"color" on the 1900 census. It was not until 1950 that "race" appeared by itself. In contrast, "color" was in the census legislation from its inception. Thus "color" was an integral characteristic of the census, persisting for more than 150 years in census forms, introductions, and instructions to census takers[25] (U.S. Bureau of the Census 1978, 1989).

Why was the term *color* retained for so long on the census? It might have been inertia or a reflection of the then commonly used term *colored people*. Is the concept of color still commonly accepted today, even though the term has been discontinued officially? Finally, is the history or legacy of this concept connected to the fairly recent introduction of the term *people of color*? This term is used, particularly in academia, to define or unite what are, in effect, "other social races."

The category that we think of today as "race" has undergone several transformations. Nonetheless, many people believe that racial classifications are static and biologically based. These views were encouraged by the government's policy requiring individuals to choose only one category to identify themselves, which reinforced the impression and myth of "pure" races (Lee 1993). Since these categories were based on supposed color differences, census classifications also reinforced a presumable biological basis for what were really social distinctions and definitions. According to Lee (1993), the concepts of race and ethnicity have been confused as well, viewing what are in effect "social groupings" as biological races. This view began to change in 1950 with the census's tacit admission that "race" is not a scientific concept but that it is often socially determined. This view has continued to change, and the basic bipolar, hierarchical racial construction is being challenged as the result of a series of events, such as increased and more diverse immigration, greater intermarriage, more global and intense economic competition, new scientific and technical discoveries, changes in the socioeconomic positions of "other social races," and new views of race.

5

The Shifting Color Line

DESPITE THE OVERARCHING bipolar structure that emerges from our review of census documents, there is and has probably always been a great deal of heterogeneity within the two polarities. Moreover, the lines between the two have not always been definite but have fluctuated. For example, some individuals and groups in the "other social races" have occasionally been classified as "white," and mixed-race persons have always blurred the boundaries of these socially constructed polarities. Some people and groups have tried to alter their classification, and the census itself has changed the labels it uses to describe various groups.

Among the groups that have legally contested their racial classification or had it changed are Filipinos, Afghans, Chinese, Japanese, Koreans, Syrians, Burmese, Mexicans, Hawaiians, Native Americans, and certain mixtures (Haney López 1996). Sometimes the rulings regarding their racial status have been both curious and conflicting. For example, the 1854 case of *People v. Hall* ruled that Chinese immigrants in California were "generically 'Indians,'" and the 1893 case of *Saito v. U.S.* ruled that Japanese immigrants were "Mongolian" (Almaguer 1994:10). Armenians were first classified as "Asiatic" until a federal court ruled in 1909 that they were white (Haney López 1996:130–131; Takaki 1994:15).

This chapter focuses on the changes in the census classifications of Native Americans, African Americans, Asian Indians, and Hispanics. These groups' experiences are a good illustration of the shifts in racial placement and labeling by the census over time, the groups' challenges of their racial classification, and the influence of political factors on racial classification. In particular, the experiences of Native Americans, African Americans, and Asian Indians illustrate the historical relationship between challenges to racial classification and the awarding of citizenship. The Hispanic experience—although less contentious in this regard—nonetheless highlights the extent to which "mixture" has been

perceived as problematic for full U.S. citizenship. All groups exemplify the historical difficulty that the census has had dealing with mixture and with groups who have not fit neatly into discrete categories of color. Finally, these groups' experiences underscore the extent to which classifications have been influenced by, and have influenced, political considerations.

NATIVE AMERICANS

The generic term used to refer to those peoples present when Europeans first arrived in North America has been modified only slightly over the last one hundred years (see table 4.4). This vastly diverse set of multilingual, multicultural peoples were first misnamed "Indians" by Christopher Columbus, who thought that he had reached India. It is a label that persists even today, although Native Americans is preferred. This persistence is perhaps reflective of the tendencies in this country's racial structure to ignore differences among those classified as "not white." Although the census did distinguish between "domesticated" or taxed Indians, referred to tribes in an "advanced state of civilization" who owned slaves (Kennedy 1862:11), and described blood quantum, the name used to describe the group as a whole has tended to stay the same.

From 1860, when the census first counted untaxed Indians, to 1940, Native Americans were simply "Indians"; for the next twenty years, they were "American Indians"; and then between 1970 and 1990, they were listed as "Indians (Amer.)." In the 2000 census, the category is American Indian or Alaska Native. The censuses have always collected tribal identification but only occasionally have reported it.

The U.S. Constitution states that *taxed* Indians are to be counted as equal to "whites" for apportionment purposes. Thus, Native Americans may have first been counted as white—if they paid taxes. Then when all Indians were first counted separately in the 1860 census, they were classified as a not-white, not-Negro group within the "other races" category, along with the Chinese.[1] Beginning in 1970, they have been listed, along with Eskimos and Aleuts, in their own "Native American Indian" race category.

The Constitution does mention taxed Indians. The fact that the federal government did not report taxed Indians separately led to the assumption that taxed Indians had been included in the white counts. A later census showed that this was the practice: "A few domesticated or taxed Indians" had been earlier "included in the tables of the whites" (U.S. Secretary of the Interior 1853b:ix). The 1790 census form for New Hampshire, however, showed that taxed Indians were included in its "free colored" column, not in the "white" column (U.S. Bureau of the Census 1967, 1989:276). It is not clear how these taxed Indians from New Hampshire were reported in the national figures. But this New Hampshire census suggests that how taxed Indians were counted in these earlier censuses varied by locality. Very likely, how taxed Indians were counted was determined by factors such as phenotype, the extent to which they had assimilated and/or intermarried, and how much wealth and property they had acquired.

Eventually, the category of "taxed Indian" ceased to have any "practical relevance" and became "an anachronism" (Pevar 1983:155). In 1935, the U.S. Supreme Court ruled that all Indians were subject to federal taxation (*Superintendent v. Commissioner*), and in 1940, for apportionment purposes, all Indians were included in the total number of persons (Clemence 1981). Although some Native Americans still are not taxed (those on reservations do not pay federal taxes), the census has long ceased to distinguish between those taxed and untaxed.

Of greater importance perhaps, from our present-day perspective, is that *untaxed* Indians were not counted. The 1850 census contained the first estimate of untaxed Indians (De Bow 1854a:41, 1854b), and the 1860 census also included figures on Indians (Kennedy 1862:134–135). But not until 1870 was there a serious attempt to count such Indians, in order to measure the country's "true population" (U.S. Secretary of the Interior 1872a:22).[2] By 1890, the census reported that there were more untaxed Indians (189,447) than taxed (84,160) (U.S. House of Representatives 1895:cxxiv). The 1900 census was the first to classify systematically all Indians residing in the United States, taxed and untaxed.

In addition to the early differentiation between taxed and untaxed Indians, Native Americans were also separated according to blood quantum. In the 1860 census, for example, "half-breeds" were listed separately from Indians. Again, how they were counted on the local level varied. In Wisconsin and in New Mexico Territory, they were tabulated both separately and in the white column, whereas in California, half-breeds and Chinese were listed separately under the white column (Kennedy 1862:134–135).

By 1870, the census admitted that "Indians" had intermixed to the extent that there were few persons of "pure Indian race"[3] (U.S. Secretary of the Interior 1872a:19). Consequently, the census wondered how half-breeds should be classified racially. It began by defining the term as popularly understood, that is, as including "persons with any perceptible trace of Indian blood, whether mixed with white or with negro stock" (U.S. Secretary of the Interior 1872a:19). It then asked: "Shall they be regarded as following the condition of the father or of the mother? Or, again, shall they be classified with respect to the superior or to the inferior blood?" (U.S. Secretary of the Interior 1872a:19).

Although the census clearly regarded Indians as a different race and half-breeds as having both "superior" (white) and "inferior" (Indian) blood, it stated that the criteria applied to "the former slave population" should not be applied to Indians (U.S. Secretary of the Interior 1872a:19).[4] Curiously, the census finally chose a socially dependent criterion that classified half-breeds as white if they lived with whites and had the "habits of life" and "methods of industry" of whites. But if they lived in Indian communities, they were to be classified as Indian.[5] This approach was referred to as the "most logical and least cumbersome treatment of the subject," especially if the census was "to trace and record all the varieties of this race" and considering the "small and fast-decreasing numbers" (U.S. Secretary of the Interior 1872a:19). Thus, although Native Americans were referred to as a race, the hypodescent rule was not strictly applied to them because behavior and community recognition were considered in determining the race of half-breeds.[6]

In chapter 4, we discussed the censuses' difficulty—especially toward the end of the nineteenth century—ascertaining the extent to which persons of African descent were "mixed." The censuses also wanted to gauge the extent of Indians' "white" or "black" blood. Accordingly, in 1890, the census questioned Native Americans living on reservations about this (Thornton 1987:217), and as noted earlier, the 1900 special census of American Indians asked them how much "white blood" they had (U.S. Bureau of the Census 1989:46). The census used the amount of "Indian blood" as a basis not just for counting Indians but also for awarding treaty rights and defining identity. Wilson (1992:108–125) and Jaimes (1994:41–61) maintain that gauging this so-called blood quantum has had a deleterious effect on Native Americans and is at variance with the Indians' own definitions of themselves. As Wilson noted, this blood quantum criterion imposes "non-Indian racial (and racist) assumptions onto Native American thinking."[7] Before the Europeans arrived, people intermarried across tribes but did not use the concepts of "half-" and "quarter-breeds" or blood quantum (Wilson 1992:109, 116). Nonetheless, this blood quantum approach has divided—and continues to divide—the Native American community, as individuals debate what it is to be "Indian" and who is more "Indian," based on that person's perceived blood quantum (Jaimes 1994).[8]

AFRICAN AMERICANS

The census history of African-descent persons is similar in some ways to that of Native Americans. Both were subdivided into two groups—one into free and slave and the other into taxed and untaxed. Initially, the "free colored" and the "taxed Indians" were small groups that were between whites and their respective unfree and untaxed groups in terms of rights of citizenship. In addition, blood quantum was used in both cases to subdivide and classify the groups. Finally, in both cases, one generic term was applied to all persons regardless of their highly diverse cultural and linguistic backgrounds. But the two broad groups also had some important differences.

Most persons of African descent were first counted in a category that referred to their state of enforced lifetime bondage, that is, as "slaves" and thus as three-fifths of a person. Even within this category they were counted not as individuals but as part of a household. This classification reflected their legal status as "property." For example, the data might show that the Henderson household contained one white male over sixteen years of age and one white female over sixteen, four children of different sexes, and five slaves. The gender and age of slaves were not reported separately until 1820, and other information was not available until 1840, when each slave was given a number (names were not listed). In 1820, a separate "free colored persons" category was introduced and retained until slavery was abolished.

Both slave and free African Americans were subdivided according to their mixed heritage. Between 1850 and 1920, they could be either "black" or "mulatto," and in 1890, smaller fractions of "black blood" were requested.

In contrast to Native Americans, the generic term used by the census to refer to persons of African descent did change substantially over

time. In the early censuses, the category used was "black." Later, the category "Negro" was used, and it included both "blacks" and "mulattoes." Then between 1930 and 1960, the category Negro was used by itself. Beginning in 1970, the category "black or Negro" was used, and in the 2000 census, the category is "black, African Am., or Negro." The inclusion of "African American" is significant, for it is the first time the group has been given a label that suggests geographic origin rather than color or race. Only one other contemporary race term does not refer specifically to geographic origin, the "white" census category.

BIRTHRIGHT, CITIZENSHIP, AND COLOR

Citizenship is related to the question of classification, for in the United States, classification as white meant that a person could be a citizen by birthright or as a result of naturalization. Although the states had the right to restrict citizenship, they could not grant it to nonwhites.

Citizenship is perhaps a society's most basic and significant definition of rights and equality. Although the U.S. Constitution does not explicitly define citizenship, it does give Congress the power to naturalize aliens. One of the first laws that Congress passed was the Naturalization Law of 1790, which required that naturalized citizens be white. Thus, almost from the nation's inception, the general outlines of citizenship were in place: a white person who was born in the United States was automatically considered a citizen and, if foreign born, could become a citizen. For a nonwhite person, however, citizenship was not a birthright, and a nonwhite, foreign-born person was prohibited by law from becoming a citizen.

Consequently, neither African Americans nor Native Americans born in the United States could automatically become citizens. Although the path to full citizenship was different for Native Americans and African Americans, for both groups, citizenship was initially given to those in between, that is, to free people of color and to taxed Indians. A number of scholars have argued that these in-between groups did not enjoy a full citizenship status equal to that of whites; rather, it was a second-class citizenship status that was given to (and sometimes withdrawn from) them (see, e.g., Aptheker 1968; Fishel and Quarles 1970; Franklin 1967; Kettner 1978).

Native Americans

The relationship of the Native American nations to the new United States government changed over time. In the colonial period, government officials dealt with independent and unconquered tribes on the fringes of the white settlements as "sovereign political communities." After 1776, "the central government assumed primary authority over Indian affairs—or at least over tribes outside the boundaries of existing states" (Kettner 1978:288, 291).[9] Since Native Americans were part of these sovereign political nations, they were initially seen to be "aliens" and not citizens. Furthermore, the naturalization laws that allowed European "aliens" to become citizens excluded Indians.

Some "Indians," however, did become citizens in accordance with their "individual circumstances." This meant that some de-tribalized Indians were absorbed into the white population as citizens. Others negotiated separate agreements and relationships with the British monarchy, the different colonial governments, or, later, the U.S. government through their tribal governments. The extent of this "absorption" is not well documented. Kettner, for example, cites one source that found increasingly "separate and unequal treatment of Plymouth's Indians" and not absorption. But many were undoubtedly absorbed as they intermarried and as white settlements gradually took over their lands and their status as tribes or sovereign political entities was challenged (Kettner 1978:289–299).

During the nineteenth century, this early status of "sovereign nations" gradually eroded (Johansen 1982; Lurie 1974). In 1831, the U.S. Supreme Court rejected the Cherokee Nation's argument that it constituted a "foreign state" in the sense in which this was understood in the U.S. Constitution. In *Cherokee Nation v. Georgia*, the Court argued that Indian nations were "domestic dependent nations" occupying a "state of pupilage." According to Kettner (1978), this domestic, dependent nation status ultimately served the purposes of those who wished to maintain control over the Indians without fully incorporating them into the community of citizens. Being "domestic" allowed for the extension of white laws over the Indian nations, for as "nations," they were not given citizenship or protection.[10]

The federal courts and executive branch concurred in excluding tribes and tribal members from citizenship. Even after the passage of

the Fourteenth Amendment, which granted citizenship to all ex-slaves, the federal courts continued to rule against birthright citizenship for Native Americans. Instead, they were deemed to be perpetual inhabitants with few rights—not citizens. Finally, in the *Dred Scott* case of 1857 (also important to determining the citizenship status of African Americans in the mid-nineteenth century), the Supreme Court argued that Indians were "aliens incapable of qualifying for naturalization because of the naturalization law's color restrictions" (Kettner 1978:294–296).[11]

Nevertheless, despite the federal courts' decisions and the naturalization laws restricting citizenship to free white immigrants during the nineteenth century, a number of treaties and statutes considered awarding citizenship to Native Americans under certain conditions. For example, the Cherokee treaties of 1817 and 1819 provided for land grants to heads of families "who may wish to become citizens of the United States" (Kettner 1978:292). Unfortunately, citizenship granted in this way eroded tribal landownership systems and often led to "the destruction of the tribal organization and government" (Kettner 1978:293). After the removal of the Cherokees to Oklahoma in the 1830s, North Carolina agreed to consider in the same way as other citizens those Cherokees who remained. Other examples are the treaties with the Delawares in 1778, which envisioned the admission of a separate Indian state as part of the Articles of Confederation, and the Cherokee treaties of 1785 and 1835, which raised the possibility of congressional representation. However, neither of these last two provisions ever took effect (Kettner 1978:291, 294).

It is not known how many Indians became citizens through treaties and by breaking relations with their tribes, but the commissioner of Indian affairs reported in 1891 that before 1887, only 3,072 Indians had been admitted to citizenship through such treaties and congressional acts (Kettner 1978:293). With the Dawes Act of 1887, however, these numbers increased dramatically. This act admitted to citizenship those Indians who severed their relationship with their tribe and accepted grants of land in severalty. (It also resulted in the destruction of much communal tribal ownership.) Additional legislation raised the numbers further; for example, an 1888 law allowed both Indian women who married citizens and Indians who enlisted to fight in World War I to become citizens. By the time the act to make all Native Americans citizens was passed in 1924, two-thirds of them had already been admitted to citizenship through these acts and treaties (Kettner 1978:300).

African Americans

Whereas the question of citizenship for Native Americans was a moot issue by those who saw Indians as belonging to (or having allegiance to and citizenship in) another "nation"—albeit a domestic, dependent one—individual African Americans did not have allegiance to a comparable foreign organization. Moreover, before Emancipation, most African Americans were slaves, who were neither aliens nor citizens but property. Kettner suggested this was a legal convenience, for if slaves could be seen as property, "judges could avoid fitting them into established categories of membership or non-membership" (1978:301).

Immediately after the American Revolution, there were moves toward manumission, and during the first decades of the nineteenth century, slavery declined in the North, and the federal government formally outlawed it. But in the South, the rapid rise of cotton production and the continued fear of an ever-expanding black population led to a reversal of these early antislavery tendencies. Consequently, by the 1830s, local laws in the South became primary, and federal laws, secondary. Slavery and noncitizenship thus remained sanctioned by law in the Southern states and by the federal government's policy of compromise and withdrawal (Kettner 1978:302, 311).

The phrasing of the issue of slavery and citizenship before the Civil War shows how entrenched slavery had become in some areas. The question at that time was not whether *free* Negroes were citizens but whether their status was that of a former slave or a free person, that is, whether they were property or persons. Those who held that they were property argued that the manumission of slaves was an individual master's decision; therefore, the state could not bestow citizenship. Since it was the master's right to relinquish ownership of his property, his property did not have the right to be a citizen, regardless of whether he or she was a slave or an ex-slave. Thus, from this perspective, even free Negroes were property, but without owners to command them.

In time, Southern states such as Tennessee and North Carolina retreated from these explicitly dehumanizing stands and emphasized more active discrimination against free blacks and mulattoes as indication of their separate status as a "degraded race" or a "third class." In circular fashion, they cited the discrimination as justification for their continued separate (and consequently discriminatory) treatment of blacks with regard to citizenship rights. Similar arguments were used in

the U.S. Supreme Court in the *Dred Scott* case. In contrast, the Northern courts favored citizenship for free Negroes, but they also supported discriminatory legislation for them (Kettner 1978:315, 320).

The issue of native-born free Negroes raised other questions. One concerned gradations of rank within citizenship status—did free Negroes have second-class status? Another question was whether the states could adopt a definition of citizenship that differed from that of the federal government. The latter question was particularly relevant to the acquisition of new territories. If a slave moved with his master to a territory or state where slavery was not legal, was he still a slave there? When he returned? These issues came to a head in the *Dred Scott* case.

Dred Scott, a slave in Missouri, was taken by his master to a nonslave territory for a number of years. When Scott returned to Missouri, he sued for his freedom in the state courts. When he lost his case, he appealed to the federal courts, which would hear cases only when the litigants were "citizens of different states." (During this period, the state still determined citizenship.) Thus, the first question was whether Dred Scott was a citizen of Missouri. The U.S. Supreme Court (with the majority of its justices from the South) decided that he was not a citizen because he was a Negro and that residence in a free state or territory did not result in a slave's emancipation. The language used by the Court in this case was particularly inflammatory. One justice referred to Negroes as "natural-born subjects" and "not citizens." In rendering the Court's decision, Chief Justice Roger B. Taney stated:

> In the opinion of the court, the legislation and histories of the times, and the language used in the Declaration of Independence, show, that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument. (*Dred Scott v. John F. A. Sandford* 60 U.S. 393, 10 [1856])

Justice Taney added that blacks had been "regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations." Moreover, they were seen to be "so far inferior, that they had no rights which the white man was bound to respect." The rationale for not granting citizenship rights was the prevailing condition of such people. Justice Taney noted, "Indeed when we look to the condition of this race in the several States at the time, it is impossible to believe that these rights and privileges were intended to be extended to them" (*Dred Scott v. John F. A. Sandford*, 60 U.S. 393, 10, 13 [1856]). He concluded that "the negro might justly and lawfully be reduced to slavery for his benefit" (cited in Blaustein and Zangrando 1968:162).

Some scholars have cited the *Dred Scott* decision as "the most far-reaching judicial statement of the nineteenth century" with regard to race relations and as "the case that set the stage for the Civil War" (Blaustein and Zangrando 1968:146). The case clarified in 1857 the *national* status of both slaves and free Negroes. Justice Taney referred to the Constitution to justify his decision, which, he said, differentiated between "the citizen race, who formed and held the Government, and the African race, which they held in subjection and slavery, and governed at their own pleasure" (*Dred Scott v. John F. A. Sandford*, 60 U.S. 393, 17 [1856]). In essence, those of the African race, whether slave or free, were never intended to be citizens. Rather, the citizen race was the white race.

Only after the Civil War and the passage of the Fourteenth Amendment was the principle of birthright citizenship finally affirmed for African Americans. The 1790 legislation was amended in 1870 to permit the naturalization of "persons of African nativity" and "persons of African descent" (Kettner 1978:331, 345). Native Americans had to wait until 1924 for legislation to make them citizens, and both groups are still struggling for equal rights.

For Native Americans, the price of citizenship was the surrender of their tribal lands, tribal relationships, and tribal culture. For African Americans, citizenship was granted initially by local regulations or agreements, which were replaced much later by federal policies. In both cases, the federal policies differed from those for Europeans, and more restrictive local policies and needs often drove more restrictive federal policies. In both cases, the citizenship status of those in between—that is, taxed Indians and free people of color—often varied and was ambiguous. In some states, they could be citizens, but in others, they could not. In addition, the type of rights they had varied by state and changed over time in some states (Kettner 1978:301). The status and rights of taxed Indians and free blacks were also undoubtedly related to wealth, property ownership, intermarriage, phenotype, and acculturation. Finally, in both cases, these in-between groups disappeared.

Given that their own rights to equality were often challenged, it is interesting that both Native Americans and free people of color owned slaves, in the Americas and in Africa. Some scholars argue that it was a different type of slavery. The traditional servitude that existed in African feudal society before the onset of the European slave trade did include people with virtually no freedom, but with few exceptions, "servants were regarded as human beings and not chattel. They could marry, own property, maintain their family unity, freely worship their god, and sometimes they became military commanders and even rulers." This kind of servitude is "not to be confused with American slavery in which the slave was regarded as chattel, and in some cases defined as property" (Harris 1972:73). Among the indigenous peoples of North America, slaves were often captives of war and could be Indian, white, or black.

Only a few free people of color in the United States owned slaves, but a number of Indian nations did keep numerous slaves. Indeed, the 1860 census devoted a section to Indian slavery, and tables in its appendix listed the number of slaves held by "Indian tribes west of Arkansas, comprising the Choctaw, Cherokee, Creek, and Chickasaw nations" (Kennedy 1862:10–11). These were southeastern tribes that had been removed from slave-owning states and been resettled, mainly in Oklahoma. (The census acknowledged that these groups were but a "small portion of the Indian tribes within the territory of the United States" [U.S. Secretary of the Interior 1853b:11].) The census calculated that slaves formed about 12.5 percent of the total Indian population in these nations[12] (U.S. Secretary of the Interior 1853b:11).

Some scholars contend that slavery among Indians and free people of color differed from that among European-descended peoples. The Cherokee Nation, for example, had early been a "haven for escaped black men," who often served as English-language "interpreters for full-blooded masters." Some also taught the Cherokees how to cultivate the soil (Strickland 1975:79, 82). The Cherokees eventually promulgated laws similar to those of the states in which they resided. The laws tended to favor the Cherokees' planter class, but they were "at such variance with the needs and expectations of the majority of the tribe that the laws were widely ignored" (Strickland 1975:83). Initially, the Cherokees' regulations regarding slavery resembled "more closely [those for] tenant farmers or hired servants, with little restriction on private life but a clear separation between the red and black races." As "plantation agriculture began to emerge, the role of the slave began to conform more closely to that of blacks in the southern cotton kingdoms" (Strickland 1975:79–80). Legal restrictions on slaves were borrowed from those of Alabama and Georgia. However, the "evidence clearly demonstrates that most of these restrictions were ignored" and that agricultural crops were shared, slaves were allowed to keep guns and were educated, and it was not uncommon for them "to possess horses, cattle and swine" (Strickland 1975:81–82). There is mention of "only one minor slave uprising" (Strickland 1975:84). Slavery varied among the Indian nations, for example, some intermarried to a greater degree and had fewer slaves, and the Seminoles—who had also been "transplanted from slaveholding states"—had no slaves and intermarried with ex-slaves (Katz 1986; Kennedy 1862:11).

The majority of free people of color had a personal interest in their slaves. For example, they might have been married to a slave; the slaves might have been the children of a free father; or they might have been "close friends who by law would have to leave the state if freed" (Fishel and Quarles 1970:128). In some instances, large numbers of slaves were owned just for economic benefit (Fishel and Quarles 1970; Franklin 1967:224 ff). Many free people of color also protested slavery and helped slaves escape through their benevolent societies, schools, churches, and the abolitionist movement (Aptheker 1968; Du Bois 1972:235–272; Fishel and Quarles 1970:128–132; Foner 1964; Rawick 1972:109–113; Rose 1965).

Asian Indians

How individuals or groups are classified by their government is relatively unimportant if the rights of all members of the society are truly equal, regardless of race, color, ethnicity, class, or gender. It is only because these rights, practices, and privileges have not been equal in the United States that such classifications have become important.[13] As we have seen, census categories have reflected, sustained, and, in some cases, established certain power relations because of the rights associated with being classified as white in the United States. The extent to which this has been the case is illustrated by the example of immigrants from Asia who, for 162 years could not become citizens (and therefore could not own land) in some states. The federal government's 1790 naturalization law specified that only persons classified as free "white"

immigrants could become naturalized citizens (Kettner 1978:331, 345; Leonard 1992; Takaki 1994).[14]

The fluctuating racial classification of Asian Indians is an interesting example of both the extent to which racial definitions and classifications can change and the role of political factors in influencing racial classifications. In some censuses, Asian Indians were counted as "white" and in others as "other race." In the 1910 census, for example, Asian Indians were counted and classified as "other race," but a footnote explained that "pure blood hindus" were ethnically white and had been so declared in several naturalization cases, but, it continued, in the popular conception they were not seen as "white." Consequently, they were included in the 1910 census with the "other races" category, along with the Chinese, Japanese, Filipinos, and others (Jensen 1988:252).

A 1923 Supreme Court case involving Asian Indians used the same reasoning. *Bhagat Singh Thind v. U.S. 261US204* concerned the question of whether Asian Indians were "white" and therefore eligible for citizenship. The Court concluded that although scientific and linguistic evidence indicated that Asian Indians were Caucasian, the common understanding of people in the United States was that "white" meant European and Caucasian, not just Caucasian. Accordingly, at least sixty-five Asian Indians were denaturalized between 1923 and 1927 (Haney López 1996:91).

In effect, the 1923 Supreme Court's decision legitimized the government's refusal to accept scientific definitions of race and to opt instead for a definition of race that was more socially acceptable at the time. The "race" of Asian Indians could be defined in two ways: one was seen to be scientific, and the other was based on what it was believed "the common man" thought. It was the second one that counted.

In making this decision, the Court reversed the position it had taken just a year earlier. In *Ozawa v. United States* (1922), a Japanese immigrant contended that since the color of his skin was white—indeed, whiter than that of many white persons—he should be classified as "white." The Court then unanimously ruled that "the words 'white person' are synonymous with the words 'a person of the Caucasian race'" (cited in Haney López 1996:85). Thind thus used this ruling to argue that since he was a Caucasian, he was therefore white and eligible for citizenship. However, the Supreme Court's decision on Thind made

clear that "white" was what people believed it to be—or, as the Court argued, "what the common man thought" (Haney López 1996:107). In essence, race was socially determined.

Subsequent census classifications of Asian Indians reflected the Court's decision. The 1930 and 1940 censuses included a separate "Hindu" category (see table 4.3). Curiously, Asian Indians who were Muslim or Christian were placed with Hindus in the "Hindu" category. Their racial classification at the local level varied, depending on their skin coloring, the county, and the observer classifying them. For example, during this period, clerks issuing marriage licenses to Punjabis in California sometimes wrote "brown," sometimes "black," and sometimes "white" for the Punjabi grooms (Leonard 1992:68).[15]

Toward the middle of the twentieth century, as India and Pakistan moved toward independence, politics influenced racial classification. In 1945/46, after extensive lobbying by Asian Indians, legislation was passed enabling them to become citizens.[16] It was after this time that their classification as "white" commenced.[17] Indians were subsequently counted as white in the census until 1980, when a separate "Asian Indian" category was created. In 1990, Asian Indians became a subcategory under the generic "Asian and Pacific Islanders" (API) category. In the 2000 census, they are listed along with other groups from Asia or the Pacific Islands but without the pan-ethnic API label.[18]

Thus, Asian Indians have progressed from being an undefined racial category to being "other race"—that is, Caucasian but not white "in the common understanding" (or not European white)—to being "legally white," to being listed as their own "Hindu" race category without a generic label or group, to being part of the "Asian and Pacific Islander" race group, to again being listed as a race along with other Asian and Pacific Islander groups but not under this generic label.

Hispanics

The classification of Hispanics has also fluctuated in the U.S. census, not just because of "racial" classification changes, but also because the cultural criteria, such as language, surname, and "origin," to determine Hispanicity have changed.[19] As noted in chapter 4, the 1930 census created a "Mexican" category for the race question (see table 4.3). Thus, in 1930, first- and second-generation Mexicans were of the "Mexican race" unless they were determined by the (usually white) census

interviewer to be definitely white, Negro, Indian, Chinese, or Japanese. Those in the Mexican category were considered part of "other races" along with groups such as the Japanese, Chinese, and Native Americans. In 1940, the census dropped the Mexican category and stated that all Mexicans were to be reported as "white" unless they were determined by the census interviewer to be "definitely Indian or of other Nonwhite races" (U.S. Bureau of the Census 1943:3).[20] So Mexicans moved from being Mexican unless determined otherwise in the 1930 census to being white unless determined otherwise in the 1940 census.

This criterion, established in 1940, was also applied to other Hispanics who immigrated to the United States in greater numbers after World War II—for example, Puerto Ricans in the late 1940s and 1950s, Cubans during the 1960s, and Dominicans and Central and South Americans in the late 1960s and 1970s. Accordingly, in the 1960 census, the instructions for determining race or color by observation directed that "Puerto Ricans, Mexicans, or other persons of Latin descent would be classified as 'white' unless they were definitely Negro, Indian, or some other race" (U.S. Bureau of the Census, 1989:78). In the 1970 census, enumerators asked respondents to choose a category for race. If the respondents wrote in, for instance, "Mexican" or "Puerto Rican," the enumerators moved them according to their appearance into the racial categories listed (Lee 1993). Consequently, before 1980, most Hispanics were classified as white.[21] But in 1980 and 1990, when mail-back questionnaires were instituted, Hispanics were permitted to classify themselves, and they reported a variety of racial and ethnic groups.

With regard to the changing *cultural* criteria used to define Hispanics, in 1940 the census used a linguistic definition to determine who was Hispanic, and "persons of Spanish mother tongue" were reported.[22] In the 1950 and 1960 censuses, the language criterion was replaced by "persons of Spanish surname." In the 1970 census, in response to pressure from the Hispanic community for a Hispanic self-identifier (Choldin 1986), a subgroup of individuals were asked "about their 'origin,'" and respondents could choose among several Hispanic origins listed on the questionnaire (U.S. Bureau of the Census 1993c). (As the next chapter explains, political factors also played a role in the decision to include a Hispanic identifier in the 100 percent count of the 1980 census.) Thus, between 1940 and 1970, Hispanics were counted according to three different cultural criteria, linguistic (1940), surname (1950 and 1960), and origin (1970).

In sum, over time, both various cultural criteria and various racial classifications were used to classify Hispanics. In 1930, Mexicans were a "race" within the "other races" category unless the census interviewer determined they were white, black, or Native American. Between 1940 and 1970, Mexicans and other Latinos were "white" unless they clearly appeared to be Indian or Negro,[23] and between 1980 and 2000, they could be "of any race" they chose. In the 2000 census, the format used to count Hispanics is essentially what it was in 1990, except that the question about whether or not a person is Hispanic comes before the race question.

In contrast to the other groups discussed in this chapter, citizenship issues for Hispanics have been more a matter of defining citizenship than of securing it. Perhaps somewhat incongruously, citizenship was granted to many Spanish-speaking persons as a result of the treaties signed after the United States invaded Florida, the Southwest, and Puerto Rico. Many questions, however, have been raised about whether this citizenship by conquest was an equivalent or a second-class citizenship, whether legal repression occurred after conquest, and whether this citizenship included cultural citizenship, that is, the right to speak Spanish and maintain one's culture (Acuña 1988; Cabranes 1979; Flores and Benmayor 1997:1–23; Hernández 1997).

The legal case of Rodríguez, a "pure-blooded Mexican" who applied to become a naturalized citizen illustrates the ambivalence and tenuousness attached to this citizenship by conquest, particularly in regard to "color." Although a Texas court granted Rodríguez's request in 1897 to be granted citizenship because of the treaties' existence, it also remarked that "if the strict scientific classification of the anthropologist should be adopted, he would probably not be classed as white" (cited in Haney López 1996:61). This decision and whether "a person of [Mexican] descent may be naturalized in the United States" were later questioned in the courts (Haney López 1996:242, n. 37). Thus, although the Texas court did allow a "pure-blooded Mexican" to naturalize, in rendering its judgment, it reinforced the more general rule that color was still a bar to citizenship for nonwhites such as the Chinese and Japanese.

Although the census never tried to measure specific mixtures among Hispanics, the changing instructions to enumerators regarding how they were to classify Mexicans and the current census position that Hispanics can be of any race suggest that Hispanics are at least a mixed

lot. But are they a mixed lot in the same way that the United States as a whole is a mixed lot, or are they seen as mixing a lot? Horsman (1981:chaps. 11, 12, 13) argues the latter, maintaining that Americans saw Mexicans as less fit because they had intermarried so much with Indians and thus were not capable of governing the southwestern territories. Although such a perspective can be seen to justify the expansion of the United States into the Southwest, some academics believe that this perspective also influenced how all Latin Americans were viewed.

For example, Hayes-Bautista and Chapa contended that with the promulgation of the Monroe Doctrine and the rise of Manifest Destiny, Latin Americans were racialized into a homogenous group (of Latinos) that transcended the boundaries of Latin American nations. In essence, with the annexation of other people and the incorporation of foreign territories, racial identification replaced national identification, and the "conquered race" was relegated to a lower social class level than that of the "conquering race." With Latin Americans continually cast as persons belonging to a less advanced and different race, the confusion of race for nationality continued. Hayes-Bautista and Chapa believe that the general North American public assumes that the "race" of Latin Americans is a reality and that it is the antithesis of the civilized United States population (1987:62–63).

Whether Latin Americans were racialized into a Latino group during the nineteenth century or later has not been resolved. What is clear is that political factors have been important to the definitions of both citizenship and racial classification in the United States. It is also clear that Mexicans and other Latinos have confounded, and continue to confound, the bipolar structure that evolved in the United States. In part, the reason is that they do not fit easily into the bipolar structure—nor in some cases do they wish to be—because of their varying phenotypes, mixture, and perspectives on race. Hispanics, perhaps more than other groups, best illustrate the permeability and shifting lines of the bipolar structure.

RACE IN REAL LIFE, THE ACADEMY, AND THE CENSUS

Historically, there have been many shifts in racial classification (Anderson 1988; Forbes 1988; Lee 1993), even though the general impression is that the concept of "race" has been unequivocal and unchanging in the

United States. As a recent extensive review of this subject pointed out, there is a "widespread popular perspective that race is biologically determined and permanent and that ethnicity is culturally determined and equally permanent" (Edmonston, Goldstein, and Tamayo Lott 1996:18). Yet a primary perspective in the social sciences now views race and ethnicity as social constructions. Indeed, Almaguer holds that it has become "axiomatic in sociological research to view racial categories as sociohistorical constructs whose meanings vary widely over time and space" (1994:9).[24]

This contrast between the popular and the academic perspectives of race is apparent at a time when the significance of racial classification has shifted. In the past, nonwhite petitioners to the courts often argued—as did Plessy in *Plessy v. Ferguson*—that they should be classified as "white" so that they could be given the rights of whites. Thus, race and ethnic definitions were often ways of excluding individuals from equal membership in the society. More recently, defining groups has been a way of including them and ensuring that particular groups are not discriminated against. But whether race and ethnic classifications are used to include or to exclude groups, the basic bipolar structure—that of whites and other social races—has prevailed. Nonetheless, those in between have always been more dialectically engaged—individually and as groups—in contesting, resisting, rejecting, ignoring, transforming, or being transformed by census categories than is generally believed and than census documents might indicate. Indeed, these census-based historical analyses may project a smoother sense of history than what the lived experience has perhaps been. The reason is that in addition to being labeled by the census (and by others in more casual situations), individuals also identify themselves racially and ethnically for reasons of pride and to express group affiliation, and these self-classifications may differ in meaning as well as in actual terminology from those used by the census for both these in-between groups and other groups.