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## The Appropriation of Native Status: Forming and Reforming Insiders and Outsiders in the Spanish Colonial World

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## Abstract

This article examines the different meanings of native status in Spanish America. It argues that the classification of Indigenous peoples as »natives« was not meant to reflect a reality of indigeneity as many have assumed, but instead was geared towards attributing them with a particular legal status, which in Peninsular Spain was reserved to members of the political community (*naturales*). It operated to de-ethnicize the Indians by implying, on the one hand, that they would lose their previous condition as members of various distinct human groups transforming them instead into participants in a common patria (the Americas) and, on the other, that rather than being classified by the traditional ties that united them to one another and to their previous lords, they would become civic members of a community that no longer depended on descent. While in the sixteenth, seventeenth, and eighteenth centuries Indians were de- and re-classified, American Spaniards – who initially were the quintessential foreigners – were gradually transformed into natives and Peninsular Spaniards were presented as aliens. By the end of this process, rather than creating two republics that clearly separated colonized from colonizers, what colonialism did was to turn the world upside down. It de-naturalized natives while making some Europeans (but not all) the true legal possessors of a world, which they invaded but which they now claimed as rightfully their own.



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## The Appropriation of Native Status: Forming and Reforming Insiders and Outsiders in the Spanish Colonial World

Historians have tended to describe early modern empires as including »colonizers« and »colonized.« They mostly suggested that the first, using a hegemony that was military, economic, political, religious, and legal, subjected the second to their control. The result was the emergence of a polarized universe that, in the Spanish American case, featured a society divided into two clearly distinguished parts, stereotyped as including a Spanish and an Indian »republic.« Although most scholars conceded that this distinction was theoretical rather than practical, that the two republics often mixed and that, rather than two distinct poles, they formed a continuum, historians nevertheless insisted that rather than inscribed in the colonial system, blurring was the result of »practice« not »Law.« They concluded that even in cases, in which the identification of Spaniards and Indians was de facto difficult, the differentiation between these two sectors was de iure absolute.<sup>1</sup> Not only were colonized and colonizers firmly separated, but the colonial encounter forced Iberians to define themselves first and foremost in opposition to the native inhabitants. Thereafter, Spaniards originating from different Iberian kingdoms assumed in the Americas a single collective identity and a single *patria*.<sup>2</sup> Because »the intellectual and political invention of Spain« coincided with the conquest and colonization, »investigations into Spanishness« were necessarily influenced by the colonial encounter, in which colonizers called themselves Spaniards mainly in order to distinguish themselves from Indians.<sup>3</sup>

These conclusions, based on the assumption that the place of Spaniards and Indians within colonial structures was clear and evident, rarely included an examination of the legal categories

that defined both groups. So strong were these implicit understandings, that they allowed historians to dismiss the well-known fact that both Spaniards and Indians were juridically classified as »natives.« Unaware of the implications of native status and the legal theories that defined and sustained it, scholars, who failed to inquire on this parallelism, routinely assumed that Spaniards were natives of Spain because born there, and Indians were natives of the Americas because they originated in that continent. It what follows, I argue that according to Spanish doctrine, nativeness had little to do with birth but instead designated membership in a political community. The classification of Indigenous peoples as natives, therefore, was never meant to reflect an evident reality, but instead was geared towards attributing them with a particular legal status, from which other groups were excluded. This was partially the result of the so-called European expansion that, by de-contextualizing Europeans, pressed on them the need to de-territorialize who they were and redefine themselves and others anew. In the process, overseas domains and their inhabitants were characterized as both internal and external, both members and non-members.<sup>4</sup> In the Spanish American case, this led to the classification of Indians as both insiders and outsiders, the transformation of American Spaniards – who initially were the quintessential foreigners – into natives, and the identification of Peninsular Spaniards as aliens. Rather than creating two republics, what colonialism did was to turn the world upside down.<sup>5</sup> It de-naturalized natives while making some Europeans (but not all) the true legal possessors of a world, which they invaded but which they now claimed as rightfully their own.

1 McALISTER (1984) 177–180. On a newer understanding of the division into republics see BOUYASSE-CASSAGNE/SAIGNES (1992) 129–143.

2 RODRÍGUEZ-SALGADO (1998) 244 and 239–240 and KAMEN (2003) 331–333.

3 SILVERBLATT (2004) 19–20.

4 SILVA (2009) 17 and 58.

5 RAMÍREZ (1996).

### Native Status: The Spanish Doctrine

Spanish legislation and colonial practice referred to the Indigenous population of the Americas as including »natives.« Why this was the case remains a mystery. Unaware of the meaning of nativeness in Spain, most historians have automatically assumed that Indians were »natives« because contrary to Spaniards, they were aborigines. Yet, even if this was the case, it is nevertheless clear that according to Spanish law »nativeness« (*naturaleza*) was a juridical status not necessarily tied to a factual situation. One of the most powerful means of making distinctions in early modern Spain, it identified community members and separated them from foreigners. The genealogy of how this came to be could be traced back to the thirteenth, fourteenth, fifteenth, and sixteenth centuries when, as a result of the growing competition for resources mainly among vassals of the same monarch, different actors in different fori fought to restrict the enjoyment of certain benefits to those classified as natives. Their success led to the creation of a discriminatory regime that distinguished members (natives, *naturales*) from non-members (foreigners, *extranjeros*) and that allocated each sector a different set of rights and obligations. As a result of its constitution, only natives could hold public office, receive ecclesiastical benefices, have jurisdiction over royal vassals, or immigrate to and trade in the Americas, to name just a few examples.

Easier to envision than to apply, the emergence of the legal category of native and foreigner in the late medieval period produced lengthy debates as to how to distinguish one from the other. These – which I studied extensively elsewhere – attested that, contrary to common-sense assumptions, nativeness was not established by local birth but instead depended on a plethora of circumstances.<sup>6</sup> Described in the legislation, by the juridical doctrine, and in everyday interactions as consisting of a bundle of elements (one had to consider the place of birth, the identity of parents, place of residence, economic, social, fiscal, military, civic, and religious performance, and so forth) it called upon contemporaries to measure different factors against

one another and give each its proper weight before a viable conclusion on the nativeness or foreignness of individuals could be reached. Thus, while it was clear that a person born in the community to local parents, who continuously resided in the territory, paid taxes, prayed in the local church, participated in local holidays, was a member in the local militia, spoke the local dialect, and so forth, was a native; and that a person who lacked all these criteria was a foreigner; between one extreme and the other were many intermediary situations that also required classification. Among these could be, for example, a person born outside to foreign parents but who had settled locally and exhibited all the other enumerated traits; or on the inverse, a locally born individual to local parents who had left the community; or any such mixture.

Because the allocation of rights and duties was at stake – there were things that only natives could do – many individuals, groups, and communities took active part in these debates. Some wanted to guarantee their access to privileges such as the ability to immigrate to Spanish America (only open to natives). Others, on the contrary, wanted to bar their rivals from doing so. On occasions, discussions targeted *not* rights but duties and were centered on the wish to force individuals and groups to comply with the obligation to pay taxes or serve in the militia (two duties of which foreigners were mostly exempt). But, regardless of the concrete reason for which status was vindicated by actors or enforced on them against their will, whenever the allocation of rights or duties conserved to natives or foreigners was at stake, a discussion was unleashed among interested individuals, groups, and institutions regarding who was who, and who should benefit from which treatment.

### Native Status and the Indigenous Peoples of the Americas

In Spain, debates regarding nativeness thus operated to distinguish Spaniards (who were worthy of certain privileges and shared certain duties) from foreigners (who were not).<sup>7</sup> Yet, in the Amer-

6 These questions are treated in greater length in HERZOG (2003).

7 Initially, there were natives of Castile, natives of Aragón, natives of Navarre,

and so forth. However, by the seventeenth century with regards to Spanish America, and the eighteenth century in both the Old and the New

World, the most prominent category was that of »natives of the Spanish kingdoms«, also shorthand as »Spaniards«: HERZOG (2003) 64–118.

icas, Indians were also identified as »natives« and were constantly recognized as such. Regardless of the question – greatly discussed in the literature – whether the differences between Spaniards and Indians were ethnic, racial, or cultural, whether they were permanent or transitory, and how they could be applied, the legal implications of granting the Indians »native status« remains to-date unexplored. Did their nativeness carry the same meaning, implications and weight as nativeness in Spain? In their condition as vassals and non-foreigners, were they also members of the community? Which community? Although rarely discussed in the literature, the importance of these questions did not escape the attention of contemporaries.<sup>8</sup> In 1568, for example, two *indios principales* from New Spain who requested to return to the Americas after visiting the Iberian Peninsula argued that they were *naturales* of the Americas yet, despite their vassalage, *extranjeros* in Spain.<sup>9</sup> In 1598, Baltasar de Álamos asserted that the American population was divided into natives (*naturales*) and foreigners (*forasteros*). Among natives he listed Indians, who were »native by origin« and Spaniards who, after their domiciliation, became »natives by birth.«<sup>10</sup> Among foreigners he included ecclesiastics, merchants, office holders, and all other individuals who temporarily resided in the New World and who, according to him, rather than natives were similar to »migrating birds,« that

is, were temporary residents. Other early modern authors suggested that the taxes Indians paid (*tributo*) were a sign of their membership in the community or they affirmed that Indians recognized the king as their master (*señor*) »as all other Spaniards« did.<sup>11</sup> Missionaries working in the New World equally explained that the natives they converted became not only Christians and vassals but also, by extension, Spaniards. »The Indians of this nation« they argued »must be treated not as other Indians but as Spaniards because their life, work, fidelity and love of the monarch and obedience to his governors« made them worthy of this status.<sup>12</sup> In the eighteenth century, Spanish commanders could thus sustain that Indians allied with Spain were either vassals of the crown or outright Spaniards and that they therefore could not become – voluntarily or forcefully – Portuguese.<sup>13</sup> And, in their condition as natives, during the colonial period it was also theoretically possible for Indians to hold public office and ecclesiastical benefices.<sup>14</sup> Yet, although legally granted these privileges, the capacity of Indians to enjoy them was habitually challenged. To counter this reluctance, the king periodically reaffirmed Indian status. At least on one of these occasions in 1697, royal jurists openly stated that there was no need for royal intervention as no laws existed that would bar Indians who were natives from enjoying these privileges.<sup>15</sup> Thus, although they recognized that

8 HERZOG (2006) and HERZOG (2012).

9 ROJAS (2009) 188.

10 ÁLAMO DE BARRIENTOS (1990) 13–15.

11 BACIERO (2006) 300, citing José Zapata y Sandoval and SOLÓRZANO PEREIRA (1972) book 3, chapter 1, nos. 14.

12 »Estos indios de esta nación deben ser tratados no como otros indios sino como españoles porque su vida, obras, fidelidad y amor que tienen a vuestra majestad y obediencia a sus gobernadores acudiendo a todo cuanto se les encarga del real servicio con grande puntualidad«; Pedro Baigorri to the king, Buenos Aires, 15.3.1656, reproduced in CORTESÃO (1952) 274–275. Somewhat similar was the letter of the viceroy of Lima to the bishop of Misque, Lima, 25.10.1765, Archivo General de la Nación / Buenos Aires (hereafter AGN/BA), IX.4.3.5 and declaration of Alonso

Vaca, in »Razón de lo que parece ... sobre la población que los portugueses intentan hacer 50 leguas adentro del río Marañón, 1677«, Biblioteca de la Real Academia de Historia, Madrid, Jesuitas vol. CLXXXVII, no. 23 antiguo, 29 moderno.

13 Joaquín Alos to Nicolás Arrendondo, Asunción, 19.9.1791, Archivo Histórico Nacional (hereafter AHN), Estado legajo 4387, No. 5. Also see »Autos formados a consecuencia de una real cédula para que se informe a su majestad sobre la conducente a la provincia de Mainas«, Archivo Nacional, Quito, Fondo Especial (hereafter ANQ, Fe) 30, v. 83 no. 3226 fols. 80r–275v, fols. 87r–v, declarations collected in the village of San Joachim de Omagua on 26.5.1775, ANQ, Fe 30, v. 83 no. 3226 fols. 80r–275v, fols. 95v–107v and Juan Francisco Gómez de Arce to

Joseph Dibuja, Omagua 12.10.1775, ANQ, Fe 30, v. 83, no. 3226, fols. 80r–275v, fols. 108r–113r. On how the Portuguese responded see, for example, Feliz José Souza to Francisco José Texeira, Fuerte el príncipe de la Vera, 23.11.1784, AHN, Estado legajo 4436, no. 10.

14 SOLÓRZANO Y PERREIRA (1972) book 2, chapter 29, points 25–34.

15 *Cédulas* of December 19, 1696; March 26, 1697; November 27, 1703; February 21, 1725; and September 11, 1766, reproduced in KONETZKE (1958–62), v. 3, t. 1, 64–69, 93–94, 186 and 333–334. Also see: MURO OREJÓN (1956–1977), v. 1, 602–605. The struggle to reaffirm Indian eligibility to office was studied by MURO OREJÓN (1975) 268–269 and 367–375, OLAECHEA CABAYEN (1969) and (1981).

discrimination existed and it was wide spread, it was based, so did royal jurists clarify, on social prejudice, not the law.

The linking of Indigenous nativeness to a juridical status, not a factual situation, was also evident in other ways. Spaniards, for example, strove to identify the »natural lords« (*señores naturales*) of certain indigenous communities. Although at times they registered whether these lords were autochthonous or not, on most others they centered their attention on the question whether they had right to rule over a certain polity, thus assuming that (1) the Indians formed a community of *naturales* and that (2) as happened with lords of vassals in Spain, their legitimate ruler must also be a *natural*.<sup>16</sup>

In all these cases, early modern Spaniards suggested that Indians were natives not because of their local birth, but due to their civic membership in a political community. Although the nature of that community was not always spelled out, it clearly was not limited to the Indian republic because the offices and benefices Indians could hold were often external to it. In some odd way, making Indians natives was a means to de-ethnicize them. On the one hand, it implied that they lost their previous condition as members of various distinct human groups associated with descent and ethnicity and were transformed instead (as happened to natives of distinct villages, towns and cities in Spain) into participants in a common patria, the kingdom.<sup>17</sup> On the other, rather than being classified by their pre-Colombian ethnic, legal, and social differentiation and the traditional ties that united them to one another and to their previous lords, native status transformed Indians into civic members of a community that no longer depended on descent. From that moment onwards, membership in that pan-Indigenous community would define the social, economic, and political role Indians would play within the colo-

nial order. The insertion of Indians into the emerging commonwealth through their designation as »natives« also paradoxically assimilated them to Spaniards even before their conversion and Hispanization ever took place.<sup>18</sup> By the end of this process, it was not always clear whether Indians were vassals, natives (members of a political community whose exact identification remained vague), aborigines subjected to the right of conquest, or foreigners, perhaps even enemies. The only thing that was evident was that, independently of the question what these categories implied and how they were to be implemented, legally there were ways by which Spaniards and Indians were clearly distinguished (for example, by reference to their distinct fiscal obligations) and others by which they were not (for example, by reference to their nativeness). Indeed, as the above mentioned Baltasar de Álamos argued in 1598, in the Americas, both Spaniards and Indians could and often were »native.«

The inability to answer who exactly were Indians and what their relationship to the kingdoms of Spain was (versus their relationship to the king, which was clear after they were designated as vassals) allowed some native-Americans whose colonial role was different than that of most aborigines to affirm their Spanishness. Indigenous nobles who, like the Spaniards living in Spanish America did not pay taxes (which other Indians did), could thereafter consider themselves Spanish rather than Indian.<sup>19</sup> A similar conclusion was reached by the elites of Tlaxcala who, by virtue of their alliance with Spaniards and their colonization of the Mexican North, could present themselves as conquistadors (rather than conquered people), colonizers (rather than colonized), Spanish (rather than Indian).<sup>20</sup> And, if on the one hand, these claims could indicate that perhaps in the Americas the opposite of Spaniard was no longer the foreigner but instead the Indian, on the other,

16 That in Spanish thought nativeness, even in the Americas, gave rights was clear, for example, in the effort viceroy Toledo employed to demonstrate that the Incas were not legitimate rulers of Peru, among other things, because they were not native but foreign to the region: CASTRO-KLARÉN (2001) 145 and 161. HILL (2007) and (2006) 56–57.

17 LOZA (2002) 377, 389–394 and 405 and CLAVERO (1994) as well as the debate between Clara Álvarez Alonso and Bartolomé CLAVERO (1995). It is thus clear that the integration of Indians as »natives« and, eventually, as Spanish citizens, was conditioned on their religious and civic conversion: CLAVERO (1997) 58–61. In this way too they were de-ethnicized.

18 For a comparative perspective see SILVA (2009) 17.

19 HILL (2007) and (2006) 56–57.

20 YBARRA (2009) 9, 19, 56, and 138 refers to the ambiguous position of Tlaxcala and local requests to obtain rights reserved to »citizens« or Spaniards and denied to »Indians«. Also see MATTHEW/OUDIJK (2007).

the rights vindicated by Indians clearly referenced claims of Spanish nativeness such as the ability to hold public offices and ecclesiastical benefices (see above).

#### Making Spanish Americans Natives and Peninsular Spaniards Foreigners

While the Indigenous were naturalized but de-ethnicized, and while their ability to enjoy the rights of natives as well as their status as Spaniards (or potential Spaniards) was constantly debated, Spanish Americans, the quintessential foreigners, gradually became natives, their nativeness being asserted vis-à-vis both the Indigenous population and Peninsular Spaniards. Indications that this might occur were already registered in the early sixteenth century by Francisco Vitoria who argued that, after Spaniards procreated in the New World, their sons and daughters would become members of the local community and, in their condition as citizens would have the same rights and duties as the Indigenous population did.<sup>21</sup> The same would happen, Vitoria asserted, with Spaniards who would fix their domicile there. To substantiate the true nativeness of Spanish Americans, later generations moved to naturalize their presence by arguing that the Indigenous population had no right to the territory either because it had never »truly« occupied it, or because it had occupied it incorrectly or insufficiently. Claiming themselves more worthy of the Americas than the aborigines because of their willingness to improve the land, in the eighteenth century, Spanish Americans living in confrontation with Indigenous not-yet-submitted

nations thus argued that they were people on the defensive rather than the offensive, victims rather than victimizers. According to their claims, rather than them being the invaders, they were attacked by aborigines who were encroaching on European land and fighting against a legitimate European occupation.<sup>22</sup> Presenting the Indians as peoples who were usurping territories that settlers already possessed and which had been won with »great sacrifice,« these reports silenced the fact that European presence pushed many indigenous groups off their lands, forcing them into a permanent exile.<sup>23</sup> Spanish Americans also adopted as their own the heritage of those natives whose culture they judged sufficiently advanced. They thus surveyed Aztec and Inca history, began primitive archeological excavations, exalted the nature around them and, in general, portrayed themselves as heirs to the best features of both pre-Columbian and Hispanic past.<sup>24</sup>

While for Vitoria, the conversion of Spaniards into natives of the Americas was to become one of the titles that could justify Spanish presence there (that, once established, would legitimize itself by the passage of time), for others it was a means to distinguish between Spaniards of the Americas and Spaniards of Spain. This was what Baltasar de Álamos did in the sixteenth century when he asserted that both Spaniards of the Americas and Indians were natives of the New World, while Spanish royal bureaucrats and merchants were not.<sup>25</sup> These claims, which the literature habitually identified as reproducing Creole vindications, were usually interpreted as invoking a local identity that gradually came to be thought of as opposing a Spanish Peninsular one.<sup>26</sup> Portraying this develop-

21 VITORIA (1991) 281. According to Vitoria »if children born in the Indies of a Spanish father wish to become citizens of that community, they cannot be barred from citizenship or from the advantages enjoyed by the native citizens born of parents domiciled in that community.« Vitoria set the same rule in the case of Spaniards domiciled in »one of these barbarian communities« for example by marrying there. They too, he argued, »would enjoy the same privileges as the rest, at least as long as they accepted the same burdens.«

22 The interrogatory and the declarations of Fernando de Santillán and

Jorge Ichel in AGN/BA, IX.23.2.5, Cuad. 1, fols. 23v–24v and 27r–v and Petition of Pedro Antonio Cervino, Buenos Aires, 25.6.1804, AGN/BA, BN 189, Exp. 1882.

23 »Presentación a Lázaro de Ribera ... por los oficiales, vecinos y comandantes de las tropas auxiliares«, undated, Archivo General de Indias, Estado legajo 81, N.15(1a).

24 LAVALLÉ (1983) 96–99, PAGDEN (1990) and ALBERRO (1992) 11.

25 ÁLAMO DE BARRIENTOS (1990) 13–15.

26 HERZOG (2004) and HERZOG (2003) 145–152. See, for example, »Representación hecha por los americanos a nuestro rey Carlos III lamentándose

de que no se les mira y distingue como sus méritos piden sólo por residir allí«, an anonymous pamphlet dated Madrid May 30, 1774, in Biblioteca Nacional del Perú, Lima, Mss. C4321, »Discurso del abad Don Ramón Dios ... sobre la oposición que los escritores extranjeros fingen y exageran entre los españoles europeos y americanos«, undated pamphlet in Biblioteca del Palacio Real (hereby BPR), Madrid, II/2851, No 10, fols. 270r–296r and Alonso de Solórzano y Velasco, »Discurso legal e información en derecho a favor de los nacidos en los reinos del Perú y conveniencias para que en él, sin el óbice de haber

ment as »natural,« it is particularly telling that, for this to happen, Spanish Americans had to imagine themselves as natives of a distinct political community than Peninsular Spaniards. Writing in 1667, Pedro de Bolívar y de la Redonda forcefully argued that European Spaniards loved Spain rather than Spanish America. Unlike native-born Spanish Americans, or persons who were raised, or studied or lived in Spanish America, or had acquired citizenship (*vecindad*) there, Spaniards born in Europe considered Spanish America a foreign land and maintained their loyalty to their original community. Because such was the case, European Spaniards were »newcomers« (*advenedizos*) and »outsiders« (*extraños*) to the New World who, even in the best of circumstances, could only be viewed as adopted, rather than natural, inhabitants.<sup>27</sup> Other authors agreed, sustaining that Peninsular Spaniards were transients who merited treatment as guests and suggesting that, like all other foreigners, they could naturalize if they proved that they had transferred their loyalty from the Peninsular to the American community.<sup>28</sup> Because such claims had no legal precedent – by law natives of Spain and Spanish America formed part of the same community (they were all *naturales de los reinos de*

*España*) – they were mainly argued by reference to natural law: »Although they [European Spaniards] are not considered by civil law foreigners in the Indies, the truth is that they did not obtain their nature in them. They have in the Old Spain, and not in the New, their houses, fathers, brothers and all that is capable of influencing the inclination of a man. When they are exiled to this distant land to serve an office, they do not change their nature, nor do they become insensitive to the impulses with which they were born ... they regard themselves as temporary in America, and they wish to return to the quietness of their patria and the comfort of their home.«<sup>29</sup> The conclusion was evident: »Since the power of civil law does not reach the sphere of natural effects, we experience that sons of the Old Spain are foreign to the New Spain, even if this is not recognized by civil law.«<sup>30</sup>

By the end of this process, Spanish American could present themselves as natives vis-à-vis both the aboriginal population and Spaniards from Spain. This double assimilation allowed them to argue (mainly during the struggle for independence) that they were victims of a European oppressor. Making themselves natives and transforming Spaniards of Spain into voracious foreigners and

nacido allí, pueden obtener plazas de oidor y demás que les están prohibidas« (1652) in BPR Mss. 2848, fols. 27r–57v. Also see LAVALLÉ (1987), LAVALLÉ (1993), LISS (1975), PADGEN (1987) and LYNCH (1994) 34–37. Creolism won prominence in the Anglo-speaking world in the 1980s after its inclusion in Benedict Anderson's *Imagined Communities*, in which it was classified as an early example of a modern national identity.

27 Pedro de Bolívar y de la Redonda, »Memorial, informe y discurso legal, histórico y político ... en favor de los españoles que en ellas nacen, estudian y sirven ...« (Madrid 1667), The Lilly Library, Indiana University, Bloomington, Indiana, fols. 3v, 25r, 32r–v, 45v, 53r and 56r.

28 Juan Antonio de Ahumada, »Representación político-legal a la majestad del señor don Felipe V en favor de los empleos políticos, de guerra y eclesiásticos«, (1725), reproduced in *Documentos selectos* (1992). The city of Caracas made similar allegations in 1796: Letter of November 28, 1796,

reproduced in Blanco (1875) 269–270 and 272. Also see: TERESA DE MIER (undated) 281 and TERESA DE MIER (1990) 524–525 and 462. In 1810 a local journal in Buenos Aires also used the term »naturalization« when referring to Peninsular Spaniards who wanted to become natives of the Americas, or Creoles: *Gaceta de Buenos Aires*, September 17, 1810, cited in VOGEL (1991) 111.

29 »Estos por más que no se consideren civilmente extranjeros en Indias, lo cierto es que no recibieron el ser en ellas: que tienen en la antigua España, y no en la nueva, sus casas, sus padres, sus hermanos y cuanto es capaz de arrastrar la inclinación de un hombre; que cuando a esta distancia se desatierran a servir un empleo, no muden de naturaleza, ni se hacen insensibles a los impulsos de la con que nacieron y por todo ello es fuerza, que desde estas regiones no pierdan de vista la atención a los suyos, y sobre consultar a socorrerlos (si ya no es a enriquecerlos) se contemplan pasajeros en la América, teniendo por objeto el volverse a la quietud de su patria, y casa

acomodados«: »Representación que hizo la ciudad de México al rey don Carlos III en 1771 sobre que los criollos deben ser preferidos a los europeos en la distribución de empleos y beneficios de estos reinos«, dated March 2, 1711 and reproduced in HERNÁNDEZ DÁVALOS (1877) 430.

30 »Pues obran contra ellos las mismas razones, porque todas las gentes han defendido siempre el acomodo de los extraños. Lo son en lo natural, aunque no en lo civil en la América los europeos; y como no alcance la fuerza civil a la esfera de los efectos naturales, hemos de experimentar estos de los hijos de la antigua España, por más que civilmente se entiendan no extraños de la nueva. Entre los efectos naturales se cuenta con mucha razón el amor que tienen los hombres a aquel suelo, en que nacieron y el desafecto a todo otro, siendo estos dos motivos los más sólidos principios, que persuaden la colocación del natural y resisten la del extraño«: »Representación que hizo la ciudad de México al rey don Carlos III en 1771«, *ibid.*, 429–430.



potential enemies, Spanish Americans thus distanced themselves from the accusation that they (rather than the Europeans who had remained in the Old World) were the true aliens and true victimizers of a native Indigenous population, which they dispossessed and often annihilated.

#### Naturalization and de-Naturalization in Times of Crisis

The importance of these questions that during the colonial period operated in the background, came to light in the early nineteenth century when deputies to the *Cortes de Cádiz* (1810–1812) moved to define what Spain was, who belonged to its nation, and who were its citizen. While commonly agreeing that Spanish America was an »integral part of Spain« and that, in their capacity as natives, its residents were both Spaniards and Spanish citizens, a few dissenting voices nevertheless argued that European and American Spaniards did not form part of the same nation.<sup>31</sup> Spanish Americans, they asserted, were perhaps vassals of the same king, but not »natives of Spain.« Now that the monarch was absent, there was nothing necessary or natural about their association with the Peninsula. As far as this minority of delegates was concerned, the rejection of Spanish Americans was necessary because at stake was the question of whether the Spanish nation could include »people of color and mixed blood« who were abundant in

the New World. The admission of such people, they argued, would introduce confusion into a nation which was »homogeneous and without internal rivalries.«<sup>32</sup> Nonetheless, following a debate taking place on October 1810, European and American territories were declared as participants in the same monarchy, and their »natives and originals« as members of the same nation.<sup>33</sup> This declaration, however, left open the question which Spanish Americans were »natives and originals,« and which not.

When the parliament turned to deal with Spanishness and Spanish citizenship on September 1811, the stage was already set for a debate on the »nativeness« of the inhabitants of the New World. Assuming almost automatically that descendants of Spaniards were natives, the next sector whose status was examined was the Indigenous population. Explicitly referencing their colonial condition as »natives,« and understanding it as implying civic membership, most delegates to the Cortes of Cádiz concluded that Indians were original members of the Spanish community. Their nativeness, communal existence, personal liberty, and vassalage were recognized from the early colonial period.<sup>34</sup> Since then, they were allowed rights traditionally reserved for natives, such as office holding.<sup>35</sup> »Nothing new do I find in these decrees, because our laws of the Indies considered them equal in all respects to the Spaniards, and allowed them to hold offices and honors.«<sup>36</sup> This was the correct legal interpretation, but it was also

31 Session of October 3, 1810, *Actas de las Sesiones Secretas de las Cortes Extraordinarias de la Nación Española (1810–1813)*. Madrid: J. A. García, 1874 (hereby ASSCE), 8 and *Diario de las discusiones y Actas de las Cortes de Cádiz*, Cádiz: Imprenta Real, 1811 (hereby DDACC), v. 1, 26–27. The relationship between Spain and Spanish America was also discussed on January 9 and 11, 1811, DDACC, v. 2, 316–330 and 346–372. See most particularly the positions of the delegates Morales Duárez on January 11, 1811, DDACC, v. 1, 370, Fernández de Leyva on January 16, 1811, DDACC, v. 2, 432–434 and Quintana on January 11, 1811, DDACC, v. 1, 361 and 363.

32 Argüelles argued on January 23, 1811, DDACC, v. 3, 66 that »la población de

España europea no ofrece estos inconvenientes, porque toda ella es homogénea. No hay aquí rivalidades, esas diferencias de castas de donde dimana el espíritu funesto de partido.« Other delegates such as Gurídi y Alcocer resented this implication and argued that Spain was just as diversified as Spanish America: January 25, 1811, DDACC, v. 3, 90.

33 Sessions of October 3, 10, 11 and 14, 1810 in ASSCE, 8–19, in 19. The resolution voted upon on October 14, 1810 stated that »las cortes generales y extraordinarias confirman y sancionan el inconcluso concepto de que los dominios españoles en ambos hemisferios forman una misma y sola monarquía, una misma y sola nación y una sola familia y que por lo mismo los naturales que sean originarios de

dichos dominios europeos y ultramarinos, son iguales en derechos a los de esta península.«

34 Feliú on January 30, 1811, DDACC, v. 3, 163–168.

35 Gurídi y Alcocer on January 25, 1811, DDACC, v. 3, 92 and Castillo on August 21, 1811, DDACC, v. 7, 461–462.

36 »Nada encuentro nuevo en este decreto porque nuestros leyes de Indias los consideran iguales en todo con los españoles y les abren la puerta a los empleos y a los honores«: Castillo on August 21, 1811, DDACC, v. 7, 461–462.

a compelling moral and political solution. Because of their condition as true natives, Indians necessarily loved their homeland, which was also the homeland of their forefathers. This love guaranteed their obedience, fidelity, and »good intentions« towards Spain.<sup>37</sup> Most discussants also pointed out that Indians were »natives and originals« of the Americas, and they expressed the opinion that they had to be accepted as original members of a national community that now formally extended to both sides of the Ocean. Some deputies, however, fearing the practical consequences of the inclusion of Indians among Spanish citizens, suggested a »separate but equal« regime.<sup>38</sup> Others stated that regardless of their nativeness, Indians were unworthy of citizenship.<sup>39</sup> A few coined their objection in civic terms, insisting that despite their nativeness, Indians were quintessentially foreigners. After all, they were different from Spaniards in language, culture, and capabilities. Nonetheless, the majority opinion ruled otherwise, determining that Indians and American Spaniards formed a single community with European Spaniards and that they were all Spaniards and Spanish citizens. Yet, while agreeing that because they were native Indians were also citizens, most delegates conceded that Africans and their descendants were not. Portraying these as aliens and arguing that they never naturalized, they thus suggested that, in their condition as outsiders during the colonial period, Africans should continue to be non-members also under the new liberal regime.<sup>40</sup>

#### A Comparative Perspective: British North-America

In British North America, similar processes that gradually de-naturalized the aborigines, naturalized the invaders, and transformed the English into foreigners, also transpired. Observing Indigenous mortality and concluding that the aborigines lacked the ability to thrive in their homeland, European settlers suggested that there was a »cosmic synchrony« between them and the New World.<sup>41</sup> Because, according to them, they were better fitted to American conditions than Indians, the later were not as »natural« as they were. Not only were colonialists naturally more native than the local population, this population was not truly indigenous. The Americas had been repeatedly invaded by many groups. Those who resided there before Europeans arrived were therefore mere migrants »whose territories might subsequently be invaded by other,« more recent, colonizers.

While making themselves equally or even more worthy of the Americas than Indians, settlers also searched to distinguish themselves from fellow Britons. Although they normally shied from calling themselves Indians or natives because of the negative connotations of these terms, on occasions, for example, during the Boston Tea Party, they did present themselves as either Indians or Americans in order to distinguish themselves from Europeans.<sup>42</sup> According to their claims, they were members of a »new race of men« that, by »casting

37 Morales Duárez on January 11, 1811, DDACC, v. 2, 370–372.

38 Quintana on January 9, 1811, DDACC, v. 2, 317.

39 Valiente on January 23, 1811, DDACC, v. 3, 75–76.

40 The perception of Africans as foreigners first appeared in the sixteenth century and it persisted to the eighteenth century: PARRY (1981) 317, BERNAND (2000) 9–10 and 50–51. Also see the letter of the city of Caracas dated November 28, 1796, reproduced in BLANCO (1875) v. 1, 267–275. It was also reproduced in the Cádiz debates, in which various delegates openly called Africans foreigners (*extranjero* and *casta extranjera*): Morales Duárez on February 7, 1811, DDACC, v. 3, 282; Fernández de Leyva on September 3, 1811, DDACC, v. 8, 134; and Gurídi y

Alcocer on September 4, 1811, DDACC, v. 8, 150–151. Their lack of naturalization was argued, for example, by Aner on September 5, 1811, DDACC, v. 8, 181–184. The denegation of native rights such as office holding and ecclesiastical benefices was made explicit in Morales Duárez on February 7, 1811, DDACC, v. 3, 281–282. Yet, although referring to their nativeness or foreignness, the debate clearly referenced the idea that these individuals, because of their descent, were naturally inept to exercise political rights: Valiente on January 23, 1811, DDACC, v. 3, 75–76, Dou on September 5, 1811, DDACC, v. 8, 173; Espiga and García Herrero on September 7, 1811, DDACC, v. 8, 215–220 and 223–225; and Creus on September 10, 1811, DDACC, v. 8, 233–234. Lisperguer also mentioned

these prejudices in his intervention of September 15, 1811, DDACC, v. 8, 329. On the debate on both Indians and Africans see HERZOG (2003) 155–162.

41 WHITE (1999) 132 and CHAPLIN (2001) 130–131, 135, 153, 156–158 and 177–178. Quotations are on pages 131 and 156. Also see CHAPLIN (2008) 23–24 and 42–43.

42 DELORIA (1998) 2 and 6. On the negative connotation of these terms see CHAPLIN (2001) 175–176.

off their European skin« looked forward to the future, rather than backwards to their ancestors.<sup>43</sup> Thus, although the historiography has insisted that until the mid-eighteenth century colonialists vindicated their Britishness, abandoning it only in response to British attitudes that gradually portrayed them as foreign, it is nevertheless clear that, like Spanish Americans, during the colonial period settlers living in the North were both internal and

external to Britain, both similar and different than their European compatriots.<sup>44</sup> They were natives or Europeans, members or foreigners (or both things at the same time) depending on who among them was speaking, when, and for what end.

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43 Crèvecoeur in 1782 and John Quincy Adams in 1819, cited in SOLLORS (1986) 3 and 75–76. Also see pages 77 and 102–103.

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