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3 **INCOMPLETENESS AND THE**
5 **POSSIBILITY OF MAKING:**
7 **TOWARDS DENATIONALIZED**
9 **CITIZENSHIP?**
11

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15

17 **ABSTRACT**

19 *The changing articulation of citizenship is traced, both in relation to the*
21 *national and the global. Conceiving of citizenship as an incompletely*
23 *theorized contract between the state and the citizen, and locating her*
25 *inquiry at that point of incompleteness, the author opens up the discussion*
27 *to the making of the political. The central thesis is that the incompleteness*
29 *of the formal institution of citizenship makes it possible for the outsider to*
31 *claim for expanded inclusions. It is the outsider, whether a minoritized*
citizen or an immigrant, who has kept changing the institution across time
and space. Times of unsettlement make this particularly visible. The
current period of globalization is one such period, even though this is a
partial unsettlement. New types of political actors are taking shape,
changing the relationship between the state and the individual, and
remaking the political.

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1 Beneath the reinvigorated imperial logics that organize the political
2 economy of the US today, emergent social dynamics are enabling
3 disadvantaged and minoritized groups to *make* new forms of the political
4 (Young, 2002; Fraser, 2007; Yuval-Davis, 1999; Bada, Fox, & Selee, 2006;
5 Nussbaum, 2008; Bartlett, 2007; Smith, 2003; Bonilla-Silva, 2003). New
6 types of political actors are taking shape, changing the relationship between
7 the state and the individual (Bosniak, 2006; Shachar, 2009; Westbrook,
8 2007). The particular aspect in this larger configuration that I pursue here
9 concerns the fact that this is a period when once again citizenship reveals
10 itself to be an open condition notwithstanding its high level of formaliza-
11 tion. Elsewhere (Sassen, 2008, Chap. 6; 1996, Chap. 3).¹ I have developed
12 the argument that citizenship is an incompletely theorized contract between
13 the state and the citizen. This incompleteness makes it possible for a highly
14 formalized institution to accommodate change – more precisely, to
15 accommodate the possibility of responding to change without sacrificing
16 its formal status. Second, my argument is that the longevity of the
17 institution suggests that it is *meant* to be incomplete, that is to say, capable
18 of responding to the historically conditioned meaning of citizenship.
19 Incompleteness brings to the fore the work of making, whether it is making
20 in response to changed conditions, new subjectivities, or new instrumen-
21 talities. Finally, it is the outsider and the excluded who have been key
22 makers of this incompleteness by subjecting the institution to new types of
23 claims across time and space – from rights to citizenship by nonproperty
24 owners to fullness of marriage rights by gays and lesbians. There are
25 elements in these dynamics of transformation that only become formalized
26 long after the original claim-making, and hence in their time are easily
27 thought of as prepolitical. But I argue that these elements are better defined
28 as informal or not-yet-formalized types of politics.

29 I locate my inquiry at this point of incompleteness so as to open up the
30 analysis to the role played by the *making* of the political, especially by the
31 excluded. A critical distinction in my analysis is that between the
32 incompleteness of a formalized institution and the formal exclusions it
33 contains. The latter pertains to what is a visible excluding (such as foreign-
34 born who are not naturalized, or nonwhites and nonproperty owners in
35 earlier times in the United States). The incompleteness that concerns me
36 here is of a specific sort. It does not pertain to what is left out knowingly,
37 and perhaps necessarily, in the process of formalizing, and which can
38 become highly visible through this excluding. Rather the kind of
39 incompleteness that concerns me is integral to the condition of being
40 formalized.² It is rendered invisible by the fact itself of full formalization. It

1 is not captured by Weber's concept of the iron cage. I am interested in the
frictions between the formalized and the incomplete. Incompleteness enables
3 a formal institution to incorporate change, including change that is
potentially lethal to that institution. Formal institutions generally cannot
5 avoid the unsettlements of daily life, and more generally, the conflicts that
mark an epoch, a period. Some formalized institutions are sufficiently
7 abstract to escape with only minor chinks in their armor. But this is not the
case with institutions that encase critical and contested components of daily
9 life or of an epoch, such as citizenship. These institutions can be brought
down, no matter how powerful their formalization and their supporters. The
11 divinity of the sovereign in medieval times and slavery in modern times are
two grand cases of the fall of formalized institutions.

13 The conceptualizing of these various issues is organized here by the
proposition that insofar as citizenship is at least partly and variably shaped
15 by the conditions within which it is embedded, conditions that have changed
in specific and general ways, today we may well be seeing yet another set of
17 changes in the institution itself as we enter a new global phase. These
changes may not yet be formalized and some may never become fully
19 formalized. Today, one of the critical dynamics of change is globalization in
its multiple incarnations, from organizational to subjective.

21 In my work I have long insisted that it is a mistake to see the global and
the national as mutually exclusive and in some sort of zero-sum relationship
23 –what one gains, the other loses (e.g., Sassen, 1996, 2008). I find and
theorize that the national, including the national state, is one of the strategic
25 institutional locations for the global. That is to say, some of the larger
contextual changes which may carry specific consequences for citizenship in
27 our current era include changes in the national. Thus citizenship, even if
situated in institutional settings that are “national,” is a possibly changed
29 institution if the meaning of the national itself has changed. The changes
brought about by globalizing dynamics in the territorial and institutional
31 organization of state authority are also transforming citizenship.

I interpret these types of changes as a partial and often incipient
33 denationalizing of citizenship to distinguish it from postnational and
transnational trends, which are also taking place. With the term
35 “denationalization” I seek to capture something that remains connected
to the “national” as constructed historically and is indeed profoundly
37 imbricated with it but is so on historically new terms of engagement.
“Incipient” and “partial” are two qualifiers I find useful in my discussion of
39 denationalization. From the perspective of nation-based citizenship theory,
some of these transformations might be interpreted as a decline or

1 devaluation of citizenship, but I argue that this is rather a feature of that
 3 complex incompleteness that marks the institution which allows it to
 5 accommodate transformations without sacrificing its formal status. Some of
 7 the transformations that are linked to particular features of globalization –
 9 notably the denationalizing of the national – are easily obscured by the fact
 11 that the institution remains embedded in the language, the code, the
 representations of the national. Here I examine formal and informal
 changes in the rights of citizens, in citizens’ practices, and in the subjective
 dimensions of the institution. By including nonformalized “rights,”
 practices, and subjectivities, the analysis can grasp instabilities and
 possibilities for further change in the institution.

13

AN INCOMPLETE SUBJECT

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17 The rights articulated through the subject of the citizen are of a particular
 19 type and cannot be easily generalized to other types of subjects. Yet the
 21 complexity and multiple tensions built into the formal institution of
 citizenship make it a powerful heuristic for examining the question of rights
 generally and the specific case of rights issued by national states. The type of
 contextualizing I advance here brings to the fore the particularity of what is
 often universalized: the *national* citizen as a rights-bearing subject.

23

25 Elsewhere (Sassen, 2008, Chaps. 2 and 3) I have examined the active
 27 making of diverse kinds of rights-bearing subjects. For instance, the *making*
 of a citizen-subject in medieval times issued out of the active *making* of
 urban law by urban burghers. England and the United States in the 1800s
 saw the shaping of a fully enabled property-owning citizen (epitomized by
 the industrial bourgeoisie) and a disadvantaged citizen (the normally male
 factory worker), an inequality formalized in the law. The 1900s saw the
 partial remaking of this disadvantaged citizen through civil and workplace
 struggles: disadvantaged subjects fought for and gained several formal
 rights. These are just a few instances in recent Western history. Struggles for
 making a rights-bearing subject have happened across the centuries and
 around the world, with vast variations of form and content. The modern
 21st century citizen arising out of the nation-state is also being remade in
 bits and pieces, even though formally this category may appear permanent.

37

39 My focus here is on how this highly formalized institution confronts
 today’s changes in the larger social context, in the law, in political
 subjectivities, and in discursive practices. A key element bringing these
 various histories together, as well as securing the durability of the institution

1 of citizenship, has been the larger historical project usually described as the
development of the modern state: the project to render national major
3 institutions that might well have followed a different trajectory, and to some
extent did for most of the recorded history.

5 Political membership as a national category is today an inherited
condition, one that is experienced as a given rather than as a process of
7 *making* a rights-bearing subject. And while its making in Europe arose out
of the conditions of the cities, from the Greek city-states to the cities of the
9 Late Middle Ages, today it is generally understood to be inextricably
articulated with the national state (Himmelfarb, 2001; see Abu-Lughod,
11 1989 for another geography of this history of political membership). Yet
today's significant, even if not absolute, transformations in the condition of
13 the national generally, and the national state in particular, help make visible
the historicity of the formal institution of citizenship and thus show its
15 national spatial character as but one of several possible framings. Both the
nation-state and citizenship have been constructed in elaborate and formal
17 ways. And each has evolved historically as a tightly packaged bundle of
what were often rather diverse elements.

19 Some of the main dynamics at work today are destabilizing these national
bundlings and bring to the fore both the fact itself of that bundling and its
21 particularity. The work of making and formalizing a unitary packaging for
diverse elements comes under pressure today in both formalized (e.g., the
23 granting of dual nationality and recognition of the international human
rights regime) and nonformalized ways (e.g., granting undocumented
25 immigrants in the United States the "right" to mortgages so they can buy
homes). Among the destabilizing dynamics at work are globalization and
27 digitization, both as material processes and as signaling subjective
possibilities or imaginaries. In multiple ways they perform changes in the
29 formal and informal relationships between the national state and the citizen.
There are also a range of emergent political practices often involving
31 hitherto silent or silenced population groups and organizations. Through
their destabilizing effects, these dynamics and actors are producing
33 operational and rhetorical openings for the emergence of new types of
political subjects and new spatialities for politics. More broadly, the
35 destabilizing of national state-centered hierarchies of legitimate power and
allegiance has enabled a multiplication of nonformalized or only partly
37 formalized political dynamics and actors.

Today's condition of unsettlement helps make legible the diversity of
39 sources and institutional locations for rights, as well as the changeability
and variability of the rights-bearing subject that is the citizen,

1 notwithstanding the formal character of the institution. We can detect a
2 partial redeployment of specific components of citizenship across a wide
3 range of institutional locations and normative orders, going well beyond the
4 national bond. These are components that have been held together rather
5 tightly for the last 100 years. We also can detect a growing range of sites
6 where formal or experiential features of citizenship generate instability in the
7 institution, and hence the possibility of changes.

8 Analytically, I distinguish between citizenship markers arising from the
9 formal apparatus of the nation-state, including citizenship as a formal
10 institution, on the one hand, and, on the other, citizenship markers arising
11 outside that formal apparatus (that can, at the limit, signal types of informal
12 citizenship). Among the first I include, the changing relationship between
13 citizenship and nationality, the increasingly formalized interaction between
14 citizenship rights and human rights, the implications for formal citizenship
15 of the privatizing of executive power along with the erosion of citizens'
16 privacy rights, and the elaboration of a series of portable citizenship rights
17 for high-level professionals engaged in novel types of formal cross-border
18 economic transactions (Sassen, 2008, Chaps. 4–6).

19 Among the second I include a range of incipient and typically not
20 formalized developments in the institution that can be organized into three
21 types of empirical cases. One category is the processes that alter a status and
22 involve both informal and formal institutional environments. Two examples
23 illustrate the range of possible instances. One is the fact that international
24 human rights enter the national court system through an often rather
25 informal process, which with time can become stabilized and eventually
26 made part of national law. The other is the fact that undocumented
27 immigrants who demonstrate long-term residence and good conduct can
28 make a claim for regularization on the basis, ultimately, of their long-term
29 violation of the law because this temporal dimension points to, in my
30 reading, the active making by the immigrant of the material conditions
31 supporting that claim (e.g., sustaining the duties of neighborliness,
32 parenthood, employee, etc., over many years). These types of dynamics
33 are good examples of one of the theses that have organized much of my
34 research in previous work: excluded actors and not fully formalized norms
35 are factors that can make history, even though they become recognized only
36 when formalized. A second type of empirical case is the variety of
37 components usually bundled with the set of formal citizenship rights even
38 though their legal status is of a different sort. A possible way of categorizing
39 these components is in terms of practices, identities, and locations for the
40 enactment of citizenship (see Bosniak, 2000a). This differentiation allows me

1 to focus on subjects who are by definition categorized as not political in the
formal sense of the term, such as the subject that is the “housewife” or the
3 “mother,” but who may have considerable political agency and be an
emergent political actor. And the third type of empirical example is that of
5 subjects not quite fully authorized by the law, such as undocumented
immigrants, but who can nonetheless function as bearers of partial rights
7 (e.g., the right to wages for work done) and, more generally, as part of a
larger informal political landscape.

9 One of the critical institutional developments that gives meaning to such
informal political actors and practices is the thesis that the formal political
11 apparatus today accommodates less and less of the political. While the
United States is perhaps emblematic of this shrinking presence of “the”
13 political in the formal state apparatus, it is a condition that I argue is
increasingly evident in a growing number of “liberal democracies.”

15

17

19 **WHEN THE GLOBAL TRIANGULATES BETWEEN THE NATION-STATE AND CITIZENSHIP**

21 Some of the major transformations occurring today under the impact of
globalization may give citizenship yet another set of features as it continues
23 to respond to the conditions within which it is embedded. The nationalizing
of the institution that took place over the last few centuries may give way to
25 a partial denationalizing. A fundamental dynamic in this regard is the
growing articulation of globalization with national economies and the
27 associated withdrawal of the state from various spheres of citizenship
entitlements, with the possibility of a corresponding dilution of loyalty to
29 the state. In turn, citizens’ loyalty may be less crucial to the state today than
it was at a time of intense warfare and its need for loyal citizen-soldiers.

31 Global firms and global markets mostly benefit from peace among the
rich countries –with the exception of firms and markets involved in war
33 industries. The “international” project represented by such firms and
markets is radically different from what it was in the 19th and first half of
35 the 20th centuries. This became evident in the debates leading up to the
invasion of Iraq in 2003, an event that renationalized politics. Except for
37 highly specialized sectors, such as oil- and war-linked supplies and services,
global firms in the United States and elsewhere were basically opposed to
39 the invasion. Also the position of the citizen has been markedly weakened
by states’ concern with national security, especially that of the United

1 States; this introduces yet another variable that can blur the differences
2 between being and not being a citizen. Where previous nationality could
3 determine designation as a suspect resident citizen, as for example, Germans
4 and Japanese in the United States during World War II, today all citizens
5 are, in principle, suspect in the United States given the government's "War
6 on Terror."

7 Many of the dynamics that built economies, polities, and societies in the
8 19th and 20th centuries involved an articulation between the national scale
9 and the growth of entitlements for citizens. This articulation was not only a
10 political process; it contained a set of utility functions for workers, for
11 property owners, and for the state. These utility functions have changed
12 since the 1970s. During industrialization, class formation, class struggles,
13 and the advantages of employers or workers tended to scale at the national
14 level and became identified with state-produced legislation and regulations,
15 entitlements, and obligations. The state came to be seen as a key to ensuring
16 the well being of significant portions of both the working class and the
17 bourgeoisie. The development of welfare states in the 20th century resulted
18 in good part from the struggles by workers whose victories contributed to
19 actually make capitalism more sustainable; advantaged sectors of the
20 population, such as the growing middle class, also found their interests
21 playing out at the national level and supported by national state planning,
22 such as investment in transportation and housing infrastructure. Legisla-
23 tures (or parliaments) and judiciaries developed the needed laws and systems
24 and became a crucial institutional domain for granting entitlements to the
25 poor and the disadvantaged.

26 Today, the growing weight given to notions of the "competitiveness" of
27 states puts pressure on the particular utility functions of that older phase,
28 and new rationales are developed for cutting down on those entitlements,
29 which in turn weakens the reciprocal relationship between the citizen and
30 the state. This weakening relationship takes on specific kinds of content for
31 different sectors of the citizenry. The loss of entitlements among poor and
32 low-waged workers is perhaps the most visible case (Munger, 2002), but the
33 impoverishment of the old traditional middle classes evident in a growing
34 number of countries around the world is not far behind. Finally, the
35 intergenerational effects of these trends signal more change. Thus the
36 disproportionate unemployment among the young and the fact that many of
37 them develop only weak ties to the labor market, once thought of as a
38 crucial mechanism for the socialization of young adults, will further weaken
39 the loyalty and sense of reciprocity between these future adults and the state
(Roulleau-Berger, 2002).

1 As these trends have come together at the turn of the 21st century they are
2 destabilizing the meaning of citizenship as it was forged in the 19th and most
3 of the 20th centuries. The growing emphasis on notions of the “competitive
4 state” and the associated emphasis on markets have brought into question
5 the foundations of the welfare state broadly understood – that is, the idea
6 that the state bears responsibilities for the basic well-being of its citizens,
7 and that the state’s utility function is to be distinguished from that of private
8 firms (Aman, 1998, 2004; Schwarcz, 2002; Hall & Biersteker, 2002). For
9 Marshall (1977) and many others, the welfare state is an important
10 ingredient of social citizenship; the reliance on markets to solve political and
11 social problems is seen, at its most extreme, as a savage attack on the
12 principles of citizenship (Saunders, 1993). For Saunders, citizenship
13 inscribed in the institutions of the welfare state is a buffer against the
14 vagaries of the market and the inequalities of the class system.

15 The nature of citizenship has also been challenged by the erosion of
16 privacy rights “justified” by the declaration of national emergencies, as well
17 as by a proliferation of old issues that have gained new attention. Among
18 the latter are the question of state membership of aboriginal communities,
19 stateless people, and refugees.³

20 All of these have important implications for human rights in relation to
21 citizenship (Benhabib, 2004; Brysk & Shafir, 2004). These social changes in
22 the role of the nation-state, the impact of globalization on states, and the
23 relationship between dominant and subordinate groups also have major
24 implications for questions of identity. Ong (1999, Chaps. 1 and 4) finds that
25 in cross-border processes individuals actually accumulate partial rights, a
26 form she calls flexible citizenship.⁴ Global forces that challenge and
27 transform the authority of nation-states may give human rights an expanded
28 role in the normative regulation of politics as politics become more global
29 (Jacobson, 1996, 2007; Soysal, 1994, 2000; Hunter, 1992; Rubenstein & **AU:1**
30 Adler, 2000; Sakai, de Bary, & Toshio, 2005). If citizenship is theorized as
31 necessarily national (Himmelfarb, 2001) then these new developments are
32 not fully captured in the language of citizenship.⁵ An alternative
33 interpretation would be to suspend the national, as in postnational
34 conceptions, and to posit that the issue of where citizenship is enacted
35 should, as Bosniak (2000a) argues, be determined in light of developing
36 social practice.⁶

37 Over the last two decades there have been several efforts to organize the
38 various understandings of citizenship: citizenship as legal status, as
39 possession of rights, as political activity, and as a form of collective identity
and sentiment (Kymlicka & Norman, 1994; Carens, 1996; Benhabib, 2002;

1 Vogel & Moran, 1991; Conover, 1995; Bosniak, 2000b). Further, some
3 scholars (Young, 2002; Turner, 1993; Taylor, 2007) have posited that
5 cultural citizenship is a necessary part of any adequate conception of
7 citizenship, while others have insisted on the importance of economic
9 citizenship (Kirsch, 2006; Fernández-Kelly & Shefner, 2005; Sassen, 1996,
11 Chap. 2). Still others emphasize the psychological dimension and the ties of
13 identification and solidarity we maintain with other groups in the world
15 (Conover, 1995; Carens, 1996; Pogge, 2007). Many of these distinctions
17 deconstruct the category of citizenship and are helpful for formulating novel
19 conceptions. And they do not necessarily cease to be nation-state-based. The
21 development of notions of postnational citizenship requires questioning the
23 assumption that people's sense of citizenship in liberal democratic states is
25 fundamentally characterized by nation-based frames. In explaining postna-
27 tional citizenship, these questions of identity need to be taken into account
29 along with formal developments such as EU-citizenship and the growth of
31 the international human rights regime (Baubock, 2006). Insofar as legal and
33 formal developments have not gone very far, a focus on experiences of
35 identity emerges as crucial to postnational citizenship.

19 A focus on changes inside the national state and the possibility of new
21 types of formalizations of citizenship status and rights – formalizations that
23 might contribute to a partial denationalizing of certain features of
25 citizenship – should be part of a more general examination of change in
27 the institution of citizenship. Distinguishing postnational and denationa-
29 lized dynamics in the construction of new components of citizenship allows
31 us to take account of changes that might still use the national frame, yet are
33 in fact altering the meaning of that frame.

27 The scholarship that critiques the assumption that identity is basically tied
29 to a national polity represents a broad range of positions, many having little
31 to do with postnational or denationalized conceptions. For some, the focus
33 is on the fact that people often maintain stronger allegiances to and
35 identification with particular cultural and social groups within the nation
37 than with the nation at large (Young, 1990; Taylor, 2007). Others have
39 argued that the notion of a national identity is based on the suppression of
social and cultural differences (Friedman, 1973; Young, 2002). These and
others have called for recognition of differentiated citizenship and modes of
incorporation predicated not only on individuals but also on group rights,
often understood as culturally distinct groups (Young, 1990; Kymlicka &
Norman, 1994; Taylor, 2007; Conover, 1995). As de los Angeles Torres
(1998) has observed, the “cultural pluralist” (Kymlicka & Norman, 1994) or
multiculturalist positions (Spinner-Halev, 1994) posit alternatives to a

1 “national” sense of identity but continue to use the nation-state as the
2 normative frame and to understand the social groups involved as parts of
3 national civil society. This also holds for proposals to democratize the
4 public sphere through multicultural representation (Young, 1990; Kym-
5 licka, 1995) since the public sphere is thought of as national. Critical
6 challenges to statist premises can also be found in concepts of local
7 citizenship, typically conceived of as centered in cities (e.g., Magnusson,
8 1990, 2000; Isin, 2000), or by reclaiming for citizenship domains of social life
9 often excluded from conventional conceptions of politics (Bosniak, 2000a).
10 Examples of the latter are the recognition of citizenship practices in the
11 workplace (Pateman, 1989; Lawrence, 2004), in the economy at large (Dahl,
12 1989; Sennett, 2003), in the family (Jones, 1998; Hindman, 2007), and in new
13 social movements (Tarrow, 1994; Magnusson, 2000; Bartlett, 2007). These
14 are more sociological versions of citizenship, not confined by formal
15 political criteria for specifying citizenship. While some of these critical
16 literatures do not go beyond the nation-state and thereby do not fit in
17 postnational conceptions of citizenship, they may fit in a conception of
18 citizenship as becoming denationalized.

19 Partly influenced by these critical literatures and partly originating in
20 other fields, a rapidly growing scholarship has begun to elaborate notions of
21 transnational civil society and citizenship. It focuses on new transnational
22 forms of political organization emerging in a context of rapid globalization
23 and proliferation of cross-border activities of all sorts of “actors,” notably
24 immigrants, nongovernmental organizations (NGOs), first-nation people,
25 human rights, the environment, arms control, women’s rights, labor rights,
26 and rights of national minorities (Smith & Guarnizo, 1998; Keck & Sikkink,
27 1998; Bonilla, Mélenéz, Morales, & de los Angeles Torres, 1998; Brysk &
28 Shafir, 2004). For Falk (1993) these are citizen practices that go beyond the
29 nation. Transnational activism emerges as a form of global citizenship,
30 which Magnusson describes as “popular politics in its global dimension”
31 (1996, p. 103). Wapner sees these emergent forms of civil society as “a slice
32 of associational life which exists above the individual and below the state,
33 but also across national boundaries” (1996, pp. 312–333). Questions of
34 identity and solidarity include the rise of transnationalism (de los Angeles
35 Torres, 1998; Cohen, 1995; Franck, 1992; Levitt, 2001) and translocal
36 loyalties (Appadurai, 1996, p. 165; Basch, Schiller, & Blanc, 1993).

37 Third is the emergence of transnational social and political communities
38 constituted through transborder migration. These begin to function as bases
39 for new forms of citizenship identity to the extent that members maintain
40 identification and solidarities with one another across state territorial

1 divides (Levitt, 2001; Portes, 1995; Basch et al., 1993; Smith, 2005; Soysal,
 3 activities, and ideologies that span the home and the host society. Fourth is
 5 a sort of global sense of solidarity and identification, partly out of
 7 humanitarian convictions (Slawner & Denham, 1998; Pogge, 2007). Today
 9 there are often practical considerations at work, as in global ecological
 interdependence, economic globalization, global media, and commercial
 culture, all of which create structural interdependencies and a sense of
 global responsibility (Falk, 1993; Held & McGrew, 2007; Hoerder, 2000).

11 In brief, through different vocabularies and questions these diverse
 13 literatures make legible the variability of citizenship. In so doing, they also
 15 signal what we might think of as the incompleteness of citizenship, one
 inherent to the institution given its historicity and embeddedness.⁷ In this
 incompleteness also lies the possibility of its transformation across time and
 place.

17

19 **CITIZENSHIP DISASSEMBLED: A LENS INTO THE** 21 **QUESTION OF RIGHTS**

23 These empirical conditions and conceptual elaborations of the late 20th
 25 century together produce a fundamental question. What is the analytic
 27 terrain within which we need to place the question of rights as articulated in
 29 the institution of citizenship (Sassen, 1996, Chap. 2; 2008, Chap. 6)? The
 history of interactions between disadvantage and expanded inclusions
 signals the possibility that the new conditions of inequality and difference
 evident today and the new types of claim-making they generate may bring
 about further transformations in the institution of citizenship. For instance,
 although it has an old history,⁸ the question of diversity assumes new
 meanings and contains new elements. Notable here are the globalization of
 economic and cultural relationships and the repositioning of “culture,”
 including cultures embedded in religions that encompass basic norms for the
 conduct of daily life.⁹ It is clear that republican conceptions of citizenship
 are but one of several options, even though they can accommodate diversity
 via the distinction of public and private spheres.¹⁰

37 There are three aspects that begin to capture the complexity of
 39 contemporary citizenship and, more broadly, the formation of a rights-
 bearing subject. One of these can be captured through the proposition that
 citizenship is partly produced by the practices of the excluded; this opens up

1 the terrain for rights in a context where the grip of the nation-state on
2 questions of identity and membership is weakened by major social,
3 economic, political, and subjective trends. Second, by expanding the formal
4 inclusions of citizenship, the national state itself contributed to create some
5 of the conditions that eventually facilitated key aspects of post- or
6 transnational citizenship, particularly in a context of globalization. Third,
7 insofar as the state itself has undergone significant transformation, notably
8 the changes bundled under the notion of the competitive state and the quasi-
9 privatized executive, there is a reduced likelihood that state institutions will
10 do the type of legislative and judiciary work that in the past led to expanded
11 formal inclusions.

12 These three dynamics point to the absence of a linear evolution in the
13 institution of citizenship. The progressively expanding inclusions that took
14 off in the United States in the 1960s, notably the struggles for civil rights, the
15 anti-Vietnam War movement, and feminist struggles, produced conditions
16 for new trajectories in the development of citizenship. Those inclusions
17 enabled a variety of actors to make claims.

18 The formalizing of increasing inclusions has contributed to the centrality
19 of equality to citizenship, giving it an aspirational quality that brings yet
20 another dimension to the question of rights. In a socio-economic context
21 where the traditional protected middle classes are becoming impoverished,
22 equality becomes a substantive norm that takes the project of citizenship
23 beyond formal equality of rights. Also the traditional middle classes which
24 have enjoyed formal equality of rights move towards new types of
25 substantive claims. With the growing importance of national law for the
26 giving of presence and voice to hitherto silenced minorities, the tension
27 between the legal status and the normative project of citizenship has also
28 grown: the legal status is no longer enough not only for those who are
29 minoritized socially, but also for the newly vulnerable traditional middle
30 classes. For many, citizenship is now a normative project whereby social
31 membership becomes increasingly comprehensive and open-ended.

32 Globalization and human rights contribute to this tension and thereby
33 further the elements of a new discourse on rights. Though in very different
34 ways, both globalization and the human rights regime have contributed to
35 destabilizing the existing political hierarchies of legitimate power and
36 allegiance over the last decade as economic insecurity fed new and old
37 racisms and nationalisms. The pressures of globalization on national states
38 have also redirected claim-making. This is already evident, among other
39 cases, in the decision by first-nations people to address the UN and claim
direct representation in international fora, rather than going through the

1 national state. It is also evident in the increasingly institutionalized
2 framework of the international human rights regime which now offers
3 some actors the possibility to bypass unilateral state sovereignty (Jacobson
& Ruffer, 2006). We see today a growing emphasis on claims and
4 aspirations that go beyond a national definition of rights and obligations,
5 facilitating in the process new discourses and subjectivities.

6 Though often presented as a single concept and experienced as a unitary
7 institution, citizenship actually describes a number of discrete but connected
8 components in the relation between the individual and the polity. Current
9 developments are bringing to light and accentuating the distinctiveness of
10 these various components, from formal rights to practices and subjective
11 dimensions, and the tension between citizenship as a formal legal status and
12 as a normative project or an aspiration (Bosniak, 2006; Shachar, 2009). The
13 formal equality that attaches to all citizens rarely embodies the need for
14 substantive equality in social terms. Finally, the growing prominence of an
15 international human rights regime has produced synergies between citizen-
16 ship rights and human rights, even as it has underscored the differences
17 between these two types of rights.

18 Insofar as citizenship is a status that articulates legal rights and
19 responsibilities, the mechanisms through which this articulation is shaped
20 and implemented can be analytically distinguished from the status itself. In
21 the medieval cities of Europe, urban residents themselves set up the
22 structures through which to establish and thicken the rights and obligations
23 of the citizen, a special status to be distinguished from the overall
24 population of urban residents. They did so through the codification of a
25 specific type of law, urban law that constructed them as rights-bearing
26 subjects. Today it is largely the national state that articulates the subject of
27 the citizen.

28 Some of these issues can be illustrated through the evolution of equal
29 citizenship. Equal citizenship is central to the modern institution of
30 citizenship; the expansion of specific types of equality among citizens has
31 shaped a good part of its evolution in the 20th century. Yet insofar as
32 equality is based on membership, as a criterion, citizenship status forms the
33 basis of exclusive politics and identities. This exclusiveness can be seen as
34 essential because it provides the sense of solidarity necessary for the
35 development of modern citizenship in the nation-state (Walzer, 1995;
36 Bosniak, 1996). In a country such as the United States, the principle of equal
37 citizenship remains unfulfilled, even after the successful struggles and legal
38 advances of the second half of the 20th century. Groups defined by race,
39 ethnicity, religion, sex, sexual orientation, and other “identities” still face

1 various exclusions from full participation in public life. This is especially so
2 at the level of practices even in the face of changes in the formal legal status,
3 and notwithstanding formal equality as citizens. Feminist and race-critical
4 scholarship has highlighted the failure of gender- and race-neutral
5 conceptions of citizenship, such as legal status, to account for the differences
6 of individuals within communities (Benhabib, Butler, Cornell, & Fraser,
7 1995; Crenshaw, Gotanda, Peller, & Thomas, 1996; Delgado & Stefancic,
8 1999; Benhabib, 2002). In addition, because full participation as a citizen is
9 conditioned by a (variable) minimum of material resources and social rights
10 (Marshall, 1977; Handler, 1995), poverty can severely reduce participa-
11 tion.¹¹ In brief, legal citizenship does not always bring full and equal
12 membership rights because these rights are often conditioned by the position
13 of different groups within a nation-state.

14 With the major transformations afoot both inside (Sassen, 2008, Chap. 4)
15 and beyond (Sassen, 2008, Chap. 5) the state, as well as the ascendance of
16 human rights as a significant vector of contemporary law (Koh, 1998;
17 Jacobson & Ruffer, 2006; Bosniak, 2006), this articulation may well begin to
18 change once again. And so might the actual content and shape of citizens'
19 rights and obligations. One window into these issues is a comparison of
20 particular features that are meant to distinguish the citizen and the alien, the
21 two foundational institutions for membership in the modern state. The
22 particular features I am after here are those that mark an unstable
23 difference. These are in many ways minor features, and they are situational
24 in that they only emerge in certain spaces and at particular times. The next
25 section examines some of these particularities (for a full treatment see
26 Sassen, 2008, Chaps. 6, 8, and 9).

27

28

29

BENEATH NEW NATIONALISMS, A BLURRING OF MEMBERSHIP POLITICS

30
31
32
33 Unlike the citizen, the immigrant or, more generally, the alien is constructed
34 in law as a very partial, thin subject. Yet the immigrant and immigration
35 have been made into thick realities, and as words they are charged with
36 content. In this tension between a thin formal subject – the alien – and a rich
37 reality lies the heuristic capacity of immigration to illuminate tensions at the
38 heart of the historically constructed nation-state (Sassen, 1996, Chap. 3).
39 These tensions are not new, historically speaking (Sassen, 1999), but as with
citizenship, current conditions are producing their own distinct possibilities.

1 Further, the changes in the institution of citizenship itself, particularly its
2 debordering of formal definitions and national locations, have implications
3 for the definition of the immigrant. Confronted with postnational and
4 denationalized forms of citizenship, what is it that we are trying to discern in
5 the complex processes we group under the term immigration?¹² On the other
6 hand, the renationalizing of citizenship narrows the definition of the citizen
7 and thereby that of the immigrant. As a subject, then, the immigrant filters a
8 much larger array of political dynamics than its status in law might suggest.

9 Working with the distinctions and transformations discussed thus far, I
10 want to explore the possibility of two somewhat stylized subjects that
11 destabilize formal meanings and thereby illuminate the internal tensions of
12 the institution of citizenship, specifically the citizen as a rights-bearing
13 subject. On the one hand, we can identify a type of informal citizen who is
14 unauthorized yet recognized, as might be the case with undocumented
15 immigrants who are long-term residents in a community and participate in it
16 as citizens do. On the other hand, we can identify a formal citizen who is
17 fully authorized yet not fully recognized, as might be the case with
18 minoritized citizens and with subjects engaging in political work even
19 though they do so not as “citizens” but as some other kind of subject, for
20 example, as mothers.

21 Perhaps one of the more extreme instances of a condition akin to informal
22 citizenship is what has been called the informal social contract that binds
23 undocumented immigrants to their communities of residence (Schuck &
24 Smith, 1985). Thus, unauthorized immigrants who demonstrate civic
25 involvement, social deservedness, and national loyalty can argue that they
26 merit legal residency.

27 At perhaps the other extreme of the undocumented immigrant whose
28 practices allow him/her to become accepted as a member of the political
29 community are those who are full citizens but yet not fully recognized as
30 such. Minoritized citizens who are discriminated against in any domain are
31 one key instance. This is a familiar and well-documented condition.
32 However, a very different case is the citizen who functions as a political
33 actor even though he/she is not recognized as such. This is a condition I see
34 emerging all over the world and read as signaling the limitations of the
35 formal political apparatus for a growing range of political projects. Women
36 are often such actors.

37 Women emerged as a specific type of political actor during the brutal
38 dictatorships of the 1970s and 1980s in several Latin American countries. It
39 was precisely their condition as mothers and wives that gave them the clarity
40 and courage to demand justice and bread, and in a way protected them from

1 attacks by the armed soldiers and policemen they confronted. Mothers in
the barrios of Santiago during Pinochet's dictatorship, the mothers of the
3 Plaza de Mayo in Buenos Aires, and the mothers regularly demonstrating in
front of the major prisons in El Salvador during that country's civil war, all
5 were driven to political action as mothers – that is, by their despair over the
loss of children and husbands, and the struggle to provide food in their
7 homes.

These are dimensions of formal and informal citizenship and citizenship
9 practices that do not fit the indicators and categories of mainstream
academic frameworks for understanding citizenship and political life. The
11 subject that is the housewife or the mother does not fit the categories and
indicators used to capture participation in public life. Feminist scholarship
13 in all the social sciences has had to deal with a set of similar or equivalent
difficulties and tensions in its effort to constitute its subject or to reconfigure
15 a subject that has been flattened. The theoretical and empirical distance that
has to be bridged between the recognized world of politics and the as yet
17 unmapped experience of citizenship of the housewife.

19

21 **POSTNATIONAL OR DENATIONALIZED** 22 **CITIZENSHIP?**

23

The transformations discussed thus far in this chapter raise questions about
25 the proposition that citizenship has a necessary connection to the national
state insofar as they significantly alter the conditions for that articulation.
27 Posing the question this way denaturalizes conventional political thought
and parallels the argument about the historicity of both the institution of
29 citizenship and that of sovereignty, especially as it is brought to the fore
through the new conditions introduced by globalization. Some scholars
31 (e.g., Bosniak, 2000a) argue that there is no objective definition of
citizenship to which we can refer authoritatively to resolve any uncertainties
33 about the usage of the term. The discussion in the preceding sections showed
the extent to which the institution of citizenship has multiple dimensions,
35 many of which are under contestation.

These developments have increasingly been theorized as signaling the
37 emergence of postnational forms of citizenship (Soysal, 1994, 2000;
Jacobson, 1996).¹³ The emphasis in this formulation is on the emergence
39 of locations for citizenship outside the confines of the national state. The
European Union (EU) passport is, perhaps, the most formalized of these.

1 But the reemergence of a concern with cosmopolitanism (Turner, 2000;
2 Nussbaum, 1998) and the proliferation of transnationalisms (Smith &
3 Guarnizo, 1998; Sanjeev, 2005) have been key sources for notions of
4 postnational citizenship. Bosniak states that there is a reasonable case to be
5 made that “the experiences and practices we conventionally associate with
6 citizenship do in some respects exceed the boundaries of the territorial
7 nation-state—though the pervasiveness and significance of this process varies
8 depending on the dimension of citizenship at issue” (2000a, p. 700). Whether
9 it is the organization of formal status, the protection of rights, citizenship
10 practices, or the experience of collective identities and solidarities, the
11 nation-state is not the exclusive site for their enactment, but it remains by
12 far the most important site.

13 There is a second dynamic becoming evident that shares aspects with
14 postnational citizenship but is usefully distinguished in that it concerns
15 specific transformations within the national state that directly and indirectly
16 alter specific aspects of the institution of citizenship. These transformations
17 are not predicated necessarily on locations for the institution outside the
18 national state, which are key to conceptions of postnational citizenship.
19 These changes in the law of nationality described later in this section,
20 although minor, capture some of these transformations inside the national
21 state and further indicate an increased valuing of effective rather than purely
22 formal nationality. It is also useful to distinguish this second dynamic of
23 transformation inside the national state because most of the scholarship on
24 these issues is about postnational citizenship (e.g., Soysal, 1994; Bosniak,
25 2000a) and has overlooked some of the trends I describe as a denationalizing
26 of particular aspects of citizenship.

27 I see the potential for capturing two – not necessarily mutually exclusive –
28 possible trajectories for the institution of citizenship in the differences between
29 these dynamics. These trajectories are embedded in some of the major
30 conditions marking the contemporary era; that we can identify two possible
31 trajectories contests easy determinisms about the impact of globalization (i.e.,
32 the inevitability of the postnational), and they signal the potential for change
33 in the institution of citizenship even inside the national framing of the
34 institution. Their difference is a question of scope and institutional
35 embeddedness. The understanding in the scholarship is that postnational
36 citizenship is located partly outside the confines of the national.¹⁴ In
37 considering denationalization, the focus moves on to the transformation of
38 the national, including the national in its condition as foundational for
39 citizenship. Thus it could be argued that postnationalism and denationaliza-
tion represent two different trajectories.¹⁵ Both are viable and neither

1 excludes the other. One has to do with the transformation of the national,
2 specifically under the impact of globalization, though not exclusively perhaps,
3 and will tend to instantiate inside the national. The other has to do with new
4 forms that we have not even considered, and might emerge out of the changed
5 conditions in the world located outside the national.

6 If important features of the territorial and institutional organization of
7 the political power and authority of the state have changed, then we must
8 consider that key features of the institution of citizenship – its formal rights,
9 its practices, its subjective dimension – have also been transformed even
10 when it remains centered on the national state. This territorial and
11 institutional transformation of state power and authority has allowed
12 operational, conceptual, and rhetorical openings for nation-based subjects
13 other than the national state to emerge as legitimate actors in international/
14 global arenas that used to be confined to the state (e.g., *Indiana Journal of*
15 *Global Legal Studies*, 1996). Further, among the sharpest changes in the
16 condition of citizens are the new security measures (e.g., the Patriot Act in
17 the United States), which in this context can be seen as a stimulus for
18 particular citizens to want to go transnational to make claims, notably to
19 human rights courts such as the European Court on Human Rights or, if
20 pertinent, the International Criminal Court.

21 The national remains a referent in my work on citizenship. But clearly it is a
22 referent of a specific sort: it is, after all, *its change* that becomes the key
23 theoretical feature through which it enters my specification of changes in the
24 institution of citizenship.¹⁶ Whether this devalues citizenship is not
25 immediately evident at this point, partly because I read the institution of
26 citizenship as having undergone many transformations in its history precisely
27 because it is to variable extents embedded in the specifics of each of its eras.¹⁷
28 We can identify three elements that signal this particular way of using the
29 national as a referent for capturing changes in the institution of citizenship.

30 First, it was through national law that many of the expanded inclusions
31 that enabled citizens were instituted (Karst, 1997), inclusions which today are
32 destabilizing older notions of citizenship.¹⁸ This pluralized meaning of
33 citizenship partly produced by the formal expansions of the legal status of
34 citizenship is helping explode the boundaries of that legal status even further,
35 for example, the increasing number of states that now grant dual nationality,
36 EU citizenship, and the strengthening of human rights. If we assume that “the
37 enjoyment of rights remains as one aspect of what we understand citizenship
38 to be, then we can argue that the national hip on citizenship has been
39 substantially loosened” (Bosniak, 2000a, p. 477), perhaps most especially by
the emergence of the human rights regime (Soysal, 1994; Jacobson & Ruffer,

1 2003). This transformation in nation-based citizenship is not only due to the
emergence of non-national sites for legitimate claim-making. The meaning of
3 the territorial itself has changed (see Sassen, 2008, Chap. 5; 1996, Chap. 1), in
addition digital space enables articulations between national territorial and
5 global spaces that deborder national encasements for a variety of activities,
from economics to citizenship practices.¹⁹ All of these have been interpreted
7 as loosening the “national grip” on citizens’ rights.

A second critical element is the strengthening, including the constitu-
9 tionalizing, of rights that allow citizens to make claims against their states
and to invoke a measure of autonomy in the formal political arena that can
11 be read as a lengthening distance between the formal apparatus of the state
and the institution of citizenship. The political and theoretical implications
13 of this dimension are complex and in the making: we cannot tell what the
practices and rhetorics that might be invented and deployed will be.
15 Certainly the erosion of citizens’ privacy rights is one factor that has
sharpened the distance with the state for some citizens and has caused some
17 citizens to sue governments.

A third element is the granting by national states of multiple “rights” to
19 foreign actors, largely and especially economic actors – foreign firms,
foreign investors, international markets, and foreign business people
21 (Sassen, 2008, Chap. 6; 1996, Chap. 2). Admittedly, this is not a common
way of framing the issue. It comes out of my perspective about the impact of
23 globalization and denationalization on the national state, including the
impact on the relationship between the state and its own citizens, and
25 between the state and foreign actors. I see this as a significant, though not
much recognized, development in the history of claim-making. For me the
27 question as to how citizens should handle these new concentrations of power
and “legitimacy” that attach to global firms and markets is a key to the
29 future of democracy. Detecting the extent to which the global is embedded
and filtered through the national (e.g., the concept of the global city) is one
31 way of understanding whether therein lies a possibility for citizens, still
largely confined to national institutions, to demand accountability of global
33 economic actors through national institutional channels, rather than having
to wait for a “global” state.

35 Thus, while accentuating the national may appear as a handicap in terms of
democratic participation in a global age, it is not an either/or proposition
37 precisely because of this partial embedding of the global in the national. There
is indeed a growing gap between globalization and the confinement of the
national state to its territory. But it is inadequate simply to accept the
39 prevailing wisdom in this realm that, wittingly or not, presents the national

1 and the global as two mutually exclusive domains – for theorization and for
2 politics. This is a highly problematic proposition even though I recognize that
3 each domain has specificity. It is enormously important to develop forms of
4 participatory politics that decenter and sometimes transcend national political
5 life, and to learn how to practice democracy across borders. In this I fully
6 support the political project of postnational citizenship. We also can engage in
7 democratic practices that cross borders and engage the global from within the
8 national and through national institutional channels.

9 The international human rights regime may eventually become an
10 acceptable and effective alternative to specific cases of judicial enforcement
11 of citizens' rights. In the United States, for instance, it would affect the Bill of
12 Rights and the Fourteenth Amendment. In Europe some of this is already
13 happening. Accession to the European Convention on Human Rights and
14 various EU treaties has produced important substantive changes in the
15 domestic law of member countries, enforced by domestic courts (e.g.,
16 Jacobson & Ruffer, 2006).

17 But in most of the world, human rights are enforced either through
18 national law or not at all. Critical here is Koh's (1998) argument that human
19 rights norms get incorporated into national law through an at times slow
20 but effective means he calls "transnational legal process." Two major
21 changes at the turn of the millennium are the growing weight of the human
22 rights regime on states under the rule of law and the growing use of human
23 rights instruments in national courts both for interpretation and adjudica-
24 tion. This is an instance of denationalization insofar as the mechanisms are
25 internal to the national state – national courts and legislatures – while the
26 instruments invoke an authority that transcends the national state and the
27 interstate system. The long-term persuasive powers of human rights are a
28 significant factor in this context.

29 It is important to note here that the human rights regime, while
30 international, deals with citizens inside a state. It thereby destabilizes older
31 notions of exclusive state sovereignty articulated in international law, which
32 posit that matters internal to a country are to be determined solely by the
33 state. The human rights regime subjects states to scrutiny when it comes to
34 treatment of individuals within its territory.

35

37 **NATIONAL CITIZENSHIP IN THE GLOBAL CITY?**

39 Many of the transformations in the broader context and in the institution
itself become evident in today's large cities. Perhaps the most evolved type

1 of site for these types of transformations is the global city (Sassen, 2001,
2006). The global city concentrates the most developed and
3 pronounced instantiations of some of these changes and in so doing is
reconfigured as a partly denationalized space that enables a partial
5 reinvention of citizenship.

These are spaces that can exit the institutionalized hierarchies of scale
7 articulated through the nation-state. That reinvention, then, takes the
institution away from questions of nationality narrowly defined and toward
9 the enactment of a large array of particular interests, from protests against
police brutality and globalization to sexual preference politics and house
11 squatting by anarchists. I interpret this as a move toward citizenship
practices that revolve around claiming rights to the city. These are not
13 exclusively or necessarily urban practices. But it is especially in large cities
that we can observe simultaneously some of the most extreme inequalities
15 and conditions enabling these citizenship practices.

In global cities, these practices also contain the possibility of directly
17 engaging strategic forms of power, which I interpret as significant in a
context where power is increasingly privatized, globalized, and elusive.
19 Where Max Weber saw the medieval city as the strategic site for the
enablement of the burghers as political actors and Lefebvre saw the large
21 modern cities as the strategic site for the struggles of the industrial organized
workforce to gain rights, I see in today's global cities the strategic site for a
23 whole new type of political actors and projects.

Current conditions in global cities are creating not only new structura-
25 tions of power but also operational and rhetorical openings for new types of
political actors that may have been submerged, invisible, or without voice. A
27 key element here is that the localization of strategic components of
globalization in these cities means that the disadvantaged can engage the
29 new forms of globalized corporate power and, further, that the growing
numbers and diversity of the disadvantaged in these cities under these
31 conditions becomes heuristic in that they become present to each other. It is
the fact of such "presence," rather than power per se that generates
33 operational and rhetorical openings. Such an interpretation seeks to make a
distinction between powerlessness and invisibility/impotence, and thereby
35 underlines the complexity of powerlessness. Powerlessness is not simply the
absence of power; it can be constituted in diverse ways, some indeed marked
37 by impotence and invisibility, but others not. The fact that the
disadvantaged in global cities can gain "presence" in their engagement
39 with power but also vis-à-vis each other, does not necessarily bring power
but neither can it be flattened into some generic lack of power.

CONCLUSION

Citizenship becomes a heuristic category through which to understand the question of rights and subject formation and to do so in ways that recover the conditionalities entailed in its territorial articulation and thereby the limits or vulnerabilities of this framing. At the most abstract or formal level not much has changed over the last century in the essential features of citizenship unlike, for example, the characteristics of leading economic sectors. The theoretical ground from which I addressed the issue is that of the historicity and the embeddedness of both citizenship and the national state.

Once we accept that the institution of citizenship is embedded and hence marked by this embeddedness and that the national state is undergoing significant transformations in the contemporary era (due to a partly overlapping combination of globalization, deregulation, and privatization), we can posit that the nature of citizenship will sooner or later incorporate at least some of these changes in at least some of its components. Strictly speaking, I call this particular dynamic *denationalization*. It is an open question, empirically, operationally, and theoretically, whether this will also produce forms of citizenship completely located outside the state, such as postnational citizenship. While this distinction may seem and indeed be unnecessary for certain types of argumentation, it is an illuminating one if the effort is to tease out the changes in the institutional order within which citizenship is embedded. It puts the focus on the national rather than on the non-national settings within which some components of citizenship may eventually be and to some extent already are changing.

But this national setting is getting partly denationalized – it may not be globalized, but it is profoundly, even if only partly, transformed. This fits into one of my larger concerns, which is to understand the embedding of much of what we call the global in national institutional settings and territories and how this transforms the national. It often occurs in ways that we do not recognize or do not represent as such and, indeed, continue to code or see as national. This brings with it the need to decode what is national in some of the institutional and territorial settings we continue to see or represent as national. And it suggests that a critical dynamic is a rearticulation of the spatio-temporal organization of relations between universality and particularity rather than simply an evolution of the nation-state.

UNCITED REFERENCE

Allen, Massey, & Pryke (1999).

NOTES

1
3 1. When not otherwise specified, this essay is largely based on these two sources;
this is also where the reader will find a fuller conceptual, empirical, and bibliographic
5 elaboration of the argument.

7 2. For a fuller development of this distinction between the incompleteness of
the institution and the exclusions of that institution, please see Sassen (2009, 2008,
Chap. 6).

9 3. See, for example, Knop (2002), see also Sassen (1999, Chaps. 6 and 7).

11 4. See Ong (1999, Chaps. 1 and 4). Ong is one of the major and most original
contributors to the elaboration and discovery of a very particular set of
transnationalisms that alter traditional notions of citizenship. Her work goes well
beyond the fact of crossing borders.

13 5. Thus for Karst, “In the US today, citizenship is inextricable from a complex
legal framework that includes a widely accepted body of substantive law, strong law-
making institutions, and law-enforcing institutions capable of performing their task”
15 (2000, p. 600). Not recognizing the centrality of the legal issues is, for Karst, a big
mistake. Postnational citizenship lacks an institutional framework that can protect
the substantive values of citizenship. Karst does acknowledge the possibility of rabid
17 nationalism and the exclusion of aliens when legal status is made central.

19 6. For some of the earlier conceptualizations from the perspective of immigration
see Soysal (1994) and Jacobson (1996). There is a growing literature that is
expanding the content of citizenship. For example, some scholars focus on the
affective connections that people establish and maintain with one another in the
21 context of a growing transnational civil society (see generally Fraser, 2007; Glasius,
Kaldor, & Anheier, 2003; Cohen, 1995; Lipschutz & Mayer, 1996). Citizenship here
23 resides in identities and commitments that arise out of cross-border affiliations,
especially those associated with oppositional politics, though it might include the
corporate professional circuits that are increasingly forms of partly deterritorialized
25 global cultures (e.g., Menjivar, 2000; Smith, 2005; Moghadam, 2005).

27 7. See Sassen (2008, pp. 289–290) where I develop elements for deciphering
conceptual parameters that capture the complexity of citizenship today and, more
generically, the formation of rights-bearing subjects.

29 8. The challenge of negotiating the inclusion of citizens and the question of
diversity is an old one. Saxonhouse (1992) observes that ancient Greece confronted
the problem of diversity and thereby produced political theory – we might add, to
31 rationalize exclusion.

33 9. For example, it is becoming evident that in the Muslim world the sphere of the
public is being affected by current dynamics, notably the growing use of the Internet,
which is enabling the formation of a transnational Muslim public sphere (Eickelman
& Anderson, 1999).

35 10. This has been the official position of the French, explicated in the case of
the demand by some Muslim sectors in France for girls to wear veils to school: they
37 can be worn at home but are prohibited in public spaces, including public
institutions.

39 11. Even in a rich country such as the United States, old and unreliable voting
machines and difficult-to-access polling stations can reduce participation.

1 12. At some point we are going to have to ask what the term immigrant truly
 2 means. People in movement are an increasingly strong presence, especially in cities.
 3 Further, when citizens begin to develop transnational identities, it alters something in
 4 the meaning of immigration. In my research I have sought to situate immigration in a
 5 broader field of actors by asking who all the actors are involved in producing the
 6 outcome that we call immigration. My answer is that there are many more than just
 7 the immigrants, whereas existing law and the public imagination tend to identify
 8 immigrants as the only actors producing this complex process.

9 13. See also the chapters in Isin (2000) which elaborate these issues from the
 10 specific angle of the city and the locality.

11 14. See notably Soysal's (1994) trend-setting book; see also Bosniak (2000) who,
 12 while using the term denationalized, is using it to denote postnational, and it is the
 13 postnational concept that is crucial to her critique as well as to her support of some
 14 of the aspirations signaled by the term postnational.

15 15. In this regard, Bosniak's (2000, p. 80) conclusion contains both of these
 16 notions but conflates when she asks whether denationalized citizenship can
 17 ultimately decouple the concept of citizenship from the nation-state.

18 16. Bosniak (1996, pp. 29–30) understands this when she asserts that for some
 19 (Sassen, 1996; Jacobson, 1996) there is a “devaluing” (for me, rather, a
 20 repositioning) of citizenship but that the nation-state is still its referent and in that
 21 regard is not a postnational interpretation.

22 17. In this regard, I have emphasized the significance (Sassen, 2008, Chap. 6; 1996,
 23 Chap. 2) of the introduction in the new constitutions of South Africa, Brazil,
 24 Argentina, and the central European countries of a provision that qualifies what had
 25 been an unqualified right (if democratically elected) of the sovereign to be the
 26 exclusive representative of its people in international fora.

27 18. One example comes indirectly through changes in the institution of alienage.
 28 In Karst's interpretation of US law, aliens are “constitutionally entitled to most of
 29 the guarantees of equal citizenship, and the Supreme Court has accepted this idea to
 30 a modest degree” (2000, p. 599; see also 599n. 20, where he cites cases). Karst also
 31 notes that the Supreme Court has not carried this development nearly as far as it
 32 could have (and he wishes), thereby signaling that the potential for transforming the
 33 institution may well be higher than the actual disposition to change it. Smith (2001),
 34 Neumann (1996), Bosniak (2006) provide developed and in-depth accounts of the
 35 status of immigrants and aliens generally in the Constitution and in US law more
 36 generally. A significantly transformed institution of alienage would have an impact
 37 on changing at least some features of the meaning of citizenship. For an
 38 extraordinary account of how the US polity and legal system has constructed the
 39 subject of the immigrant, in this case the Asian American, see Palumbo-Liu (1999).

40 19. See, for example, Teubner's (2004) argument about a right of access to digital
 41 space as part of a larger argument about decentered constitutionalism.

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