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Constructing citizenship without a licence: the struggle of undocumented immigrants in the USA for livelihoods and recognition

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This chapter tells the story of a legislative campaign mounted by immigrants and their allies in Tennessee, a state in the southeastern USA that has experienced a dramatic new wave of low-wage labour migration from Latin America. The campaign fought successfully for access to a state-issued driver's licence for people who could not produce proof of lawful presence in the USA. Far from focusing overtly on the 'meanings and expressions of citizenship', this effort was initiated by and designed to benefit a population of *non*-citizens. Moreover, at least in its public aspect and public rhetorical strategies, it seldom mentioned anything remotely like 'rights'. Nonetheless, the campaign and its aftermath should be of interest to those who believe that traditional ideas about citizenship and its attendant rights and duties need to be re-imagined for a global age.

The presence of low-wage Southern immigrants in the wealthy countries of the North creates a space where the contradictions of uneven development are manifested in a particularly striking way; this space offers important learning opportunities for students of citizenship. Efforts like these, where transnational migrants attempt to improve their material and legal standing, occur at a site where traditional ideas of national or territorial citizenship come into particularly sharp confrontation with the new dynamics of accelerating globalization. Since they are being initiated by some of the people most directly and adversely affected by global dynamics, these efforts provide an opportunity for scholars to listen to how such people perceive and define the unprecedented problems they face, and to see what kinds of solutions they have begun to propose. Sometimes the most interesting of such efforts will be those that are just emerging and least shaped into demands that fit existing templates.

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Another reason these pro-immigrant campaigns are valuable and worthy of study is that they pose important questions about who in the global economy has the 'right to have rights' in the first place. They press more of the native-born to consider the exclusionary, 'fortress' side of Northern citizenship in today's world.

The first section of the chapter will provide some historical and factual backdrop for the Tennessee campaign. The second section will sketch some highlights of the campaign itself – or rather, of the campaign up to summer 2003, since the story is far from over. The third section will offer some reflections and tentative conclusions.

Background

Historical boundaries of US citizenship

Citizenship means many things, of course. Sometimes it signifies a formal, legal status, and, at other times, a substantive set of citizenly obligations and rights. Both of these meanings have been at the centre of past struggles for social justice in America, movements whose successes and failures alike have profoundly affected the nation's history and character.

The question of citizenship as formal legal status was a major theme during the fight to abolish and dismantle slavery, and in the process of resolving the status of peoples taken over in expansionist moments of US history. In the infamous 1856 Dred Scott case, for instance, the US Supreme Court ruled that American blacks 'are not included, and were not intended to be included, under the word "citizens" in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States'.¹ It took a prolonged period of legal and extra-legal struggle before American black people won their freedom and formal citizenship under an amended constitution, and the twentieth century was half over before the basic political and civil rights of African-Americans were recognized or enforced in any serious way (Bell 2000; Foner 1988). American Indians and Puerto Ricans are only two of many groups that have been subsumed under formal US control, but whose relation to status citizenship has been circuitous and uneven (Prucha 1986; Roman 1997).

Other great arenas for contestation about status citizenship in America have been immigration and naturalization (Saito 1997). For example, the right to become a naturalized citizen was limited by federal law to 'white persons' in the Naturalization Act of 1790, a restriction not formally

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repealed until the mid-twentieth century (Lopez 1996). Similarly, the right to immigrate (a predicate to any later naturalization) has been subject to a long train of overtly race-based restrictions, stretching from the Chinese Exclusion Act of 1882 through to the national quota systems that were not finally abolished until 1965 (Neuman 1996). Those targeted by these exclusions did what they could to oppose them, but successes were limited (McClain 1994; Rosales 1999). To the present day, the Supreme Court remains highly deferential toward legislative action by the US Congress in this area. The Court takes the position that Congress has 'plenary power' over immigration and naturalization questions, and its exercise should not be subjected to the same standards of judicial review that the Court would apply in almost any other context (Motomura 1990; Wu 1996).

Of course, much social justice work in the USA has focused on the proper *substance* of the rights to be enjoyed by citizens, not on the formal criteria for who was eligible to be one. Organizations and citizens' movements have worked to deepen the substance of the citizenship rights accorded to groups that have been subjected to subordinating or marginalizing practices of different kinds. In good times, they have fought for more expansive understandings about things that all citizens should be able to expect from the state and from each other, and in bad times they have defended what rights they had against incursions by public and private power. While these struggles over the substance of citizenship went forward, the categories and divisions associated with outsiders' access to the status of citizenship continued, although often at the margins of mainstream national consciousness.

Present context

Today we are in a period when the status of citizenship in the USA – the line between citizen and non-citizen – is back in the spotlight, and given the turbulent global conditions that presently prevail, the task of drawing and justifying such a line is likely to prove difficult in ways not felt before. A vibrant if embattled network of new groups has emerged, and older organizations have also begun to see that low-wage immigration presents both an opportunity and an imperative for those interested in organizing for justice (Delgado 1993; Milkman 2000). Meanwhile, working for immigrants' rights has become more difficult but also more important in the atmosphere that gripped the nation after 11 September 2001 (Lawyers Committee for Human Rights 2002; 2003). The campaign to win and then to defend immigrant access to the driver's licence in Tennessee is a case in point.

Agriculture originally dominated the Tennessee economy, but in