Rights, Race, and Manhood: The Spanish American War and Soldiers’ Quests for First Class American Citizenship

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Scholars of American political development have noted with interest a paradoxical pattern in American history. During and immediately after times of grave national crisis, which one would ordinarily associate with increased restrictions on rights and liberties, people of color sometimes experience expansions in their rights and in their access to fuller measures of civic belonging. This pattern is particularly distinct with respect to the Revolutionary War, the Civil War and Reconstruction, and World War II and the early Cold War (Smith 1999; Graber 2005, Dudziak 2000, Kryder 2001, Klinkner and Smith 1999).

Mark Graber, building on the work of Klinkner and Smith, theorizes that expansions in civil liberties will take place during international conflict under the following conditions:

1. “A large-scale war requires extensive economic or military mobilization of the beneficiaries of a rights protective policy for success.”
2. “The nature of America’s enemies prompts American leaders to justify such wars and their attendant sacrifices by emphasizing the nation’s inclusive, egalitarian, democratic traditions” or, at least, the national commitment to particular civil rights and liberties.
3. The beneficiaries of the civil right or liberty are, for reasons of race, ethnicity, or ideology, identified as loyal Americans, as aligned with American allies or countries whose support the United States is seeking, or at least as enemies of America’s enemies.
4. Powerful political actors inside and outside government see the military conflict as an additional reason for advancing existing commitments to particular civil liberties and rights. Other crucial government actors can be persuaded or pressured to support those rights or liberties. [Graber 2005: 97 (quoting Klinkner and Smith)]

As I have noted in previous work (Novkov 2008b), these criteria do well in identifying the situations in which rights advances occur. These factors are present in the three crises identified above, and are significantly weaker or absent in other significant military engagements ranging from the War of 1812 to the most recent troop deployments in Iraq and Afghanistan. My interest, however, is in understanding how rights advances occur – or do not occur – in relation to wartime crises.

Asking this question provokes two useful scholarly interventions. First, as I will show below with respect to the case of the Spanish American War, the dynamics driving both approaches towards claiming rights and state actors’ responses to those claims incorporated not
just race, but also gender and sexuality. The rights claims made in these moments invoked particular conceptions of masculinity (and as I discuss elsewhere, femininity). The relationship between these conceptions of masculinity in the wartime context and the broader prevailing racialized constructions of gender and sexuality influenced state actors’ responses to these claims.

Second and more broadly, considering the struggles between rights claimers and state actors enables a closer analysis of how and why discursive renderings of cultural ideals succeed and fail when state actors encounter them. Questions about order and change and agency and contingency are important in understanding how the American state has developed, but these questions, particularly when they center on social movements and identity, must reach out to incorporate cultural phenomena as they enter public and state discourse through the medium of governmental institutions. The key institution on which I will focus is the court system, but these insights can be extended to the legislature (in this instance Congress’s struggles with developing a statutory regime to manage soldiers) as well.

Men of color who wanted to launch rights claims around the time of the Spanish American War had reason to believe that the Civil War provided a reasonable cultural and political precedent. Prior to the Civil War, the situation for African Americans particularly looked nearly impossible. In 1857, the United States Supreme Court had ruled in *Dred Scott* against national African American citizenship. One president (Buchanan) had approved a pro-slavery constitution for Kansas despite the existence of an anti-slavery alternative that had arguably a better claim to democratic support. Even purged of representation from many slave states, by early 1861 the United States House and Senate had both approved a constitutional amendment that would have rendered slavery a permanent and unamendable feature of the constitution, and this amendment was supported by President Elect Lincoln. Nonetheless, blacks pressed their claims for the end of slavery and their acquisition of civil rights in conjunction with the Union Army’s initially reluctant decision to incorporate them into formal and informal military service. By the end of the war, hundreds of thousands of blacks were formally enlisted, and uncounted others contributed to the Union’s military effort as irregulars, scouts, spies, and supporters (see, e.g., Klinkner and Smith 1999). By the end of the war and in the first years afterward, black men in particular were able to leverage their experiences and sacrifices for the nation to achieve greater access to rights. The rights they gained were largely masculine rights in
their nineteenth century context: contractual rights, voting rights, and recognition as heads of household (Novkov 2008b).

Like the Civil War, the Spanish American War had racial overtones, although the analogy should not be pushed too far. The Spanish American War was launched in part through discursive, culturally resonant invocations of a racialized but benevolent imperialism. The United States, fresh from conquering the continent and subduing and assimilating the west (and its native residents), accepted the challenge to take up the white man’s burden and expand its horizons beyond its “natural” shores.¹ Cubans had sought to throw off Spanish colonial authority between 1868 and 1878, but the treaty that had ended this struggle was never enforced. In the 1890s, a Cuban independence movement arose again under the leadership of José Martí, gaining adherents in the United States through the efforts of patriotic Cuban refugees. Armed struggle broke out again in 1895, with significant financial backing from Cuban expatriates and their American supporters. Spain responded by installing Valeriano Weyler as Captain General, who vowed to crush the rebellion and took harsh measures against suspected supporters (Klinkner and Smith 1999).

Weyler’s actions were reported extensively and negatively in the United States media, particularly Hearst’s newspapers, generating strong public sentiment against Spain and its colonial authority and for the Cuban rebels. As tensions increased, the United States established a military presence in Havana to protect American interests and sent its warship, the USS Maine, to Havana Harbor in January of 1898. The Maine’s mysterious explosion in mid-February became the rallying cry for intervention, and the United States declared war on Spain in April (Klinkner and Smith 1999).

As Cuba moved toward revolt, Spain was also facing rebellion in the Philippines and restiveness in Puerto Rico. Under cross-cutting pressure from activists seeking independence and alliance with the United States, Spain proclaimed Puerto Rican autonomy in late 1897. While Spain attempted to negotiate an end to the struggle in the Philippines through the exile of revolutionary leader Emilio Aguinaldo in late 1897 in exchange for a time table for emancipation of the islands, the struggle continued, and Aguinaldo returned to the Philippines with the support of Commodore George Dewey (Klinkner and Smith 1999).

¹ Kipling’s famous poem, which advocated for the moral vision of racialized empire he had developed through his experiences with British colonialism in India, was addressed to the United States upon its gaining sovereignty over the Philippine Islands in 1899. See Riser’s (2001) analysis.
The conflict with Spain was short. Congress passed the Teller Amendment, claiming that the United States had no intention to annex Cuba and authorizing the use of military force against Spain. Naval battles and land skirmishes occurred in the Philippines and Guam, but the fighting was more intense and sustained in Cuba and its waters and secondarily in and around Puerto Rico. By August, the United States had defeated Spain’s land forces and navy in both the Philippines and Cuba, and the military campaign ended. Spain and the United States signed a peace treaty in December (Klinkner and Smith 1999).

The treaty with Spain left the United States as a fully developed imperial power. Its experiments with internal expansion and colonialism having been brought to fruition through the “taming” of the west and the digestion of territory seized from Mexico (see Bruyneel 2008), the United States now stepped on to the international stage as a fully modern international power with which to be reckoned. As a direct result of the war, while Cuba was set on a path to immediate independence, the United States now possessed Puerto Rico, Guam, and the Philippines (in addition to Hawaii, which had been annexed independently in 1898) (Riser 2001; Klinkner and Smith 1999). In contrast to the incorporation of the west into the nation, however, the new territories were not placed upon a clear and progressive path toward statehood.

While the treaty marked the end of the war with Spain, it did not end America’s military engagements in the new empire. The brief, glorious, and extensively reported war with Spain preceded a longer and bloodier struggle to repress a military revolt for independence in the Philippines that received less favorable attention in the US and international news media. The Spanish American War’s military engagement spanned the months of April through August in 1898 and concluded with the treaty’s ratification in December. The Philippine Islands declared their independence in the middle of the conflict between the United States and Spain, but the declaration was largely ignored as the great powers negotiated peace. The independent Philippine Congress declared war on the United States in 1899, and Congress’s passage of the Philippine Organic Act ended formal warfare in 1902, guerilla warfare continued against the United States until 1913. The war was brutal, with atrocities committed on both sides; American General Frederick Funston, who received the Medal of Honor for his service in the war, traveled around the United States to drum up support by boasting of his indiscriminate hangings of Filipino troops and sympathizers (Miller 1982).
Calling the Spanish American War a racial war would be to overstate the point, even if a broad conception of racial war were employed. Unlike the earlier Indian wars and the Mexican American War, the United States did not enter the Spanish American War with the intentions of 1) seizing and annexing land, 2) subjugating, removing, or exterminating the indigenous populations, and 3) incorporating the seized territory as a seamless part of a racial state. Rather, the Spanish American War was an imperial war, pursued with the intent of launching America as an internationally recognized power whose sphere of influence had expanded beyond the New World boundaries articulated in the Monroe Doctrine. The shift from contiguous white nation to imperial power took place alongside a complex shift in cultural understandings of race and the nature of the racialized state that was developing.

Race and Military Service in the Spanish American and Philippine American Wars

Black troops carried on a tradition of service begun in the Civil War with significant honor and success and made community efforts to generate visibility. In particular, the 24th Infantry Regiment, a unit formed during Reconstruction, played a crucial and visible combat role in the Spanish American War and the Philippine American War. The regiment, along with the 23rd Regiment (also a segregated black unit) led the assault on the Spanish position in the battle of San Juan Hill in 1898, securing American victory (Bowers 1996). The regiment then went on to deployment in the Philippines, participating in combat there to suppress Filipinos’ attempts to resist American sovereignty (Id.)

Some Filipinos, however, contributed to the American side in the war. In 1901, the United States organized the first group of Philippine Scouts, a unit that contributed to the capture of resistance leader Emilio Aguinaldo (Olson 2002). These soldiers were formally enlisted in the military under the command of American officers. The Scouts were successful and the organization grew over the course of the war in the Philippines. Ultimately, they were grouped into three Army regiments, and Filipinos gained training to serve as officers, with the units serving to stabilize and pacify the region before serving in World War II and Korea (Olson 2002).

Other members of racial minorities served in the war, but were not organized into individual units. A handful of Japanese Americans had attended the US Naval Academy by the time of the war, and some Japanese Americans were on the warships that participated in the
Battle of Manila Bay (Crawford, Hayes and Sessions 1998). Some Chinese Americans had also enlisted in the Army and fought in the war as well (U.S. Army 2009).

Congress and the Political Nature of Citizenship

By the time of the Spanish American War, Congress had established a clear policy of linking military service to enhanced opportunities to gain citizenship. This trajectory began in 1862, when the Army’s need for volunteers and compliant draftees drove Congress to establish a new set of rules for veterans who were not yet citizens. Any adult alien who had enlisted and gained an honorable discharge could be admitted to citizenship based upon a simple petition, foregoing the usual requirement to file a declaration of intent and demonstrate five years’ residence (the statute required only one year for veterans). Further, the alien’s honorable discharge could be used to establish good moral character, which otherwise required testimony from two witnesses (12 Stat. 594, 597 (1862)).

Naturalization during the entire span of the antebellum period was limited to “free white persons.” In 1870, Republicans in Congress changed the statute to allow Africans and their descendants to naturalize according to the same standards as free whites (17 Stat. 254, 256 (1870)). Naturalization laws were overhauled and rationalized in February of 1875, but the language limiting naturalization to free whites and Africans and their descendants was retained, and the Page Act, passed in March, provided the first set of regulations and limitations targeted specifically at Chinese and Japanese (18 Stat. 477).

Congress’s next consideration of veterans’ eligibility for citizenship led to an act in 1894 that extended the consideration granted to Army veterans in the naturalization process to veterans who had served in the navy and marines as well. The language of the statute, however, made no changes to the racial categorizations of earlier acts. In 1906 Congress passed another major set of reforms to naturalization policy, which included centralizing the process for naturalization and requiring formal petitions to go through the federal courts. The 1906 reforms also standardized the forms used for declarations of intent, petitions for naturalization, and certificates (34 Stat. 596). Most importantly, the act established the Bureau of Immigration and Naturalization as the key institution for centralizing and rationalizing the naturalization process.

The 1906 act’s retention of the racialized criteria for naturalization alongside the fourteenth amendment’s endorsement of birthright citizenship produced a confusing situation for
the officials and courts responsible for implementation. Because the language of race did not clarify the relationship between color and nationality and further did not provide guidelines of which to privilege under what circumstances, the implementers were left with the task of determining how to determine what constituted whiteness (Smith 2002). The tensions around immigration and race that grounded the statutory language and its contradictory and contested implementation contributed to an increasingly significant distinction between the concepts of ethnicity and race (Hattam 2007). Further, the lack of clear definition of race, in conjunction with the rise of anthropological critiques of the enterprise of racial categorization, gave grounds for a series of legal challenges to the racial classifications expressed in immigration law (Haney Lopez 1996). Congress and the courts worked in tandem. Congress passed new laws to restrict immigration, the federal courts expanded their interpretations of federal authority to manage immigration and exclude immigrants, and judges increasingly deferred to administrative decision-makers, who over the course of the early twentieth century, promoted racialized visions of American citizenship (Smith 1999: 357).

Challenges to racial definitions in the early years resulted only in the courts’ rejection of the constructivist critique of racial categories, as Haney Lopez has shown. And the legal and administrative trends moved consistently toward problematizing race and developing and embedding formal second-class citizenship and civic membership for people of color across multiple dimensions (see, e.g., Novkov 2008a). But veterans in particular believed they might be able to use their status to pry open the door of citizenship in light of the national trend toward extending special consideration to this population.

**Litigating Civic Membership**

By the turn of the century, the Constitution and case law made it clear that non-white individuals could be citizens of the United States by birth. The fourteenth amendment extended birthright citizenship to all individuals born within the United States’ national boundaries without qualification. While the United States had barred Chinese from naturalization through the Chinese Exclusion Act in 1882, the Supreme Court clarified that the equal protection clause extended to racial discrimination against Chinese and their descendants in *Yick Wo v. Hopkins* in
1886 and confirmed that the children of Chinese citizens held birthright citizenship in United States v. Wong Kim Ark in 1898.²

It was also a time when soldiers’ contributions to the state were recognized, remembered, and valued. David Blight has described the process through which remembrance ceremonies concerning the Civil War shifted from a framework of remembering the threat to the nation and the brutal struggle between north and south to a framework of tragic fratricide that could encompass both Union and Confederate veterans as honored and celebrated survivors (Blight 2001). At the same time, the nation had taken on an increasingly substantial and bureaucratically complex commitment to providing pensions to the men who had served in the Civil War, a development that heralded the first stirrings of a national American administrative state (Skocpol 1989). As explained above, in 1862, Congress had first started the practice of allowing honorably discharged Army veterans to petition for naturalization without filing a declaration of intent after only one year’s residence in the United States (12 Stat. 594). In 1894, Congress extended this policy to veterans with five years’ service in the Navy or the Marines (28 Stat. 124).

The meaning of citizenship has always been fluid, but its implications have shifted more rapidly at some times than others. The period between the passage of the fourteenth amendment and the establishment of Jim Crow was such a time. The U.S. Supreme Court, in addressing cases brought by women, had determined that even though women were citizens, they were not entitled to access to the bar (Bradwell v. Illinois in 1873) or the ballot (Minor v. Happersett in 1875). The Court noted in these rulings that pursuing a chosen profession and voting were not inherent and guaranteed rights of citizenship. In 1902, Washington state’s Supreme Court considered the relationship between access to the bar and citizenship when a Japanese citizen, Takuji Yamashita, applied for admission. Yamashita, a long-term resident in Washington, had secured an order from the Pierce county superior court admitting him to citizenship, and relied upon this order in appealing for admission to the bar, as he had fulfilled all the other criteria for admission (In re Yamashita, 70 P. 482, 428 (Wash 1902)). The Washington Supreme Court rebuffed his claim that the superior court’s judgment was final, ruling that the court had issued a

² For admirers of Associate Justice John Harlan’s passionate and inspired dissents in the Civil Rights Cases and in Plessy v. Ferguson, his joining Justice Fuller’s dissent in Wong Kim Ark is likely to be a source of disillusionment. In the dissent, Fuller describes the Chinese as “of a distinct race and religion, remaining strangers in the land, residing apart by themselves, tenaciously adhering to the customs and usages of their own country, unfamiliar with our institutions, and apparently incapable of assimilating with our people,” rendering them unfit for citizenship (United States v. Wong Kim Ark, 169 U.S. 649, 671 (1898)(Fuller, J., dissenting).
void judgment because it did not have the authority to expand the scope of citizenship to include Japanese. While Yamashita noted that Congressional legislation had only specifically excluded Chinese individuals from naturalization, the court reasoned, “The general law, with the single extension made to the African . . . race, has been confined to free white aliens. The law seems to base the classification upon ethnological and racial considerations, rather than in any national distinctions” (Id. at 483). Yamashita could not become a member of the bar, the court ruled, because he was not a citizen (Id.).

Likewise, while the Supreme Court had portrayed the connection between citizenship and voting as non-essential for women, a New York Supreme Court (trial court) found otherwise in 1900 when confronted with the potential of Puerto Rican voters. Frank Juarbe, who had been born in Spanish-controlled Puerto Rico, had moved to New York after the Spanish-American War and petitioned for the right to vote as a citizen of the United States. He claimed that the peace treaty rendered him eligible as a voter, although Congress had not yet acted to extend citizenship to Puerto Rican residents (Juarbe v. Board of Inspectors, 32 Misc. 584, 585 (N.Y.S. 1900)). Unlike the Washington Supreme Court, the New York court recognized the tension inherent in the disconnection of citizenship from voting with respect to gender, characterizing the right of citizenship and the right to vote as “entirely separate rights” (Id.). While seeing them as separate, however, the court framed citizenship as a prior and necessary condition for being a qualified elector. The court explained, “The right claimed by the relator depends upon express proof that the rights of full citizenship were conferred, and it cannot be upheld solely upon the broad claim that the Constitution follows the flag, or the claim that in the United States there can be no subjects” (Id. at 589). The court repelled the suggestion that the newly conquered peoples were mere subjects by pointing out that the fourteenth amendment’s due process protections extended to non-citizens (Id.).

If formal, legal citizenship was becoming increasingly important in the exercise of rights, then the stakes for access to it were rising. As discussed above, many men of color had served in the military during the war, and the period of the Civil War had suggested that service could be leveraged to produce successful access to broader rights. The further special considerations for military veterans extended in the congressional act of 1894 and its supplementation in 1906

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3 Africans had been made eligible for naturalization by Congress in 1870, as discussed above.
alongside the widespread expansion of pensions for veterans established both broader formal citizenship and civic consideration connected to military service.

There is some evidence that the courts recognized this expansion. Consider, for instance In re Loftus, decided in the southern district of New York in 1908. Loftus, an honorably discharged soldier, sought naturalization under the rule allowing servicemen to petition after their honorable discharges without filing a notice of intent (In re Loftus, 165 F. 1002, 1002 (S.D.N.Y. 1908)). He had but one witness testifying to his residence for the required year and his good character, and the United States Attorney objected on the ground that the general amendments to immigration law in 1906 required two witnesses. The court disagreed, finding that the 1906 changes had expressly repealed other elements of immigration laws, but not the 1862 act that governed alien veterans of the Army, which mentioned only “proof” of residence and good moral character but did not specify a number of witnesses. The court explained that the two acts were reconcilable: “both should be given effect as far as possible. Congress probably regarded honorably discharged soldiers as a special class, as to whom precautions generally necessary were not required. This would be natural as to applicants who had actually been in the service of the United States and as to whose good character the officers of the United States had certified [through honorable discharge]” (Id. at 1003). Loftus was entitled to the benefit of the doubt because of his service in the military, and the court was willing to suspend the ordinary rules that governed admission to citizenship, even where Congress had not specifically acted to lift them for soldiers.

This flexibility and willingness to read around general statutory requirements to extend citizenship to veterans should have boded well for Asians who had served and wished to gain naturalization. While Tajuki Yamashita had been unable to convince a Washington state court that he was eligible for citizenship based upon the lack of explicit exclusion of Japanese, perhaps a Japanese veteran would fare better. Buntaro Kumagai made the attempt in the western district of Washington in 1908, but met with problems. The district court described him as “an educated Japanese gentleman” who had enlisted in the United States Army and received an honorable discharge (In re Buntaro Kumagai, 163 F. 922, 923 (W.D. Wash. 1908)). The court emphasized that there were no questions about his personal qualifications for citizenship. The objection rested upon his Japanese ancestry.
In this case, the court declared its hands to be tied: because the Constitution granted authority over naturalization to Congress, “the courts have no power to admit aliens to citizenship, otherwise than in accordance with the laws which Congress has enacted, and aliens cannot demand admission to citizenship as a right” (Id.). Generally, the court explained, Congress had limited the “privilege” of naturalization to white people, although the 1862 act had extended the scope to incorporate Africans and aliens of African descent “in view of the peculiar situation of inhabitants of this country of African descent” (Id.). The court then noted that when Congress had passed a “clean up” act in 1875, it had specifically limited naturalization to “aliens being free white persons and . . . aliens of African nativity and . . . persons of African descent” (Id. at 924, quoting 18 Stat. 318). Citing In re Ah Yup, the court situated Congress’s use of “white persons” as a “line of demarcation between races” and found that “the court is constrained to deny [Kumagai’s] application on the ground that the laws enacted by Congress do not extend to the people of his race the privilege of becoming naturalized citizens of this country” (Id. at 924). Kumagai, despite his military service and blameless record, was barred from citizenship on racial grounds.

If Kumagai could not convince the Washington federal court of his eligibility, perhaps other applicants in different circumstances could. The eastern district of New York considered a petition from a 43-year old man who had served honorably in the navy since 1882, earning a medal in the battle of Manila Bay (In re Knight, 171 F. 299, 299 (E.D.N.Y. 1909)). Applicant Knight had been born on a British schooner off the coast of China to an English father and a half-Chinese, half-Japanese mother. The court cited Kumagai in support of the proposition that persons “of the Mongolian race, either Chinese or Japanese, cannot be naturalized, even with honorable service in the army or navy” (Id. at 300). Further barring Knight’s petition in the court’s view was the Chinese exclusion act of 1882. While no case had determined the blood quantum necessary to classify a person as a Mongolian, the court cited a line of Ohio cases that barred mixed-race individuals from classification as white (Id.). The judge reasoned that “a person, one-half white and one-half of some other race, belongs to neither of those races, but is literally a half-breed” (Id.).

The Knight court also identified naturalization as “creat[ing] a political status which is entirely the result of legislation by Congress” (Id.). Congress could have foreseen the problem that Knight encountered, but chose not to provide for it. Since naturalized citizenship was a
political status subject to congressional determination rather than a matter of right, the court saw itself as impotent to intervene on the behalf of the applicant.

The pattern was well established by the time it reached the appellate level. In 1910, the fourth circuit ruled against the petition of another Japanese veteran (*Bessho v. United States*, 178 F. 245 (4th Cir. 1910)). The appellate court considered the relationship between the 1894 modifications to the process for veterans in the context of the 1875 rule limiting naturalization to persons of white or African ancestry. The court harmonized the statutes to conclude that the consistent intent of Congress was to “prevent[] all aliens, not free white persons, from becoming citizens of the United States” (Id. at 248). The court implied that the exception for Africans was a clear product of America’s history, and, following earlier courts, brushed aside the argument that only the Chinese were restricted specifically through the Chinese Exclusion Act (Id.).

The eastern district of Pennsylvania considered a similar claim brought by a Filipino in 1912, the difference being that the plaintiff had an additional statutory argument in his arsenal relating to his racial status. Petitioner Alverto claimed to be of mixed racial ancestry, descended from a Spanish grandfather and parents who were (by virtue of Spanish colonial policies) Spanish subjects prior to the conflict with the United States. The congressional act implementing the terms of the Treaty of Paris with Spain stipulated that residents of the Philippine Islands who declined to declare their allegiance to Spain became citizens of the islands as of April 11, 1899 and were “entitled to the protection of the United States” (*In re Alverto*, 198 F. 688, 688 (E.D. Penn. 1912))(quoting 32 Stat. 691 (1902)). Alverto argued that his service as an enlisted man in the United States Navy for seven years and his honorable discharge rendered him eligible for citizenship (Id. at 688). The court held that Alverto’s service did not, however, exempt him from the racial language of the 1875 act. “However commendable the service of the applicant in the navy, the provisions of law in relation to naturalization of persons in the army and navy were . . . not intended to extend the benefit of the naturalization laws to those not coming within the racial qualifications” (Id. at 690). Thus far, the case proceeded on the lines established in earlier litigation.

Alverto, however, noted that his status as a Filipino placed him in a different category as aliens with allegiance to nations other than the United States. The court rejected this line of reasoning. The opinion decreed, “Citizens of the Philippine Islands or of Porto Rico, while not citizens of the United States, are not aliens, and, prior to the passage of the Act of 1906, were not
capable of becoming naturalized for two reasons: First, the naturalization laws of the United States applied only to aliens; and, second, they required a renunciation of former allegiance” (Id. at 690). Section 2169, which had established the racial restrictions, remained in force, and was “intended to limit the application of the whole body of the naturalization laws to aliens being free white persons or of the African race” (Id.). Despite their political status of allegiance to the United States, Puerto Ricans and Filipinos, even if they had served, could not breach the racial bar.

Thus, despite the courts’ expressions of sympathy, Asian Pacific men who had served in the military were unable to gain access to citizenship. The courts unanimously concluded that even completely unquestionable attachment to the United States and blameless military service could not overcome the racialized restrictions passed and left unrevised by Congress. By and large, they expressed this conclusion in regretful terms that emphasized their impotence in the face of congressional will. It is worth noting, however, that these federal courts were ruling at around the same time that the Supreme Court was rewriting the Sherman Act to comport with its vision of the appropriate scope of congressional power (see United States v. E.C. Knight), while other courts on both the federal and state level were intervening actively on the behalf of employers faced with unionizing workers through labor injunctions (see Orren 1992), and while other courts at all levels were actively attacking protective labor legislation (see Novkov 2001).

At the same time, as other scholars have documented extensively, neither Congress nor the courts expressed any interest in expanding black access to fuller civic membership. Rather, acceding to the bargain formalized in Plessy v. Ferguson that the southern states would have free rein over racial politics in exchange for accepting national sovereignty, federal policymakers largely ignored efforts by black leaders to address a growing wave of discrimination and violence (Klarman 2006; Klinkner and Smith 1999). Efforts to attract federal regulatory attention to lynching, housing discrimination, voting rights abuses, racialized and brutal uses of convict labor by the state or through leases, peonage, and a host of other issues met little success (Klarman 2006). Even when cosmetic victories were gained at great cost, actual practices continued a pattern of increased repression and political and civil disenfranchisement, particularly for southern blacks but in the north as well in less extreme forms.
Conclusion

Unlike the Civil War and Reconstruction, the Spanish American War and the Philippine Resistance were not accompanied by significant rights advances for people of color. Rather, rights continued to flow in retrograde, with increased political and cultural repression. Men of color contributed substantially and formally to the war effort, with companies of black and Filipino soldiers serving in combat and many individual Latinos, Native Americans, and Asian men and male descendants of Asians serving as well. Nonetheless, they were unable to leverage service into successful claims to the rights of manhood.

The highly unfavorable cultural milieu linked to a political moment when the national government had withdrawn from intervening in “race relations” on the state and local level, leaving local cultural and political configurations of race to work themselves out on the ground. Yet this period corresponded to the expansion of federal authority over race itself, as well as the acquisition of a new category of racial subjects who were not integrated into the national fabric. These factors worked together, and despite the period’s being a social and cultural moment of appreciation for masculine civic sacrifice through military service (see, e.g., Enloe 2000), the color line prevented the recognition of men of color’s contributions as masculine civic sacrifice worthy of rights advances.

Grace Elizabeth Hale’s work on the cultural development of whiteness in this period suggests that the years prior to the 1890s presented the white south in particular but the nation generally with a challenge. As blacks advanced from slavery, many began to achieve economic independence and success, enabling them to purchase consumer goods that marked their new middle class status (Hale 1998). The middle class to which blacks could purchase the right of entry was gendered space; men had gained contractual and labor rights in part through leveraging their military service in the Civil War, and were now more able to obtain the markers of feminine gentility for wives, mothers, and daughters. Southern whites responded by fighting to bar access to middle class spaces, beginning with public transportation but expanding the struggle from there (Id. at 126-138). As this process advanced near the turn of the century, blacks were increasingly represented as humorous objects for consumption by whites (consider as just one

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4 The term was popularized in 1901 in the context of the institutionalization of Jim Crow in the south (Novkov 2008a).
example the many varieties of Sambo banks), and the subjects of American imperialism were popularly represented with exaggerated Africanized features (Hawaiians in particular appeared in cartoons with large, flat noses and kinky hair) (Id.; see particularly images between pp. 146-47; see also Riser 2001: 250).

The expansion of the American empire may have facilitated the cementing of the bargain between north and south over race. Delegates to Alabama’s 1901 constitutional convention who wrote a constitution founded upon white supremacy reassured themselves that the acquisition of a racialized empire would sensitize northerners to the problems of governing non-whites (Riser 2001). In partisan terms, Alabama’s ruling Democratic coalition sought to persuade themselves that northern Republicans would see the war as a racially reunificatory project that would once again place north and south, Democrat and Republican, in close relationship over the proper articulation of white leadership (Id.). Riser notes that many historians have explored the connection between national imperialist tendencies and increased southern repression for blacks, arguing for an interdependent relationship forged during the Spanish American War (Id. at 245-47).

However, as Riser shows, interpretations of the white man’s burden were more contradictory and complex than the unification narrative suggests. Two members of the Supreme Court expressed private doubts as to the wisdom of maintaining colonial possessions in light of the difficulties of governing inferior races and fretted over the impossibility of fitting the colonized with the knowledge and civilization necessary for self governance (Id. at 254-55). Some progressive critics, including popular novelist and essayist Mark Twain and black intellectual Kelly Miller, objected that the United States was unable even to deal justly with the non-white populations over which it already held hegemony on the continent of North America (Id. at 255-56). Still others, like John Marshall Harlan, valued allegiance to the American democratic-republican project and attachment to that project over generations; Harlan apparently saw more hope in the eventual full citizenship of American blacks than in immigrants from Asia who had not fully absorbed the democratic and republican ideals of free men (Riser at 257; see also the dissent that Harlan signed in *Wong Kim Ark*).

These struggles, in Riser’s view, were resolved more by compromise than ideological coherence. The Foraker Act, establishing a form of colonial governance for Puerto Rico, embraced these tensions by providing for civil government under territorial status, but not setting
out a clear path to statehood in light of the perceived racialized unfitness for self governance of
the citizenry (Foraker Act, 31 Stat. 77 (1900)). As Riser notes, this precedent would shape the
debate over the incorporation of the Philippines as well (Riser at 262). Ultimately, the Insular
Cases would put the constitutional seal of affirmation upon these conditional and contradictory
forms of civic belonging for the newly acquired citizen-subjects (Id. at 264-66). Riser concludes
that the southerners incorrectly portrayed their agenda of disenfranchisement as a natural
extension of national choices about how to incorporate the newly conquered territories inhabited
by people of color. Nonetheless, the debates and compromises over civic incorporation of these
people placed them on a different statutory – and ultimately constitutional – standing than white
citizens and aspirants to citizenship.

These developments had important implications for veterans’ attempts to gain access to
fuller civic membership or citizenship. Veterans, despite their service, were unable to use
masculinized conceptions of citizenship either to leverage their formal membership in the polity
or to achieve more access to the basic rights afforded full citizens if they were already citizens
themselves. Carl Stychin’s work on sexualized citizenship suggests that the successful
manipulation of sexualized categories of civic membership can support rights claims and
conversely that sexualized conceptions of citizenship can operate as a bar to those who do not fit
within them. However, this period shows how race can intervene in this process, triggering a
certain illegibility to the state of properly sexualized performances of citizenship.

This discussion also illustrates the need to incorporate richer cultural analysis in studies
of political development. Focusing on the legislative and legal developments can enable us to
explain what happened and to articulate theories about the conditions under which citizenship
rights expand. But to see how and when those seeking access to fuller forms of citizenship
succeed, we must analyze the cultural milieu and social and cultural articulations of race as they
interact dynamically with debates over policy. This study overall suggests the need to situate
citizenship simultaneously as legal status and as cultural and political practice that may or may
not be recognized by key state actors as such. As I have suggested previously, whether we
consider formal citizenship or more fluid forms of civic membership, belonging is highly
conditioned by the politics of race and sexuality, which we can only understand fully through a
dynamic analysis that considers the political manifestations and implications of race and
sexuality both within the realm of formal state practices and in culture.
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