” in *Plessy v. Ferguson*, 163 U.S. 537, 551-52 (1896).

66. Saito, *supra* note 65, at 429.

67. *Id.* at 432.

68. *Id.* at 429-31.

69. *See id.* at 447-77. Even though naturalization was also open to blacks after 1870, in only one case did a petitioner for citizenship even attempt to assert a claim other than on the basis of being “white.” *See Scott*, 60 U.S. 393.

70. 60 U.S. 393. Justice Taney opined:

The question before us is, whether the class of persons described in the plea in abatement compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word “citizens” in the Constitution, and can

African-Americans; *Elk v. Wilkins*,<sup>72</sup> *United States v. Kagama*,<sup>73</sup> and *Lone Wolf v. Hitchcock*<sup>74</sup> with respect to indigenous peoples; the *Chinese Exclusion Cases*<sup>75</sup> with respect to Asian immigrants; and the *Insular Cases*<sup>76</sup> with respect to the inhabitants of the island conquests. In each of these decisions, racial and ethnic minority groups challenged the propriety of governmental action on the grounds that it unconstitutionally discriminated against the particular group.<sup>77</sup> In each decision,

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therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the Government might choose to grant them.

*Id.* at 404-05.

71. 163 U.S. at 548-49 (holding that a statute requiring railroads carrying passengers to provide equal but separate accommodations for white or colored races was constitutional).

72. 112 U.S. 94, 109 (1884) (holding that an Indian born a member of one of the Indian tribes within the United States, which still exists and is recognized as a tribe by the government of the United States, who has voluntarily separated himself from his tribe and taken up his residence among the white citizens of a state, but who has not been naturalized or taxed or recognized as a citizen, either by the United States or by the state, is not a citizen of the United States within the Fourteenth Amendment).

73. 118 U.S. 375, 383-84 (1886) (holding that for so long as the Indians preserve their tribal relations, they owe no allegiance to the state in which they live, and the state has no power over them; but being within the limits of the United States, they are subject to acts of Congress).

74. 187 U.S. 553, 566 (1903) (holding that Congress may pass laws that conflict with treaties made with the Indians).

75. These cases grew out of the Chinese Exclusion Act of 1882, which prevented immigration of Chinese laborers. See Chinese Exclusion Act of 1882, 22 Stat. 58 (1882). Upon its original sunset, the law was expanded ten years later to tighten all immigration and travel from China. See Act to Prohibit the Coming of Chinese Persons into the United States of May 5, 1892, 27 Stat. 25 (1892).

76. There are nine cases that are most commonly referred to as the *Insular Cases*. See Efren Rivera Ramos, *The Legal Construction of American Colonialism: The Insular Cases (1901-1922)*, 65 REV. JUR. U.P.R. 225, 240 (1996). The *Insular Cases* include *DeLima v. Bidwell*, 182 U.S. 1 (1901); *Goetze v. United States*, 182 U.S. 221 (1901); *Grossman v. United States*, 182 U.S. 221 (1901); *Dooley v. United States*, 182 U.S. 222 (1901); *Armstrong v. United States*, 182 U.S. 243 (1901); *Downes v. Bidwell*, 182 U.S. 244 (1901); *Huus v. N.Y. & P.R.S.S. Co.*, 182 U.S. 392 (1901); *Dooley v. United States*, 183 U.S. 151 (1901); and *Fourteen Diamond Rings v. United States*, 183 U.S. 176 (1901). These cases determined the status and applicability of the United States Constitution to territories, facilitating U.S. imperialism without granting full citizenship rights to territorial residents. For a revisionist view of the doctrine established by the cases, see Christina Duffy Burnett, *United States: American Expansion and Territorial Deannexation*, 72 U. CHI. L. REV. 797 (2005).

77. See Burnett, *supra* note 76, at 833-70.

the Court used similar racial and xenophobic justifications to uphold disparate treatment.<sup>78</sup> With the exception of the treatment of African-Americans, the constitutional justification to support such unequal treatment was the inherent or plenary powers doctrine.<sup>79</sup>

In each of these cases, the United States Supreme Court concluded that even the most basic liberty protections, as a matter of constitutional law, did not apply to these groups. Generally, the Court based its holdings on international law principles and concluded that because Congress, the government's political branch, was primarily responsible for national security, issues that touched upon the status of individuals from sovereigns within and without the physical boundaries of the United States should be addressed primarily by the political branch of government rather than the judicial branch.

Though the following pages will demonstrate that each of the largest groups of color in this land suffered racism and exclusion, one could argue that the nature and form of oppression varied from group to group, therefore, their histories are dissimilar. As Professor Delgado observes, this country has historically victimized Mexicans, Asians, indigenous people, territorial island people, and African-Americans, but did so in different ways and oppressed these people for different reasons—typically for land or slave labor.<sup>80</sup> This disparity may lead some to conclude that these groups have less in common than what is proposed in this essay.<sup>81</sup> The more significant point, however, is not the form of oppression or reason for it, but the effectuation of that oppression and the common result of treating these people as something other than full and equal members of this society. The following section will accordingly briefly examine the common history of exclusion against each of these groups.

**1. The Indigenous People.** The plenary power of Congress over the indigenous nations stems from a series of Supreme Court decisions that began in 1823.<sup>82</sup> The doctrine sanctioned the repeated abuse of these indigenous peoples' rights, including continued breaches of treaties entered into with the United States government and theft of their

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78. *Id.*

79. *Id.*

80. Richard Delgado, *Derrick Bell's Toolkit—Fit to Dismantle that Famous House?*, 75 N.Y.U. L. REV. 283, 298 (2000).

81. *See id.* at 305.

82. *See* DAVID E. WILKINS, AMERICAN INDIAN SOVEREIGNTY AND THE U.S. SUPREME COURT: THE MASKING OF JUSTICE 25-27, 45 (1997) (discussing fifteen landmark cases where the United States Supreme Court truncated Indian human rights).

inhabiting lands.<sup>83</sup> The doctrine also justified paternalistic “wardship” over the indigenous people that typically resulted in the theft of their land and other rights.<sup>84</sup> For instance, Chief Justice John Marshall described the attitude of that era: “[T]he tribes of Indians inhabiting this country were fierce savages, whose occupation was war, and whose subsistence was drawn chiefly from the forest. To leave them in possession of their country, was to leave the country a wilderness. . . .”<sup>85</sup>

The subordinate status of the indigenous people was further confirmed in the 1884 case of *Elk v. Wilkins*.<sup>86</sup> John Elk, an indigenous person, renounced his tribal membership, became a Nebraska resident, and sought to register to vote.<sup>87</sup> Despite the passage of the Fourteenth Amendment, the Court determined that the Fourteenth Amendment was available only to persons who at birth were completely subject to United States jurisdiction.<sup>88</sup> Because indigenous nations were “distinct political communities” “within the territorial limits of the United States,”

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83. See generally DEE BROWN, *BURY MY HEART AT WOUNDED KNEE* (1970) (giving eyewitness accounts of the U.S. government's attempts to acquire Native Americans' land by using threats, deception, and murder); VINE DELORIA, JR., *BEHIND THE TRAIL OF BROKEN TREATIES* (1974) (raising questions about the status of Native Americans within the political landscapes); GLORIA JAHODA, *THE TRAIL OF TEARS* (1975) (describes how white settlers forced Indian tribes off plains).

84. See generally ROBERT A. WILLIAMS, JR., *THE AMERICAN INDIAN IN WESTERN LEGAL THOUGHT* (1990).

85. *Johnson v. McIntosh*, 21 U.S. 543, 590 (1823). The Court further stated:

The exclusion of all other Europeans, necessarily gave to the nation making the discovery the sole right of acquiring the soil from the natives, and establishing settlements upon it. It was a right with which no Europeans could interfere. It was a right which all asserted for themselves, and to the assertion of which, by others, all assented.

*Id.* at 573.

86. 112 U.S. 94, 102 (1886) (holding that if Native Americans born within the United States had not been naturalized and had not become a citizen through any treaty or statute, these Native Americans were not citizens within the meaning of the Fourteenth Amendment).

87. *Id.* at 94-95.

88. *Id.* at 102. The Court stated:

Indians born within the territorial limits of the United States, members of, and owing immediate allegiance to, one of the Indian tribes, (an alien though dependent power,) although in a geographical sense born in the United States, are no more 'born in the United States and subject to the jurisdiction thereof,' within the meaning of the first section of the [F]ourteenth [A]mendment, than the children of subjects of any foreign government born within the domain of that government, or the children born within the United States, of ambassadors or other public ministers of foreign nations.

*Id.*



they were not completely subject to United States jurisdiction.<sup>89</sup> Noting the exclusive, as well as the exclusionary, nature of United States citizenship, the Court concluded, “[N]o one can become a citizen of a nation without its consent,”<sup>90</sup> and because indigenous people “form[ed] no part of the people entitled to representation,”<sup>91</sup> they “were never deemed citizens.”<sup>92</sup>

The denial of membership to the indigenous people was premised on notions of inferiority. The group was characterized as existing in a state of “ignorance and mental debasement.”<sup>93</sup> The Supreme Court in *United States v. Ritchie*<sup>94</sup> declared, “From their degraded condition and ignorance generally, the privileges extended to them in the administration of the government must have been limited; and they still, doubtless, required its fostering care and protection.”<sup>95</sup> Professor Robert Porter recently observed that “Indians today have the status of a minor—acknowledged as citizens but not fully recognized as being able to care for [their] own affairs.”<sup>96</sup> United States citizens because they have been born on American soil, indigenous people are still regarded as part of their tribal communities and afforded rights and immunities subject to their tribal governments.<sup>97</sup> The application of the plenary powers doctrine constitutionalized the inferior citizenship status of indigenous people and resulted in Indian nations losing ninety million acres of reservation land, more than two-thirds of their former holdings.<sup>98</sup>

**2. The Territorial Island People.** The plenary powers doctrine is also the basis for the subordination of island inhabitants who were

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89. *Id.* at 98.

90. *Id.* at 103.

91. *Id.*

92. *Id.* at 100; see also Sarah H. Cleveland, *Powers Inherent in Sovereignty: Indians, Aliens, Territories, and the Nineteenth Century Origins of Plenary Power over Foreign Affairs*, 81 TEX. L. REV. 1, 57 (2002). Thus, even after the ratification of the Fourteenth Amendment, the United States courts continued to reject these people as full members. In *Johnson* the Court justified the taking of indigenous lands by looking to the international law principle of discovery, which basically concluded that land found by westerners belonged to westerners. 21 U.S. at 595.

93. *Goodell*, 20 Johns. at 720.

94. 58 U.S. 525 (1855) (holding that the title of the land to the purchaser in the purchaser’s petition to the board of commissioners setting forth his claim to the land against the government and others is confirmed).

95. *Id.* at 540.

96. Robert B. Porter, *The Demise of the Ongwehoweh and the Rise of the Native Americans: Redressing the Genocidal Act of Forcing American Citizenship Upon Indigenous Peoples*, 15 HARV. BLACKLETTER L.J. 107, 135 (1999).

97. *Id.*

98. Saito, *supra* note 65, at 441.

colonized by the United States.<sup>99</sup> The United States Supreme Court used the plenary powers doctrine to avoid extending island inhabitants full constitutional protections. In the period's major public policy debate, the Court in *Downes v. Bidwell*,<sup>100</sup> the leading *Insular Case*, concluded that the Constitution did not follow the flag.<sup>101</sup> "[T]he power to acquire territory by treaty," Justice Brown stated, "implie[d] not only the power to govern such territory, but to prescribe upon what terms the United States will receive its inhabitants, and what their status shall be in what Chief Justice Marshall termed the 'American Empire.'"<sup>102</sup> In sum, the plenary power of Congress arose from the inherent right to acquire territory and the Territorial Clause of the Constitution,<sup>103</sup> which endorsed the United States' treaty-making power and the power to declare and conduct war in other lands. According to the logic of the day, the Constitution applied to the territories only to the degree that Congress extended it to them.<sup>104</sup> As a result, for island inhabitants, there was never any pretense concerning the Fourteenth Amendment's applicability or equality for that matter.<sup>105</sup> These individuals did not receive citizenship through the Fourteenth Amendment, the vehicle used to grant or impose such status on virtually all other groups who have attained citizenship. Island inhabitants became associated with the United States as a consequence of their status as inhabitants of lands conquered by the United States. For the inhabitants of lands acquired in this manner, the United States Supreme Court concluded that the Territorial Clause in article IV, section 3 of the Constitution, and not the Fourteenth Amendment, determines the rights of this group.<sup>106</sup> As interpreted, this provision endowed Congress with complete or plenary power over these people.<sup>107</sup> In turn, the Court and Congress have kept island inhabitants in a subordinate and disenfranchised status.<sup>108</sup>

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99. Ediberto Roman, *The Alien-Citizen Paradox and Other Consequences of U.S. Colonialism*, 26 FLA. ST. U. L. REV. 1 (1998).

100. 182 U.S. 244 (1901).

101. *Id.* at 270-71.

102. *Id.* at 279.

103. U.S. CONST. art. IV, § 3, para. 2.

104. Ramos, *supra* note 76, at 246-47.

105. The label of alien-citizen can also theoretically apply equally to the other nonwhite citizens addressed in the previous section.

106. *Downes*, 182 U.S. at 285-86.

107. *DeLima*, 182 U.S. at 196 (quoting *Nat'l Bank v. County of Yankton*, 101 U.S. 129, 133 (1879)).

108. The island people who exist under the control of the United States but are not full members of the body politic reside in the island groups of Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, the United States Virgin Islands, the Federated States of Micronesia, the Marshall Islands, and the Republic of Palau. The island groups

The United States began its overseas expansion during the period of the Spanish-American War, which resulted in several Spanish territorial concessions. In the Treaty of Paris, Spain officially ceded “to the United States the island of Porto [sic] Rico and other islands now under Spanish sovereignty in the West Indies.”<sup>109</sup> Consistent with the United States Constitution’s grant of Congress’s plenary power under the Territorial Clause, article nine of the Treaty of Paris granted Congress the power over “[t]he civil rights and political status” of the territories and its people.<sup>110</sup> The Treaty of Paris endorsed the United States’ imperialistic venture as it was among the first times in American history that a treaty acquiring territory for the United States appeared to offer no promise of American citizenship.<sup>111</sup> In addition, the treaty contained “no promise, actual or implied, of statehood.”<sup>112</sup> As a result of the war, the United States formally acquired Puerto Rico, Guam, and the Philippines.<sup>113</sup> The U.S. Virgin Islands were later purchased from the Danish government in 1907.<sup>114</sup>

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examined here fall into two categories: the first group comprises the unincorporated United States territories, and the second group is the newly created sovereign, yet dependent, island groups of the South Pacific. The islands of Puerto Rico, the Northern Mariana Islands, Guam, the United States Virgin Islands, and American Samoa are so-called unincorporated territories. These island groups are dependent lands that the United States Supreme Court, in the series of decisions known as the *Insular Cases*, concluded were neither foreign countries nor part of the United States. *See, e.g., id.* The unincorporated territories undoubtedly should be classified as those existing under a colonial regime because the United States Congress has plenary or complete power to govern the territories, including the ability to nullify local laws and enact federal legislation dictating the rights of the inhabitants of those territories; none of the territories are fully incorporated as a state of the union or a sovereign nation. Although all inhabitants born in the territories are United States citizens (nationals in the case of Samoans), island inhabitants do not enjoy the same rights as citizens on the mainland and have no voting representation in the federal government. These last colonial indicia ensure that the island inhabitants do not receive the same amount of aid or other government largesse provided to similarly-situated citizens on the mainland, nor do these people have the ability to vote for President, Vice President, or any member of Congress.

109. Treaty of Peace Between the United States of America and the Kingdom of Spain, art. 2, U.S.-Spain, Dec. 10, 1898, 30 Stat. 1754.

110. *Id.* at art. 9; *see also* U.S. CONST. art. IV, § 3, cl. 2. (“The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.”).

111. JOSÉ A. CABRANES, CITIZENSHIP AND THE AMERICAN EMPIRE 5-6 & n.12 (1979).

112. *Id.*; *see also* Treaty of Peace, Friendship, Limits, and Settlement between the United States of America and the Mexican Republic, Feb. 2, 1848, 9 Stat. 122.

113. JULIUS W. PRATT, AMERICA’S COLONIAL EXPERIMENT 68 (1950).

114. CIA, *World Fact Book 2005*, available at <https://www.cia.gov/cia/publications/factbook/geos/cq.html> (last visited Mar. 15, 2007).

While the inhabitants of Puerto Rico, Guam, and the U.S. Virgin Islands have obtained a form of citizenship and Samoans have obtained the status of nationals, each membership differs from traditional Fourteenth Amendment citizenship. The consequential aspect of these colonized islanders' subordinate memberships is that, unlike their brethren on the mainland, islanders are not entitled to participate in the national political process;<sup>115</sup> they have no representation in Congress as residents of the territories, cannot vote for President and Vice President, and their respective territories bear no electoral rights. Further, island inhabitants are not entitled to full constitutional protection and, arguably, their limited citizenship status can be stripped at any time.<sup>116</sup>

The inhabitants of Puerto Rico received citizenship in 1917. Similarly, the unincorporated territory of Guam has been granted this same form of American citizenship, even though as a possession of the United States the island can be "bought, sold or traded by the federal government."<sup>117</sup> The residents of the Virgin Islands received United States citizenship in 1927, and the inhabitants of the Northern Mariana Islands attained it in 1976.<sup>118</sup> The residents of the unincorporated territory of American Samoa have received even less; as nationals, they have even fewer rights. Accordingly, the diluted form of citizenship granted to these people under Congress's Territorial Clause power changed little in terms of rights but merely facilitated a belief of belonging to the United States.

The inhabitants of these lands, with the exception of the Samoans, received a title that suggested equal rights and power in the political process; in actuality they received little more than a label, coupled with a perception on their part that they were attaining something of consequence. For the United States, the effect of these grants was that "[t]hose at the helm of all branches of the metropolitan government saw as fit that citizenship be granted for particular political and strategic

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115. EFREN RIVERA-RAMOS, *THE LEGAL CONSTRUCTION OF IDENTITY: THE JUDICIAL AND SOCIAL LEGACY OF AMERICAN COLONIALISM IN PUERTO RICO* 156 (2001) (observing that the residents of Puerto Rico retain an alien attribute despite being United States citizens as they cannot vote for President and Vice President and do not have representation in Congress).

116. See *Congressional Research Service Memorandum: Discretion of Congress Respecting Citizenship Status of Puerto Rico* (Mar. 9, 1989), in 2 *PUERTO RICO: POLITICAL STATUS REFERENDUM, 1989-1991* 81-85 (Puerto Rico Fed. Affairs Admin. ed., 1992).

117. H.R. 1720, 103d Cong. (1993).

118. Ramos, *supra* note 76.

reasons without effectuating a change in the political condition of the territories.”<sup>119</sup>

**3. African-Americans.** The inferior status of African-Americans did not derive from the plenary powers doctrine, but rather the United States Constitution, interpreted through similar racist constructions. As originally drafted, the Constitution excluded African-Americans in article I, section 2, which counted African-Americans as three-fifths of a free person.<sup>120</sup> In addition, the first Supreme Court decision to address the political status of African-Americans did not base its decision on the plenary powers doctrine; however, it did arise during the same period as that doctrine’s creation and employed similar racist and nativist bases to subordinate indigenous people, recent Asian immigrants, and inhabitants of United States’ island conquests.<sup>121</sup> Thus, while the case that sanctioned the disenfranchisement of African-Americans was technically not a plenary powers decision, it is analogous in terms of its white-supremacist foundation.

As a result of the atrocity of slavery and their resultant lack of a homeland other than the United States, African-Americans following the principle of *jus solis*, should have been recognized as American citizens, as they could not owe any allegiance to a government other than their

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119. *Id.* at 156. The disenfranchised status of residents of the island territories has not only caused inequality of political and civil rights, but has also manifested itself through unequal economic treatment. See 26 U.S.C. § 933 (2000) (Puerto Rican citizens, with the exception of federal employees, are exempt from federal income taxes on income earned in Puerto Rico). For instance, as a result of their subordinated status, residents of Puerto Rico receive less favorable treatment than the mainland citizens under a number of major federal benefits programs. For the residents of Puerto Rico, federal payments under Aid to Families with Dependent Children (AFDC), Medicaid, and food stamps are made at lower levels and are subject to an overall cap. See S. Rep. No. 101-481, at 10-11 (1990) (Conf. Rep.) (“Under present law, federal social welfare programs under the Social Security Act such as AFDC, Medicaid, Aid to the Aged, Blind and Disabled, Foster Care and Adoption Assistance, and Social Services block grant operate differently in Puerto Rico than they do in the states. Under statehood, both the amount of the welfare benefits and percentage of population receiving them would increase.”); see also T. Alexander Aleinikoff, *Puerto Rico and the Constitution: Conundrums and Prospects*, 11 CONST. COMMENT. 15, 15 (1994). Similarly, the Supplemental Security Income program (SSI) does not apply to Puerto Rico. See *Califano v. Torres*, 435 U.S. 1, 2 (1978) (holding that government benefits of a state citizen do not transfer when that citizen moves to Puerto Rico). Benefits under a similar program are capped and are made at lower levels than SSI payments made to eligible persons residing in the States. Benefits for needy children are likewise provided at appreciably lower levels. See 42 U.S.C. § 1396b (1994).

120. U.S. CONST. art. I, § 2, cl. 3.

121. *Scott*, 60 U.S. 393.

place of birth.<sup>122</sup> Thus, the principles of equality and membership should have always applied to African-Americans. However, they did not.

The court-sanctioned exclusion of African-Americans is most vivid in the United States Supreme Court's decision in *Scott v. Sandford*,<sup>123</sup> where the Court held that African-Americans, even those born in a free territory, were not United States citizens.<sup>124</sup> Irrespective of their title of free person or slave, the African-American could not become a full member of society.<sup>125</sup> In other words, because of the Court's endorsement of state-sanctioned racism and marginalization, nonwhites, such as African-Americans, were incapable of attaining full equality.

After the long, bloody, and destructive Civil War, the United States Constitution was amended and purportedly granted citizenship status

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122. Jonathon C. Drimmer, *The Nephews of Uncle Sam: The History, Evolution, and Application of Birthright Citizenship in the United States*, 9 GEO. IMMIGR. L.J. 667, 691 (1995).

123. 60 U.S. 393.

124. *Id.* at 404. After engaging in an extensive discussion of the meaning of citizenship, Justice Taney, writing for the Court, noted: "We think they [African-Americans] are . . . not included, and were not intended to be included, under the word 'citizens' in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States." *Id.* In that matter, the plaintiff, Dred Scott, was born into slavery in Virginia sometime around 1800. Scott's master, an Army doctor, eventually moved him to Minnesota, a jurisdiction that forbade slavery. Scott sued for his freedom, claiming that he was in a free territory and therefore could not be a slave in that land. *Id.* at 431-32.

125. See ERIC FONER, RECONSTRUCTION: AMERICA'S UNFINISHED REVOLUTION 1863-1877 25-26 (1988). Even Northern states did not grant equality and full citizenship to the free black population prior to the Civil War. As Foner synthesizes:

[T]he war . . . held out hope for an even more radical transformation in the condition of the tiny, despised black population of the free states. Numbering fewer than a quarter million in 1860, blacks comprised less than 2 percent of the North's population, yet they found themselves subjected to discrimination in every aspect of their lives. Barred in most states from the suffrage, schools, and public accommodations, confined by and large to menial occupations, living in the poorest, unhealthiest quarters of cities like New York, Philadelphia, and Cincinnati, reminded daily of the racial prejudice that seemed as pervasive in the free states as in the slave, many Northern blacks had by the 1850s all but despaired of ever finding a secure and equal place within American life. Indeed, the political conflict between free and slave societies seemed to deepen racial anxieties within the North. The rise of political antislavery in the 1840s and 1850s was accompanied by the emergence of white supremacy as a central tenet of the Northern Democratic party, and by decisions by Iowa, Illinois, Indiana, and Oregon to close their borders entirely to blacks, reflecting the fear that, if slavery weakened, the North might face an influx of black migrants.

*Id.* (citing LEON F. LITWACK, NORTH OF SLAVERY: THE NEGRO IN THE FREE STATES, 1790-1860 (1961)).

to “all persons” born in the United States.<sup>126</sup> Nonetheless, as W.E.B. DuBois questioned after the Civil War, serious doubts persisted as to whether African-Americans were not only free, but also political persons.<sup>127</sup> DuBois noted that the Fourteenth Amendment emancipates a multitude with no political rights. Accordingly, while the perception of many may have been that emancipation would immediately evolve to enfranchisement, that conclusion was far from the case, just as

126. U.S. CONST. amend. XIV, § 1.

127. W.E.B. DUBOIS, *BLACK RECONSTRUCTION IN AMERICA: AN ESSAY TOWARD A HISTORY OF THE PART WHICH BLACK FOLK PLAYED IN THE ATTEMPT TO RECONSTRUCT DEMOCRACY IN AMERICA, 1860-1880* 289 (1935). Dubois observed:

It is clear that from the time of Washington and Jefferson down to the Civil War, when the nation was asked if it was possible for free Negroes to become American citizens in the full sense of the word, it answered by a stern and determined “No!” The persons who conceived of the Negroes as free and remaining in the United States were a small minority before 1861, and confined to educated free Negroes and some of the Abolitionists . . . . Were we not loosing a sort of gorilla into American freedom? Negroes were lazy, poor and ignorant. Moreover their ignorance was more than the ignorance of whites. It was a biological, fundamental and ineradicable ignorance based on pronounced and eternal racial differences. The democracy and freedom open and possible to white men of English stock, and even to Continental Europeans, were unthinkable in the case of Africans.

*Id.* at 132. Carl Schurz, German immigrant, intellectual, and idealist, who traveled the South extensively in preparing a report on the reconstruction efforts in the Gulf states for President Johnson, found the situation little improved in the years after the war. DuBois quotes from Schurz’s account at length and also finds corroboration from reports from several states to the congressional Joint Committee on Reconstruction. Among Schurz’s observations:

The emancipation of the slaves is submitted to only in so far as chattel slavery in the old form could not be kept up. But although the freedman is no longer considered the property of the individual master, he is considered the slave of society, and all independent state legislation will share the tendency to make him such. The ordinances abolishing slavery passed by the conventions under the pressure of circumstances will not be looked upon as barring the establishment of a new form of servitude . . . . Wherever I go—the street, the shop, the house, the hotel, or the steamboat—I hear the people talk in such a way as to indicate that they are yet unable to conceive of the Negro as possessing any rights at all. Men who are honorable in their dealings with their white neighbors, will cheat a Negro without feeling a single twinge of their honor. To kill a Negro, they do not deem murder; to debauch a Negro woman, they do not think fornication; to take property away from a Negro, they do not consider robbery. The people boast that when they get freedmen’s affairs in their own hands, to use their own expression, “the [expletive] will catch hell.” The reason of all this is simple and manifest. The whites esteem the blacks their property by natural right, and however much they admit that the individual relations of masters and slaves have been destroyed by the war and by the President’s emancipation proclamation, they still have an ingrained feeling that the blacks at large belong to the whites at large.

*Id.* at 136.

DuBois feared.<sup>128</sup> Despite theoretically attaining citizenship and its related rights and anointments of belonging, African-Americans were subsequently and repeatedly treated in an unequal manner,<sup>129</sup> notwithstanding the enactment of the Fourteenth Amendment, which was supposed to grant them full citizenship status.<sup>130</sup> Though *Brown v. Board of Education*<sup>131</sup> specifically rejected the separate but equal dichotomy of *Plessy*, even that decision failed to lift segregation's stigma in public schools, as evidenced by the *Brown II* decision,<sup>132</sup> its progeny, and the social phenomenon of white-flight.

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128. *Id.* at 180. Reconstruction evoked great fear of political equality in the South, which had already begun passing black codes in many of its states. DuBois analyzed the South's outlook:

Here, then, was the dominant thought of that South with which Reconstruction must deal. Arising with aching head and palsied hands it deliberately looked backward. There came to the presidential chair, with vast power, a man who was Southern born; with him came inconceivable fears that the North proposed to make these Negroes really free; to give them a sufficient status even for voting, to give them the right to hold office; that there was even a possibility that these slaves might out-vote their former masters; that they might accumulate wealth, achieve education, and finally, they might even aspire to marry white women and mingle their blood with the blood of their masters.

*Id.* Nevertheless, lest the North attempt to claim the moral upper hand on enfranchisement issues, one must recall that voting was still a privilege for "whites only" in states like Ohio, Maryland (a split loyalty state during the Civil War), and New Jersey in 1867. See JOHN HOPE FRANKLIN, RECONSTRUCTION: AFTER THE CIVIL WAR 74 (Univ. of Chicago Press 1961).

129. See STETSON KENNEDY, JIM CROW GUIDE: THE WAY IT WAS (1990).

130. Scholars have chronicled the pre-Civil War, as well as post-Civil War, disenfranchisement of African-Americans. These chronicles trace the post-Civil War efforts by white Southerners to immediately attempt to implement a de facto form of slavery through efforts such as the "Black Codes," which were designed to ban political participation in particular, and destroy any pretense of equality, in general. These oppressive efforts occurred with the full support of President Andrew Johnson. The continued disparate treatment of these people, which was often sanctioned by the Court, created the de facto inferior citizenship status of this group. For instance, despite the passage of the Fourteenth Amendment, in *Plessy*, Justice Brown, writing for the majority, upheld a statute that required the segregation of white and "colored" persons. Justice Brown based his discussion on a constructed distinction between social and legal equality. He concluded that "[t]he object of the [Fourteenth] [A]mendment was undoubtedly to enforce the absolute equality of the two races before the law, but, in the nature of things, it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political, equality . . ." *Plessy*, 163 U.S. at 544. The Court rejected petitioner's argument that the separation of the two races stamped one race with a badge of inferiority. See *id.*

131. 347 U.S. 483 (1954). The Court overturned *Plessy* and the "separate but equal" doctrine, holding that it had no place in public education. *Id.* at 495. Segregation was a denial of the equal protection of the laws under the Fourteenth Amendment and separate educational facilities were "inherently unequal." *Id.*

132. *Brown v. Bd. of Educ.*, 349 U.S. 294 (1955).



**4. Mexican-Americans.** Mexican-Americans were also denied full membership during the membership eugenics period. Their entry into the membership debate arose during the same period of the first use of the plenary powers doctrine and their denial of rights were similarly based on racist and nativistic perspectives. As one writer noted: “Fifty years before the pilgrims landed at Plymouth Rock, there were [Latino and Latina] urban centers in New Mexico and in Florida. Yet [Latinos and Latinas], according to most Americans, are our most recent arrivals—and they have some basis for thinking that.”<sup>133</sup> Many Americans know that the United States conquered land from the indigenous people consisting of approximately “two million square miles of territory by conquest and by purchase.”<sup>134</sup> What is not as well known is that the United States conquered Mexico in 1848 and took over half its then-existing territory. The states of California, Nevada, and Utah, as well as portions of Colorado, New Mexico, Arizona, and Wyoming were created from a 529,000 square mile cession by the Republic of Mexico.<sup>135</sup>

As Professor Richard Delgado observed:

The Treaty of Guadalupe Hidalgo . . . purported to guarantee to Mexicans caught on the U.S. side of the border full citizenship and civil rights, as well as protection of their culture and language. The treaty, modeled after ones drawn up between the U.S. and various Indian tribes, was given similar treatment: The Mexicans’ “[l]and and property were stolen, rights were denied, language and culture suppressed, opportunities for employment, education, and political representation were thwarted.”<sup>136</sup>

Mexican-Americans were disenfranchised in numerous other ways, including immigration: “The Constitution and the courts [did] little to interfere with racist immigration quotas, the Bracero system, and dragnet searches, seizures and deportations of anyone who look[ed] Mexican.”<sup>137</sup>

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133. Harry Pachon, *Special Report: What Color Is the Constitution? Crossing the Border of Discrimination: Has the Civil Rights Movement Ignored Generations of Hispanics?*, 15 HUM. RTS. Q. 32, 33 (1988).

134. Christine A. Klein, *Treaties of Conquest: Property Rights, Indian Treaties, and the Treaty of Guadalupe Hidalgo*, 26 N.M. L. REV. 201, 201 (1996).

135. *Id.*

136. Richard Delgado, *Derrick Bell and the Ideology of Racial Reform: Will We Ever Be Saved? And We Are Not Saved: The Elusive Quest for Racial Justice*, 97 YALE L.J. 923, 940 (1988) (review essay) (quoting ARMANDO RENDON, CHICANO MANIFESTO 71 (1971)).

137. *Id.*

In theory, the Treaty, which ended the Mexican-American War of 1846 to 1848, promised “grace and justice” by codifying the principal diplomatic objective[s] of each party. For the United States, “grace” meant purchasing, for the bargain-basement price of \$15 million, [thousands and thousands of acres of former Mexican territories]. For Mexico, “justice” meant protecting the civil and property rights of Mexican citizens, including Indians, who without moving had suddenly become new residents [and citizens] of a foreign nation.<sup>138</sup>

As one writer observed:

In the Treaty of Guadalupe Hidalgo and in numerous Indian treaties, the United States promised to respect property rights of the conquered. To make such promises during the nation’s idealistic youth or during its feverish expansion across a seemingly-unlimited continent is one thing; to keep them is quite another.<sup>139</sup>

Despite the grant of United States citizenship pursuant to the Treaty of Guadalupe Hidalgo in 1848, over one hundred years later Mexican-Americans were still not accepted as full citizens.<sup>140</sup> For instance, in 1954 the United States government initiated “Operation Wetback,” the campaign to deport undocumented Mexicans. During this massive campaign, over one million Mexican immigrants, as well as United States citizens of Mexican ancestry, and undoubtedly other Latinas and Latinos, were deported.

**5. Asian and Other Nonwhite Immigrant Groups.** Asian and other immigrant groups have also experienced rejection during the period of membership engenicis. An example of the inferior status of other nonwhites is the historical use of the plenary powers doctrine to justify the deportation and exclusion of undesirable Asian immigrants who otherwise were entitled to enter or stay in the United States. In 1889, in the *Chinese Exclusion Cases*, the United States Supreme Court first extended the plenary powers doctrine to immigration. In *Chae Chan Ping v. United States*,<sup>141</sup> the plaintiff, a Chinese resident,

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138. Christopher David Ruiz Cameron, *Mexican Americans in the United States on the Sesquicentennial of the Treaty of Guadalupe Hidalgo*, 5 SW. J. L. & TRADE AM. 5, 6 (1998).

139. Klein, *supra* note 134, at 253; *see also* Guadalupe T. Luna, *On the Complexities of Race: The Treaty of Guadalupe Hidalgo and Dred Scott v. Sandford*, 53 U. MIAMI L. REV. 691, 698-700 (1999).

140. JUAN RAMON GARCIA, OPERATION WETBACK: THE MASS DEPORTATION OF MEXICAN AMERICAN UNDOCUMENTED WORKERS IN 1954 229-31 (1980); *see also* JULIAN SAMORA, LOS MOJADOS: THE WETBACK STORY 52 (1971).

141. 130 U.S. 581, 609 (1889) (holding that entry into the United States could be denied to Chinese laborers because Congress had authority under the sovereign powers delegated

obtained a required certificate of reentry pursuant to an 1884 law established by Congress and visited his family in China. Prior to his return, Congress passed a new law precluding reentry of all Chinese workers, irrespective of whether they had a certificate of reentry.<sup>142</sup> The Supreme Court rejected the claim that the government had violated an international treaty.<sup>143</sup> Though acknowledging a technical violation of the treaty with China, the Court decided to enforce the Congressional action under the “last in time rule,” whereby a court would uphold a federal law that conflicted with a treaty even if it violated international law.<sup>144</sup> In subsequent cases, the Supreme Court iterated Congress’s power to regulate the rights of immigrants, which was deemed an inherent power of the government to protect itself from foreign threats. In practice, then as it is now, the foreign immigration threat was categorized in racial constructions as nonwhite.<sup>145</sup>

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by the Constitution to exclude foreigners and that any existing treaty with China did not strip them of their power).

142. *Id.* at 589-90.

143. *Id.* at 589-600.

144. *See id.* at 600-03.

145. Unfortunately, the other means of attaining membership status under the Citizenship Clause of the Fourteenth Amendment has been applied in an equally racist manner as recently documented in the book *White By Law*, where Ian Haney Lopez chronicled the history of United States naturalization law. IAN HANEY LOPEZ, *WHITE BY LAW* (2000). Pursuant to Article I of the United States Constitution, Congress is empowered “to establish a uniform rule of naturalization.” *Id.* at 42. Haney Lopez observed that “from the start, Congress exercised this power in a manner that burdened naturalization laws with racial restrictions that tracked those in law of birth-right citizenship.” *Id.* For instance, the first naturalization act enacted in 1790 limited naturalization to “any alien, being a free white person who shall have resided within the limits and under the jurisdiction of the United States for a term of two years.” *Id.* For over 162 years, race was a determining factor in whether one could become naturalized. It was only in 1870, after the Civil War, that African-Americans could be naturalized. From 1870 until 1952, when strict white versus black racial prerequisites were abolished, whites and blacks could be naturalized, but other minority group members, particularly Asians, could not. *Id.* at 42-43. During the period of these racial prerequisites, applicants from Hawaii, China, Japan, Burma, and the Philippines, as well as all mixed-race applicants, failed in their naturalization arguments before courts. *Id.* at 61. Courts, however, concluded that applicants from Mexico and Armenia were “white,” but vacillated over the whiteness of applicants from India, Syria, and Arabia. *Id.* at 61, 67-77. Not only were these naturalization laws shameful examples of this country’s racist hostility to nonwhites, but these hostilities were specifically expressed, ironically, through the concept of citizenship. Haney Lopez cogently summarized the effect of such exclusionary efforts: The prerequisite cases make clear that law does more than simply codify race in the limited sense of merely giving legal definition to pre-existing social categories. Instead, legislatures and courts have served not only to fix boundaries of race in the forms we recognize today, but also to define the content of racial identities and to specify their relative privilege or disadvantage in United States society. The operation of law does far

## V. CONCLUSION

Coalitions, conflict, and civil rights are as much today the subject of great interest and debate as they were during the civil rights era of the 1960s. Not unlike the differences between Martin Luther King, Jr. and Malcolm X, civil rights advocates of the day differ greatly on whether coalitions should be formed and if so, what form they should take. This essay departs in aspects from both sides of the debate. It rejects the cynicism associated with detractors of inter-minority group coalitions, and it provides a concrete rallying point for coalition formation, unlike many advocates of such movements that merely refer to the need for common ground. Be they labeled members of a political race, people of color, or some other construction, the marginalized racial and ethnic minorities of this land must begin their political mobilization by recalling their common struggle against repression.

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more than merely legalize race; it defines the spectrum of domination and subordination that constitutes race relations. *Id.*