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Conclusion: The Ethics of Nation

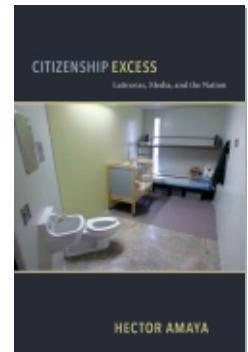
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Conclusion: The Ethics of Nation

Be assured, fellow citizens, that in a democracy it is the laws that guard the person of the citizen and the constitution of the state, whereas the despot and the oligarch find their protection in suspicion and in armed guards. Men, therefore, who administer an oligarchy, or any government based upon inequality, must be on their guard against those who attempt revolution by the law of force; but you, who have a government based upon equality and law, must guard against those whose words violate the laws or whose lives have defied them; for then only will you be strong, when you cherish the laws, and when the revolutionary attempts of lawless men shall have ceased.

—Aeschines, *Against Timarchus*, 346 BC

Timarchus was unfortunate. He, with Demosthenes, had accused Aeschines of treason but underestimated Aeschines's viciousness. In one of the most famous speeches by an Athenian citizen, Aeschines destroyed Timarchus's character and proved that Timarchus's youthful indiscretions had broken the law and thus that Timarchus no longer had legal standing. He was sentenced to *atimia*, a sort of political excommunication common in classical Athens that foreclosed Timarchus's ability to ever defend himself. Some historians believe he hanged himself immediately. But what happened, in a sense, does not matter, for Timarchus's voice was never again found in the public record. Ironically, Demosthenes, another equally skillful orator, later showed Aeschines to be a traitor, but this was too late for Timarchus. So, if in the epigraph Aeschines sounds like a poster child for democracy and the rule of law, his contextualized speech helps me illustrate how a legal oligarchy uses the law as effectively as others use the sword and how having a public voice is quite similar to having

citizenship standing. The epigraph also shows that, in a democracy, the discourse of law sharpens the state's mighty sword.

Starting this conclusion with an example from Athens is not meant simply to find similarities between the present and the past but to reiterate, as I have done from the beginning of this book, that citizenship excess is at the very roots of our contemporary political imaginary. In the name of democracy and equality, powerful Athenians wielded citizenship as a weapon designed to defend a contingently defined polis. Some of this weapon's most exacting attributes were meant to silence a person, as in Timarchus, or a community, as in the plethora of residents of Athens who did not have legal standing or voice. Although Aeschines's victory was temporary, he left a profound imprint on the liberal democratic imaginary. He taught us that to be a citizen is to have a voice that can be heard without prejudice, and that this voice can only exist in the precious little space that the law decides.

So much is assumed when we talk about the public sphere, so much that we forget that it is not the voice's relation to sound or reason's relation to intellect that determines the ability to deliberate. Prior to deliberation is the law and, in the contemporary mediated public sphere, policy. These two highly prescriptive systems channel social forces and normalize practices that have two significant effects on Latinas/os. First, law and policy help determine what aspects of reality will be part of the legal and political apparatus and which will be part of the market. Spanish illustrates this point. Although Spanish becomes part of legal and policy codifications in complex ways, increasingly, the regulation of Spanish in media policy, bilingual education, and political systems (English-only prescriptions in law and policy) shows how the English-speaking majority uses law and policy to limit the political capacity of Spanish as a language (media ownership policies), even if some of its economic capacities are given free rein. Although Latinas/os are not the only Spanish-speaking U.S. residents, limiting the political capacity of Spanish disproportionately affects Latinas/os.

Second, law and policy impact Latinas/os when they become part of culture and normalize ideas about ethics, reciprocity, and mutuality that have the potential to weaken the ground on which Latinas/os function. When discussing *Ugly Betty*, I showed how this fictional text represents law and policy issues through the culture and normalizes ideas about legality and illegality that negatively affect disenfranchised groups, including Latinas/os and women. It is comedy when Ignacio, Betty's father,

interacts with the immigration system and fails to normalize his undocumented status. And it is comedy when, within the fictional world of the magazine where Betty works, labor laws are broken to the advantage of the men and of the wealthy (see chapter 5). Fictional media texts transform systems of legality (immigration) and impunity (labor laws) into normality, setting the basis for intersubjectivity, informally teaching what in the law should be obeyed and what should be dismissed. Other media practices are equally insidious in the way they connect law and policy to cultural expectations. As the Hutto issue illustrates (chapter 3), the journalistic practice of avoiding the use of human rights law terminology within the United States had an impact on immigrants and refugees. Reporters regularly made human rights violations a matter of ethics, disabling the strongest framework for improving the conditions of detention of undocumented families. These majoritarian journalistic practices seem to indicate that human rights violations do not happen in the United States. But they do, and they go unpunished.

The dual impact of law and policy ultimately impacts the type and quality of participation Latinas/os will have in the two segments of the public sphere key to their future. These two segments of the public sphere, organized around Spanish and around English, are the primary spaces for broad democratic deliberation, yet, for different reasons and due to specific institutional characteristics, neither works in the way it should work.

Although the impact of law and policy in the public sphere is particularly important to democratic life, it is only one aspect of citizenship excess. The processes of political capital accumulation and erasure that define this impact are central to hegemony in general, granting a relatively small community of citizens undue influence over law, justice, media, and politics. In the post-9/11 United States, this privileged community often congregated around nativist and ethnonationalist principles, which provided the legal and rhetorical basis for constructing a political culture of us versus them. Their voices were, simply, anti-immigrant and anti-Latina/o, and accordingly, they invested political capital in the suppression, coercion, control, and disciplining of immigrants and Latinas/os. Whatever success nativists and ethnonationalists have had in the past decades is due to media, which amplifies their voices beyond their numeric power and regardless of their rational import. Here, as always, media is a central pillar in the architecture of the liberal state, giving life to the political discourses that animate liberal governmentality. To risk tautology, media mediates and hence constitutes. For this reason, the cultural

genetics of media, to continue the life-granting metaphor, becomes part of a political culture eager to respond to the traditional yet nasty allure of ethno-racial patriarchy.

Political capital accumulation and erasure lead to a perversion of power, citizenship excess, that has helped produce legal and political oligarchies ever since Aeschines's time. The citizen, who has a political voice and legal standing, is given historical, political, and legal form through ascription and alterity, and the citizen of excess has exploited this privilege. The citizen has plundered the economic and political worth of the other within and outside the nation, codifying his or her privilege deep into the legal and cultural heart of the state.

Ascription has rendered visible, legible, and legal certain individual and community characteristics and occluded other ones. In the past, ascription in citizenship made race and sex highly visible and gave legal value to both. Today, ascription also makes highly visible nationality and language, characteristics that greatly affect Latinas/os, their voices, and their experiences in politics, law, and media. As in the past, ascription today is grafted onto law and policy, shaping the way cultural and political resources are distributed to Latinas/os. In media, ascription energizes nativist language and politics and is embedded in deregulatory media policies without regard for the role media plays as a cultural space fundamental to the political well-being of Latinas/os. As a result, FCC media-ownership rules have participated in the conglomeration of Spanish-language media, now mostly under the control of Univision and Telemundo, and in the selling of Univision and Telemundo without regard for the political well-being of Latinas/os. Today, the great majority of Latino media is owned by non-Latinas/os, a situation that is likely to affect the types of media practices that characterize it. It is just as likely that, as Kristin Moran (2007) has anticipated, Latino media will continue its commitment to corporatism, unfazed by the neoliberal regulatory system.

Citizenship excess is given form through *alterity*, in direct relation, response, and attention to the other. As a result, citizenship excess points to a nation-centric ethics that depends on the other for its concretion. Through processes of alterity, citizenship excess participates in the creation of symbolic hierarchies between self and others, giving preeminent value to self-serving discourses, narratives, and histories that normalize specific politics of resource distribution. Resource distribution refers here to material distribution implicit in labor laws and broadcast-ownership rules and also to the distribution of more ephemeral resources such as

social prestige. Alterity, hence, is more than a cultural or ethical process. Alterity has a political economy that harnesses the power of law, cultural capital, and economic resources to build, for instance, media platforms welcoming of some and closed off to others. Because of labor laws and ownership rules, Latinas/os, as is evident in the current Spanish- and English-language media landscape, are mostly unwelcome. Control is always elsewhere and always complexly shaped by political economy.

The nation-centric ethics of alterity depends on hierarchical differences between self and other, and cultural processes that allocate social prestige or social shaming become integral to the political economy of alterity. In the contemporary United States, prestige is distributed along ethnic, national, and linguistic lines. Either because Spanish-language media stars are typically ignored by mainstream English-language media or because academics do not or cannot research Spanish-language media or because Latino soldiers cannot become national heroes in their own terms, the huge Latina/o community has only a few symbolically powerful spokespeople who are known and respected outside the Latino community (for instance, Bill Richardson, Antonio Villaraigosa, Edward James Olmos, and, now, Sonia Sotomayor). The scant number of Latino national figures legitimizes anti-Latino national voices set on shaming the Latino community through the figure of the “illegal” and determined to ignore the value of Latino cultural markers such as Spanish.

In this political and media world of ascription and alterity, there is limited room for change and progress and practically no room for radical transformations. The rules of hegemony, if you wish, apply, making the system stable, self-regulating, and relatively impervious to external forces or dramatic internal changes. It is a political and media world imagined through the dystopian figure of the citizen, the troubling practices of citizenship excess, and the nation-state’s monopoly of power. It is, in other words, the political world of coloniality, which since the first modernity in the sixteenth century has been expanding its reach and influence across the globe. Enrique Dussel (1996) notes that the remarkable developments of the first modernity, which include capitalism, technological innovation, and, eventually, liberalism, depended on the political and economic exploitation of Amerindia, which provided the material and human resources necessary for European power to overtake competing civilizations such as Muslim, Indian, and Chinese politico-military forces. Therefore, at the root of the contemporary world-system of Eurocentrism (Dussel’s term), there lies exploitation and the epistemic narrowing down of the

world to the rational dualism that allowed for the efficient management of things and people (Dussel 1996, 132).

Reimagining the nation-state through the framework of coloniality is an antidote to the utopianism that gets in the way of properly assessing the political, economic, and media challenges of Latinas/os in the United States. The bulk of this book has been dedicated to challenging utopian visions of the nation-state, citizenship, and liberalism, particularly as these relate to limited definitions of the public sphere (part 1) and the belief that liberal processes of cultural and media inclusion can significantly alter the hegemony of ethno-racial patriarchy (part 2).

The lessons found in coloniality should alert us to the suspect nature of those basic political artifacts of modernity that are part of emancipatory discourses, such as liberalism, citizenship, the public sphere, and the legal apparatus. With every chapter, I have shown that the practices of citizenship excess are not an epiphenomenon of racist and xenophobic practices and beliefs, which contaminate the otherwise emancipatory nature of U.S. liberalism and liberal governmentality. Rather, I have argued that citizenship excess is as central a cog in our political imaginary as wealth accumulation is in our economic imaginary. Much as one cannot explain capitalism without engaging with the problem of excess of wealth, one cannot understand our political world without engaging the political capital accumulation that citizenship excess organizes, makes possible, and legitimizes. That our political imaginary has roots both in Athens and in colonialism only adds substance to my arguments.

For Latino media studies, this means querying the connections between citizenship excess, emancipatory citizenship, ethnicity, and the national episteme. But it also means criticizing the a priori belief that the future of Latinas/os is dependent on their successful participation in the public sphere, civil society, and formal political structures. This foundational belief must be questioned, not abandoned: it must be understood much as feminists have tried to understand what it means to participate in patriarchy or as advocates against poverty have tried to understand what it means to participate in capitalism.

I use these examples because they have helped me see how undertheorized citizenship has been and how blindly ideological is our relation to citizenship's emancipatory potential. The pursuit of the reformist goal of integrating women into already existing systems of law, politics, economics, and culture is referred to as liberal feminism. But another brand of feminism, called radical feminism, has also tried to query the very catego-

ries of gender, sex, and power at the base of our liberal patriarchy. More conventional studies of citizenship tend to treat traditional political power similarly to the way liberal feminists treat gender and theorize patriarchy. Such studies hold fast to the idea that an expansion of traditional political power will result in a decrease in the ill effects of racial patriarchy. Just as radical feminism has tried to get outside these systems and understand the root causes of oppression in order to question patriarchal domination, this book has tried to get outside of liberalism and understand the root causes of the contemporary relationship between ideas of citizenship and the media. My goal is similar to radical feminism in that I want to query the roots of ethnicized political oppression, and for this reason, I also find it necessary to question political foundations and use coloniality to this end.

The use of coloniality is expanding in cultural analysis, but the original group of Mignolo, Quijano, Dussel, and Mendieta share a set of concerns and theoretical propositions worth reiterating.¹ All of their projects try to denaturalize the epistemic cage of modernity and Eurocentrism from the standpoint of the colonized other. Their projects, however, do not squarely fit into postcolonial theory, for they tend to share some mistrust of the epistemological roots of postcolonialism, which they understand as an extension of theoretical modernism (Mignolo 2007, 452). More clearly neo-Marxian, these thinkers engage with questions of history, politics, and culture skeptical of philosophies lacking a political economic dimension. In their views, modernism, capitalism, racism, Eurocentrism, and the nation-state share a common origin: the invasion of the Americas (e.g., Quijano 2000; Dussel 2002, 234).

There is a sense in the work of these thinkers (as in much work inspired by what is beyond Western academies) that the prison house of language, to use Martin Heidegger's beautiful metaphor, uses the building codes of the national episteme. Hence, the unavoidable need to name what is beyond traditional epistemology, ethics, and experience is proportional to the need to express what is beyond, before, and around the nation. Mignolo, a bit self-conscious about the neologisms and anachronisms that he invites us to use in order to reflect on what he terms "border thinking" (or, even better, "border gnoseology"), writes, "It is not always the case that jargon is unnecessary, and often uncommon words show us the invisible. In any event, pluritopic hermeneutics," the term he is apologizing for, "was necessary to indicate that colonial semiosis 'takes place' in between conflicts of knowledges and structures of power" (2000, 16).

Instead of “emancipation,” Dussel uses “liberation,” a term preferred by decolonizing movements of the 1960s and 1970s. Instead of “universalism,” he uses “pluriversalism,” a term that engages difference as an ethical value and a social, political goal.²

The necessity of new language is evident in the case of Hutto, in which the very idea of justice seems fused to the idea of citizen rights. Rights are legal semiosis. Their meanings become disarticulated in cases of alienage, war, and social crises. The *Flores* settlement, the legal precedent that the ACLU and the University of Texas School of Law calculated would have the best chance of improving the children’s conditions, was enough to create a degree of accountability on behalf of ICE and CCA, but it was incapable of exacting legal decisions that would, for instance, make the ICE and CCA legally culpable. Moreover, it is precisely because human rights have historically been weakened by war and social crises that Western states pushed for international law and international institutions. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child are all the result of these efforts to produce international frameworks for justice, and all should have been applied to Hutto. But human rights are policed by weak institutions. The nation, especially a nation such as the United States, wins anytime there is a conflict between national and human rights. What does it mean that a nation is more powerful than humanity? Can there be an ethical imperative without the ability to command? Can you command without an army, a police force, or strong institutions? Are these institutions at all possible without a media fostering internationalism?

Gnoseology, *plurotopic hermeneutics*, *pluriversality*, and even *liberation* (as is used by Dussel), all neologisms found in the work of these Latin American scholars, are terms meant to participate in a theoretical field constructed, as Arjun Appadurai (1996) argues, at a moment of disjuncture. The main causes for this disjuncture are migration and electronic media, which have co-participated in a qualitative change regarding the role of the imagination in social organization. Migration has altered, perhaps permanently, the ethno-racial formation of nation-states, forcing us to imagine our futures, our pasts, and our presents with an array of affective structures that energize the opposite processes of cosmopolitanism and ethnic strife. The political activisms of those who protested Hutto represent the former; the xenophobic basis of the detention practices and their legal contexts represent the latter. Here, cosmopolitanism

is partly the result of electronic media and its increasingly global circulation, which has repositioned deterritorialized culture as a central player in the organization of our affective structures, preparing communities to live with the phantasmagoric and real presence of the other.

The disjunctures brought about by immigration are not unique to the United States. They are now common to most western European nations, Canada, Australia, and Japan, to name a few. Like the United States, nations with European ethno-racial identities (which include Canada and Australia) have given increased space to nativist political forces and have allowed legal expressions of xenophobia to taint the otherwise liberal and even leftist juridical agendas that characterize these nations. As in the United States, new immigrants to these European nations are the targets of nativist agendas that constitute them as essentially different legal subjects from western Europeans. From prohibitions on traditional religious wear in France to harsh internment practices of refugees and immigrants that defy common interpretations of human rights law in Italy (often referred to as “expulsion centers”), immigrants from Africa, the Middle East, and East Asia are subject to extraordinary political speech and practices from increasingly popular nativist political parties.

Undoubtedly, the West is under threat, and its politics are retrenching. I began this book with the example of Arizona under Governor Jan Brewer. This example is intimately linked to the first case that I analyzed extensively, the 2006 pro-immigration reform marches, the social advertising campaign headed by Spanish-language radio, and what I have called the partial defeat of the reform marches. Governor Brewer’s new law is, if anything, a moment of political inertia, a continuation of the political and cultural excesses that characterized the United States after Reagan, excesses that accelerated after 9/11. By 2010, the first decade of the twenty-first century had become the temporal stage for the recentering of nativism and the systematic scapegoating of undocumented Latinas/os, who were often blamed for the largest economic crisis since the Great Depression. Latinas/os in general were collateral damage in a war that began on conservative radio, Fox News, and increasingly state and federal legislatures. Just as they were during the Great Depression, Latinas/os were pushed away, deported en masse, detained unjustly, and subject to civil rights violations. The majoritarian public sphere normalized the anti-Latino rhetoric that began at the margins and, by decade’s end, participated in reproducing the public agenda set by nativists. According to this agenda, the issue of undocumented immigrants ought to be debated in

terms of the major and/or minor harms these immigrants inflict on the nation-state and the community of nationals.

But the nativist agenda is not the end of history, nor will nativists forever succeed. Timarchus is not alone. The thousands of Latino activists who organized the 2006 marches are not gone; the millions of Latinas/os and non-Latinas/os craving change have not changed their minds. As the Cuban Silvio Rodríguez once sang, “La era está pariendo un corazón. No puede más, se muere de dolor” (“The era is giving birth to a new heart. It cannot stand it anymore, it’s dying of pain”). These are the birthing pains of a new United States transformed by the Latino trans-nation.