

Chapter 2

Citizenship Fails

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“You need to have a green card if you are going to be in the United States longer than x amount of time,” she said, to which I replied:

“Look, I was born down there; I don’t need a green card; I am not an immigrant; I am part of a *First Nation*, and this is the card that proves it!”

Upon hearing this her posture complete changed, she pushed my card to me, and said, “well then,

You
Are an American.”
To which I said,
“No, I am not,
I
Am a *Mohawk*.”
I walked away from her. But as I was walking toward the door, she yelled across
the border house to me,
“*You are an American.*”
And I yelled back,
I am a Mohawk.”
And she yelled
“No
You are an American.”

Audra Simpson, *Mohawk Interruptus* 2014, p.119

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Are you a citizen? Try to remember when you realized that you had citizenship, or when you realized your citizenship was compromised. Was there a day in your life when you contemplated what it means to have a Singaporean or Brazilian passport (or the right to apply for one)? If your citizenship is compromised, think about when you first realized this. It might be when you applied for a passport, when you enlisted in military service, or when you first learned your parents do not have legal documentation for your country of residence. In the world we live in today, our rights and our ability to be mobile, to attend school, to seek protection from the state are contingent upon citizenship. This has been highlighted in the so-called “refugee crisis,” in the conversations over the “Windrush Generation,” of immigrants from the British Empire, who arrived in the UK before 1971 and who sometimes lack documentation for citizenship claims. It has also been a topic of conversation for academics and workers of all kinds living in the UK as Brexit approaches. We can learn a lot by thinking back on when and how we are faced with our citizenship. Was it a moment when citizenship status facilitated accomplishing something you wanted to do (going on a big international trip with a passport that guarantees entrance on arrival – or traveling across Europe as a citizen of the EU)? Or when it hindered you in your goals and desires (not being able to apply for government assistance, not being able to get a visa to travel to a country because of your passport, having to be careful when you see a police officer)? If you have waited in an immigration line, was it boring? Or did your heart beat fast, and your palms sweat? Did you scan the row of state officers, wondering which might be the most empathetic? Were you certain you would be able to walk past the official with the badge?

Citizenship is a legal relationship with a state in which there are both rights and responsibilities – laid out in the state’s constitution. Citizenship is the “right to have rights” (Arendt 1973). This means citizenship will *always* fail to protect some people. We can challenge the ways that citizenship has structured our lives and our ways of thinking about the world by considering both the ordinariness of citizenship and the exceptional cases in which we founder on the structure of citizenship as a means for protecting people’s basic human rights. Throughout the chapter, it will be helpful to keep in mind one of the themes introduced in the Introduction: that categories structure our thought and sometimes obscure things that are right in front of us.

If the question: “Are you a citizen?” surprised you, you might think about why this is, *especially* if you realize it is only because of an accident of your birth that you have never had to be concerned about whether you are or are not a citizen. How is it that for some of us, citizenship is an unquestioned site of stability and a natural state of being? For some of us a lack of state citizenship may be a daily hurdle is an illuminating truth that this chapter will argue teaches us quite a bit about the framework of citizenship itself. When people’s lives and livelihoods, education and safety, health and wellbeing depend on citizenship, as it is currently configured, the heartbreaking truth is that *citizenship fails us*. We have only to recall the men, women, and children who have lost their lives in the Mediterranean or in the Sonoran Desert of the US Southwest as they left a state that could not or refused to care for them to travel toward a place where they believed they and their children could survive. When we consider citizenship and its limits, we would do well to keep in mind the circumstances that may lead people to take a risk on the citizenship-less living of refugees and asylum-seekers. British poet Warsan Shire writes:

no one leaves home unless
 home is the mouth of a shark
 you only run for the border
 when you see the whole city running as well
 your neighbors running faster than you
 breath bloody in their throats
 the boy you went to school with
 who kissed you dizzy behind the old tin factory
 is holding a gun bigger than his body
 you only leave home
 when home won't let you stay.

no one leaves home unless home chases you
 fire under feet
 hot blood in your belly
 it's not something you ever thought of doing
 until the blade burnt threats into
 your neck
 and even then you carried the anthem under
 your breath
 only tearing up your passport in an airport toilets
 sobbing as each mouthful of paper
 made it clear that you wouldn't be going back.

Shire described her writing about refugees as being inspired by her own family's experiences, but also by time spent with young undocumented refugees in Europe, who had fled their homelands in Somalia, Eritrea, Congo, and Sudan (Bausells and Shearlaw 2015). The poem reflects on the circumstances through which an asylum-seeker or refugee might end up on the borders of another country or slipping across, and the reasons they might risk this position. But our chapter began with a different circumstance: a refusal of citizenship.

In the epigraph for this chapter, Simpson (2014) describes her aggravation at being told she is an American citizen, and her own desire to refuse that citizenship and forcefully claim instead *Mohawk* citizenship, that she belongs to her Indigenous community, not to the United States. This is a means to declare ongoing Mohawk **sovereignty** in the face of settler colonialism. When Simpson shouts "Mohawk!" She is affirming that the belonging that matters to her is that of her community, and that it exists prior to, and in defiance of the **settler colonial** state. Asserting her Mohawk identity declares that it cannot be subsumed into US citizenship, but rather, that the Mohawks of Kahnawà:ke, a region that crosses the US-Canada border, maintain sovereignty – the right to govern themselves. We will return to the question of Indigenous sovereignty and citizenship at the end of this chapter. Part of the premise then of this chapter is not to celebrate or normalize citizenship, but to try to understand citizenship through its complications, edges, and failures. What is citizenship to a father holding his child in a boat, hoping to cross a sea for her safety? What is citizenship to the border guard and to the Mohawk woman who yells at the guard even when she knows this may impede her travel?

Citizenship has never been neutral or universal; for instance, it has often been enmeshed in the creation of racial categories. Mae Ngai (2014) begins her book, *Impossible Subjects*, by tracing the stories of two people classified as "illegal aliens" in the United States: Rosario Hernandez, deported from Texas to Mexico in 2001, and Lillian Joann Flake, whose

deportation was canceled by the Secretary of Labor in the 1930s. Both Hernandez and Flake had been convicted of crimes: Hernandez for driving while intoxicated and Flake for theft. Hernandez, married to a US citizen and two US citizen children, had been sober for years, and continued to participate in Alcoholics Anonymous; he was deported. Laws enacted in 1996 in fact meant that his deportation could not have been stopped. Ngai argues that the operation of race in the United States has changed over time (for instance, with Hernandez receiving sympathetic media attention, while during the 1930s the deportation of Mexican and Chinese “aliens” usually went unremarked). *However*, race still plays a powerful role, with significant focus on the US-Mexico border and undocumented immigrants entering from Mexico and Central America. Undocumented immigrants are “woven into the economic fabric of the nation,” as “labor that is cheap and disposable,” and “might be understood as a caste, unambiguously situated outside the boundaries of formal membership and social legitimacy” (Ngai 2014, p.4). Flows and movement across the border and blocked by the border are structured by the racialization of people, and this racialization in turn structures the border itself.

In this way, the border is a traveling site of multiple forms of violence – a theme we will return to across chapters on security, biopolitics, and geopolitics. Borders become a site through which racialized and gendered national identity is made, and this making of identity is also an unmaking of those who are excluded, in ways that drive home the importance of intersectionality in analysis. First, the securitization of the border creates violence and insecurity for migrants (Slack 2016; Kocher 2017; Torres 2018; Williams and Boyce 2013) Second, as people without documentation, migrants’ other vulnerabilities are heightened, for instance for undocumented queer Latinx migrants (Sandoval 2019; see also Cahuas 2019a; Cahuas 2019b). Movements like that of the UndocuQueers both highlight and refuse this violence through forms of world-making – an opening up of “citizenship” that we will return to later in this chapter. Sandoval (2019, p.3) describes a performance by Jacque Larrainzar:

As the music concludes, I watch as Jacque proclaims, “Being undocumented and gay, just like death, means having to navigate between two worlds,” after concluding her performance for the Día de los Muertos benefit for Entre Hermanos, an LGBTQ Latinx nonprofit in Seattle. To the right of Jacque – above an altar that honors the deceased with gifts, stories, and music – sit 49 photos of the victims of the Pulse nightclub shooting in Orlando, most of whom were queer and trans Latinxs.

Sandoval describes the experiences of UndocuQueers as one in which their lives are shaped by violence of bordering and absent citizenship, but he stresses that people who identify as UndocuQueer also use a “cartography of social practices” to make a life that is livable, in part by questioning the meaning of citizenship.

Legal scholar Michelle Alexander (2012) begins *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* with a story of five generations of American men who could not vote. Jarvis Cotton’s great-great-grandfather could not vote because, as an enslaved person, he was not considered a full citizen under the law – until the late nineteenth century in most states only white men owning property could vote. In 1870 the 15th amendment to the US Constitution extended the right to vote, prohibiting the denial of voting rights based on “race, color, or previous condition of servitude,” however, this was the **de jure** right (rights according to law), not, the **de facto** or everyday experience of having access to those rights. Cotton’s great-grandfather was killed by members of the Ku Klux Klan for trying to vote, and

his grandfather and father were also prevented from voting by intimidation and so called “Jim Crow,” laws that made voting difficult for minorities. Jarvis Cotton, a felon convicted of murder, cannot vote because of Mississippi’s laws, which disenfranchise felons (these laws vary state by state). Alexander uses this example to begin an argument that mass incarceration of Black people in the United States has meant that even though minority voting is protected under the law, anti-Black institutional violence has meant that Black people are disproportionately affected by mass incarceration (and the United States has the highest percentage of its population incarcerated than has any other country in the world – see Walmsley 2013). Geographer Ruth Gilmore describes this mass incarceration as part of a Prison Industrial Complex, in which, “The way the system works is to move the line of what counts as criminal to encompass and engulf more and more people into the territory of prison eligibility” (Loyd and Gilmore 2012, p.43). We will return to these questions in Chapter 10 on security.

Alexander’s argument is too important and layered to be adequately addressed here, but two points are very helpful with our goal of understanding the uneven nature of citizenship. First, she argues that the citizenship accorded Black Americans throughout the country’s history has been limited (or nonexistent, under slavery), but that this curtailment has taken different forms at different times. While the disenfranchisement of felons is an instance of the *de jure* (legal) relationship of citizenship, it is also a case in which the structure of the law has reflected racialized ideas of order – for instance the increasing criminalization of specific drugs and harsh punishment for small amounts, and the racialization of specific *kinds* of drugs like crack (versus other forms of cocaine). In tandem with this means of criminalization through the law was a *de facto* citizenship that continues to be different for Black Americans (and other racialized people, specifically Latinx Americans and Native Americans). This means that though Black Americans are statistically less likely to use illegal substances, they are *more* likely to get in trouble with the law if they do use illegal substances. Why? Because Black communities are disproportionately policed (meaning, under increased surveillance), *and* struggle with disproportionate sentencing. Geographers have explored spatial dimensions of this policing, approaching it as foundational to the structure of US cities (Shabazz 2015; Nast 2000; Jefferson 2018, 2016; Cahill et al. 2017), something to which we will return. This means that though Black Americans have the right to vote under the law, *as a population* they are disproportionately disenfranchised, through a combination of restrictions on both their *de jure* and *de facto* citizenship. As you will no doubt realize, this is not a universal experience for Black Americans, but the structuring of citizenship as a framework is mediated through these racialized processes.

In this chapter we will consider the boundaries of citizenship and how we might reconceive of it through considerations of “ordinary” citizenship, its uneven qualities, *de jure* vs. *de facto* citizenship, and the paradoxes and failures of citizenship.

Ordinary and Extraordinary Citizens: Justice, Care, and the DREAMers

A group of North Carolina college students recently took time from their busy days of work and study to teach faculty and staff about life as DACA (Deferred Action on Childhood Arrivals) students under the Trump administration. DACA is a special program for people

who crossed the border as children without paperwork. The students helped faculty and staff understand what life is like for them as they move through the campus and the town carrying the uncertainty of their immigration status with them. They pay out-of-state tuition, but often lack resources due to their parents' compromised visa status. These students are members of the North Carolina Dream Coalition (and you can read about some of their stories at <https://ncdreamcoalition.wordpress.com/>). Students described themselves as "undocumented" and "unstoppable." Their parents traveled across the border at great personal risk and enduring physical hardship often with the sole purpose of securing safety and a future for their young children. Some of the students could not remember the places where they were born and asked what would happen to them if they were forced to return. Another had been desperate to visit her ailing grandmother one more time before she passed away, and had been unable to do so since the Trump administration had thrown DACA into uncertainty.

The DACA program means recipients are in an intermittent state of anxiety, not only for themselves, but for their parents or loved ones who did not even have DACA. They also fear family separation – as sometimes their parents did not have DACA protection, they had the temporary status, but their siblings might be US citizens. This led them to wonder: "What would happen to my five-year-old sister if my parents and I were to be deported? Why am I struggling to get a degree when my future is uncertain?" While political rhetoric portrays immigrants as burdens on the social welfare systems, these students were eager to point out that they do not qualify for financial aid or in-state tuition, pay out of pocket, and are ineligible for most social services even though they and their parents pay taxes.

What does citizenship mean in this complicated web of obligations, rights, and responsibilities? Research on "Dreamers" complicates straightforward definitions of citizenship.

In a revealing analysis of the case of Jesus Apodaca and other "DREAMers," that is young people brought across the US border as children, Staeheli et al. (2012) ask us to think of citizenship as more than a legal category. Citizenship is also an ordinary web of connection that links people in a community through ethical engagement. They argue that Jesus, the valedictorian of his high school with a scholarship to the University of Colorado, was a citizen of his hometown, Aurora, Colorado, through his engagement in the community and through fulfilling the responsibilities of citizenship. When his status as an undocumented person was revealed, his scholarship was revoked. Suddenly, his "ordinary" dream of going to a public university became extraordinary – even impossible. Paying out-of-state tuition was financially impossible: "something that [had] become an expectation as a social right of citizenship for American teenagers is not available to those who *are citizens in all but legal status*" (Staeheli et al. 2012, p.629). Jesus's case became a flashpoint for the state, with Tom Tancredo, a member of the US House of Representatives calling for his deportation and Senator and Representative Ben Nighthorse Campbell and Mark Udall introducing bills in support of his case.

Young people like Jesus have inspired a push for legislation like the DREAM Act (Development, Relief, and Education for Alien Minors). The DREAM Act has thus far failed to pass, and the Deferred Action for Childhood Arrivals (DACA) program, went into effect in 2012, but is currently in limbo due to recent policy changes made by the Trump administration. The DREAM Act was proposed so that children brought into the country could seek conditional residency and eventually even permanent residency. The DACA legislation allows minors to have a two-year deferral of action on their cases, which they can

seek to renew, and eligibility for a work permit. Under the Trump administration at the time of this writing, two DACA recipients have been detained and released, raising questions about its future. Staeheli et al. want us to understand the complex nature of citizenship by thinking about “ordinary” citizenship: that is, how laws are inseparable from ordinary daily life, and hence that citizenship, daily life, and exclusion are all entwined. One question at stake is whether we choose to consider citizenship only as a legal framework, or to consider it as a substantive part of daily life that is more than a legal relationship between people and the state.

At first, the question of legal citizenship might seem quite straightforward – you either are or are not of legal status, and accordingly you either have the rights and responsibilities of citizenship or you do not. But Staeheli and others make clear that in the case of undocumented immigrants, they have the burden of citizenship – following laws, having responsibilities to the state, paying taxes for social security and so forth – but they do not have the rights that other citizens have – such as collecting government benefits from systems they have paid into. The result is, “a hodgepodge of rules” inconsistently applied (p.633). This hodgepodge is further complicated by the spatiality of law and legality, as overlapping jurisdictions of the US Constitution, and federal, state, and local laws may all have slightly different limits and constraints. Staeheli et al. frame citizenship differently for us by introducing the concepts of justice and care: justice pointing to the ways each layers onto the existing story: legally the state may deport those who violate its territorial sovereignty, but from a justice framework, Jesus himself was a child and not responsible. From the perspective of care, there are ethical relationships between Jesus and his family and the other members of the community, and a citizenship based on care would extend protection to Jesus.

The ordinariness of citizenship is also pertinent when we think back to the questions that opened this chapter. If we are lucky enough to be born into citizenship status within the country in which we reside, we have privileges that ease our daily life. If we are the victim of a crime, we do not need to worry that reporting it to the authorities will lead to our paperwork being called into question (though we might have other concerns based on race or gender identity). If we can afford it we can travel back home to family events like weddings or funerals without worrying that we may be detained or unable to return to our workplace.

The intensity of meaning over citizenship and belonging comes into focus when we consider contestations over *jus soli* or **birthright citizenship**. *Jus soli* citizenship is the form granted to babies born in a state, regardless of the citizenship of their parents. Sean Wang’s (2017) research on “fetal citizens,” has drawn out how political narratives about birthright citizenship connect the intimate and embodied (the space of the womb) to the local. He researched how a Chino Hills California neighborhood, in which one house was accommodating Chinese citizens hoping to give birth in the United States, became connected to the national (the discourses and laws on birthright citizenship) and to the transnational (these Chinese women’s desires to provide the *option* of multiple citizenships to their children). Wang connects space to time or temporality in his analysis, showing how an outsized reaction to the discovery of a “maternity hotel,” in Chino Hills leads to a controversy that entangles interpretations of the past and concerns about **reproductive futurity**, or the ways that reproduction engenders particular kinds of futures (for instance, a changing demographic makeup). Wang (2017, p.264) argues that anti-immigration politics, “are conducted through a temporal mode of control that relies on anxieties about the future,” which brings

“the figure of the fetal citizen to the forefront of immigration politics.” We will return to the ways that babies and demographic change draw political attention in later chapters.

What then do we make of the spatiality of citizenship? Must it be linked to the state as a natural location? Can we think of forms of citizenships that challenge state borders? That is what some theorists have been trying to do as they work to conceive of transnational forms of citizenship that cross borders (e.g., Leitner and Ehrkamp 2006), and of migration as a fundamental human right (Casas-Cortes, Cobarrubias, and Pickles 2015; Jones 2016). We will return to these questions in a few pages, but for now let us shift to other questions of place and citizenship, now as they are tied to sexual orientation.

Uneven Citizenship, Sexual Citizenship, and Gender Identity

The case of Jesus Apodaca’s complex legal relationship to nested jurisdictions of Aurora, the state of Colorado, and finally the US government reveal to us the ways that geography complicates citizenship. For the DACA students and the DREAMers, the *problem* of citizenship is in its attainment, and one potential solution is a path to obtain citizenship. However, this is not the only way that citizenship jostles up against people’s daily lives. While for some, it is the process of gaining citizenship that is an obstacle to a full life, for others, their experience is one of **uneven citizenship**, that is, they do not have full access to the rights of citizenship because they are discriminated against due to their racialized identity, gender identity, sexual orientation, or other factors. As we will discuss in further chapters, the state is both an abstract idea, and part of the fabric of our everyday life. In some cases, uneven citizenship is written into the law (for instance, where same-sex marriage is prohibited). Even when people are protected under the law, the law is carried out by all of us from schoolteachers to police officers to the neighbor who calls (or does not call) the police to report your loud party or a teenage boy in a hoodie walking through a neighborhood (Painter 2005). In this section, we will consider this uneven nature of citizenship. First, we will consider this through sexual citizenship and the uneven policing of public displays of affection, and then we will more briefly consider uneven citizenship as it relates to racialization, and to people who consider themselves transgender, gender queer, gender nonconforming or nonbinary.

Sexual orientation offers another example of the unevenness of citizenship from which we can further interrogate citizenship’s boundaries and limitations. Hubbard (2013) demonstrates this nicely through a simple example of physical affection. In 2011, journalist Jonathan Williams was kicked out of a pub in central London’s Soho neighborhood for kissing his date, also a man. This occurred *despite* the existence of laws meant to protect the inclusion of sexual minorities. Even though these legal codes recognize and prohibit homophobic acts as a form of discrimination, Williams was still kicked out of the pub. For Hubbard, this case allows us to think of citizenship being a process and a negotiation that operates differently at different scales. What does he mean by this? On the one hand, sexual minorities have a right under national law to be protected from discrimination. On the other hand, in this case, the pub owner pointed to a right to regulate conduct within private property. Citizenship is necessarily exclusionary, as we have observed in the cases above in which citizenship is a boundary between those who can be protected and those who are not. However, here even those afforded citizenship under the law experience that citizenship differently, with their rights protected in some spaces and at some scales but not at others.

As Hubbard explains to us, the rights secured at the national level ought to be available in our daily (or “ordinary”) lives. However, the nuances of intersecting jurisdictions and the ways that citizens treat one regulate rights and conduct at the “street level.” This may mean that heteronormative moralities supersede the rights afforded by national anti-discrimination law for sexual minorities. Hubbard’s (2013, p.230) argument is not that we ought to privilege the local over the national, but rather that we ought to “consider the geographies of sexual citizenship and the ways these are determined *through* jurisdictional scale.” Anti-discrimination laws are meant to protect evenly across state territory, but in practice they are contingent on the micro-politics of exclusion that vary and are spatially uneven.

Through this example, Hubbard deploys the idea of **sexual citizenship**. Bell and Binnie (2000, p.10) have observed that “all citizenship is sexual citizenship.” That is, “the ideal citizen is normatively gendered and sexualized; a subject that exhibits the proper gendered (masculine or feminine) behaviors required of a biologically unambiguous body” (Nash and Browne 2015, p.368). How else does sexual orientation impinge upon the ability to access citizenship? We can think of many: inheritance rights, the right to be with a loved one in the hospital or make decisions on their behalf, the right to marry, the right to have children or to adopt children, or the simple right to consensual sexual activity with someone of the same sex. Discriminatory laws have in different places and cases compromised all of these. In this way, citizenship is *uneven*. As we discussed above, legal citizenship might seem to be a clear-cut distinction that affords rights and responsibilities to those who fall within the citizenship category, along many axes of identity and position in society, from sexual orientation and racial identity to class privilege or disadvantage, *access* to citizenship is not uniform. Barriers to voting may be higher for those with low socioeconomic status or those who are differently abled. Participation in political processes is facilitated by wealth and in some places by gender and race. Following Hubbard, we can see a spatiality to these across geographic locations and also shifting over time. We can think of this unevenness and the gap between law and *experience* of the law in the distinction made between *de jure* citizenship and *de facto* citizenship.

De jure citizenship refers to citizenship rights under law. The two gay men on a date have the same rights as a heterosexual couple to freedom of sexual expression and freedom from discrimination based on sexual orientation. However, they do not have the same access to these rights as a heterosexual couple. Their *de facto* experience is of uneven citizenship and is a reminder to us that citizenship in practice is contingent and relational – that is, it is not evenly experienced by all people and is formed in relation to the institutions, societal structures, and people who make up our daily lives.

Aside from sexual orientation, citizenship is also entangled and uneven for people who identify differently from the sex they were assigned at birth, or people who are nonbinary or gender fluid. How easy does the state make it to have your appropriate gender listed on your passport or other identification? Can you change your birth certificate so that it reflects your gender rather than the gender you were assigned at birth? Do exclusionary laws make even the most mundane moments of your day difficult – such as using the bathroom? Are you at greater risk for physical violence? Does the state police force adequately understand your risks (especially for people of color who are transgender or gender non-conforming)?

Petra Doan (2010) has argued that the pervasive **binary gender system** is experienced as a “gender tyranny,” not only for people who are transgender, but also for all people who are

affected by the rigidity of these norms. Petra Doan, writing from her own expertise in urban planning, but also as a self-identified trans woman, has honed a research agenda on the ways that gender binaries are entrenched in the urban landscape (e.g., Doan 2010, 2007), and today there is a small but growing literature on trans and genderqueer geographies. The binary gender system sets up gender as a dichotomous or binary system of two opposed, rigid, and distinct poles: male and female. The pervasiveness of the binary system is difficult and even dangerous for those who are **transgender**. For people who are transgender, their gender identity does not match up with the gender they were assigned at birth, while some of us may have a **nonbinary** or **fluid gender identity**, and not easily identify with either gender or identify with both. It is important to note here the culturally constructed nature of gender, and thus its contextually grounded specificity: in many times, places, and languages, gender has been less rigid, more varied, or simply different. In South Asia, for example, *hijra* or *kinmar* or other variants refers to a third gender that could be intersex (having both “male,” and “female,” qualities), transgender, or eunuch. In North America, many Indigenous groups have specific gender categories that do not fit the male/female binary. Sometimes the modern category “two spirit,” is used to signal “a varied and complex array of gender and sexual identities rooted in Indigenous worldviews and lived experience” (Hunt and Holmes 2015, 160; see also Thomas and Jacobs 1999).

As the struggle for transgender rights has become more visible, paradoxically, in some cases, transgender people may become more vulnerable due to backlash and legislation intended to prevent the protection of their rights. This has been evidenced by laws passed (and challenged or repealed) in the US states of Texas and North Carolina, which sought to limit access to restrooms based on people’s assigned gender at birth, despite any steps someone has taken to affirm their gender identity (Cofield and Doan in press). That is, even if someone has been a woman for most of their life, they would have to use the men’s restroom if “male,” is written on their birth certificate. This kind of legislation has paradoxically been promoted as a “safety issue,” with ads incorrectly portraying women and girls vulnerable to sexual predation due to “men,” being in women’s spaces – a rhetorical move that obscures the actually existing violence against transgender and genderqueer people (Bender-Baird 2016).

But is Citizenship the Goal?

Struggles over citizenship are not always uniform and are not always a quest for inclusion. **Sexual citizenship** provides a lens for us to understand how people with minoritized sexual orientations or gender identities might seek equality – for instance by demanding the right to marriage, the right to correct a birth certificate that lists gender assigned at birth, or to have a gender neutral birth certificate. Thinking of sexual orientation in relation to citizenship provides us with a language for people who are LGBTQ+ to seek equality and the same rights that heterosexual couples have. As we proceed in this book, we will unpack some of the related conceptions of power, hegemony, and the social order that are entangled here. To seek the legitimacy of the state is to affirm the legitimacy of the state. For some, citizenship issues like the right to marry are founded in two institutions – the state and marriage itself – that are profoundly **patriarchal** and **heteronormative**. Patriarchy refers to institutionalized governance by men in arenas from government to the business and home, accompanied by cultural explanations for this dominance, and some would argue

patriarchal values are embedded in the marriage contract's history as the exchange of a woman as property between father and husband. Heteronormativity refers to ways that the assumption of heterosexuality is embedded into day-to-day life from laws that benefit heterosexual married couples (tax breaks, inheritance laws, immigration legislation) to the ways this assumption is embedded in how people interact and socialize children. We see this in nonchalant interactions like asking your son if he wants to marry any of the girls in his class to children's films in which every central character has a love interest that is not their gender (a prince for every princess).

Some queer theorists, like Jack Halberstam (2008) argue explicitly against inclusion and assimilation for queer people, finding solace and autonomy instead in a rejection of these terms. This could include the abandonment of what Lauren Berlant (2011) has called **cruel optimism**: the ideal of a perfect storybook family that keeps us pursuing a life we can ultimately never obtain in our current economic structure, and thus a dream that hurts us. If citizenship is de facto heterosexual citizenship, then does the pursuit of parallel citizenship for queers suppress the potential for a truly radical queer life that challenges gendered and patriarchal norms around sexuality and private property. That is, does it the normalize of the property-owning nuclear family as natural and ideal? Some scholars and activists have argued just that (Halberstam 2008, 2005; Berlant 1997; Berlant and Warner 1998; see also Sycamore 2008; Conrad 2014), making the case that seeking greater inclusion in the existing structures of government and citizenship upholds and legitimizes historically oppressive and exclusionary structures and defers more radical change.

Building on a different tradition, these rejections of queer assimilation also evoke decolonial theorizations of gender, which suggest that gender itself is part and parcel of the fabric of colonial encounter, and that to accept the gender binary and patriarchal structures of the law is to be colonized (Lugones 2010). Given the challenges of citizenship outlined earlier, what happens at the edges of citizenship? Next, let us consider insurgent or active citizenship, in which those excluded from citizenship create new spaces of political engagement both within the spheres of **formal politics** and in the **informal politics** outside elections and political lobbying. After this, we will consider the politics of refusal.

Citizens Insurgent

After Jonathan Williams spoke out on Twitter about his experience in the Soho Pub, the story was featured in *The Guardian*. A few days later, 300 people showed up at the pub for a "kiss-in," as a way of demanding rights in such spaces (Hubbard 2013). This is an example of what has been called **insurgent citizenship**: citizenship that creates new spaces of political action for the marginalized, rather than citizenship given freely from the state (Holston 2008, p.313). We can find examples of insurgent citizenship across the globe as people have struggled for inclusion or for the transformation of their governmental structure. Holston's work on urban Brazil and the marginalization of squatters in São Paulo shows how demands for existence translate to a demand for citizenship, "a struggle for rights to have a daily life in the city worthy of a citizen's dignity." Holston's language of "insurgent citizenship," reconceptualizes citizenship as a site for struggle. It is important to note, however, there are a host of scholars who have been studying in particular Black women's struggles for citizenship, solidarity, and life, in the context of anti-Black state

violence (e.g., Caldwell 2007; Perry 2013; Smith, C.A. 2015; Bledsoe 2017, 2016), some of which we will return to in subsequent chapters.

The work of Holston (2008) and many others, such as Simone (2011), Anand (2017), Sultana (Sultana 2009; Sultana and Loftus 2013), and Valdivia (2008), shows us that citizenship can be active and enacted through engagement with the material world, and bolsters the complexity of such struggles. In this framing, poor people are not passive victims of their marginalization; instead they transform society through their efforts to thrive in an unjust world (Ballard 2015).

Refusal: Indigenous Citizenship Politics

Thus far, much of this chapter has explicitly or implicitly presented citizenship in an existing nation-state as a norm or an aspiration. That is, by reading this chapter, we could arrive at the conclusion that a solution to some of the challenges above – refugees seeking safety, Jesus Apodaca and the DREAMers seeking education, stability, and a future, and the men on a date in a London pub – is a more inclusive citizenship. In this last section of the chapter, let us consider just two ways in which citizenship itself might be considered a problem.

What is citizenship in the context of settler colonialism? If you are the original inhabitant of a place, and a foreign power has come and subjugated your people, made their own laws into the conditions of citizenship, and their state is founded on the elimination of your people (even if the means and terms have changed from outright genocide to assimilation to a multiculturalism that still does not repatriate the land to your people), can you then accept that citizenship? On what terms is it offered? This is the refusal that the chapter begins with, in which Audra Simpson tells an exchange she had with a border guard. Simpson (2014, p.1) writes on the ways that Mohawk nationhood interrupts or refuses to participate in the citizenship practices of the United States or Canada, and begins by asking: “What does it mean to refuse a passport – what some consider to be a gift or a right, the freedom of mobility and residency?”

In the context of settler colonial states, the Mowhawks of Kahnawà:ke are “nationals of a precontact Indigenous polity that simply refuse to stop being themselves” (Simpson 2014, p.1). Simpson’s scholarship works to explain the difference between politics of recognition and sovereignty, concepts we will take up again in the next chapter. Recognition seeks to see and honor difference in a multicultural society, but stops short of sovereignty – the autonomy to determine one’s own or one’s people’s affairs. When called to be part of a multicultural society that does not recognize pre-existing Indigenous sovereignty, the Mohawks that Simpson works with may instead enact refusal. Settler colonialism sets up settlers to desire legitimacy on the land, to claim and displace original inhabitants and position settlers as legitimate; paradoxically, multicultural forms of citizenship facilitate this, “through the language and practice of, at times, nearly impossible but seemingly democratic inclusion” (Wolfe 2011, p.32). A refusal to be recognized, whether by anthropologists (Simpson 2007), or through a stubborn consciousness and maintenance of cultural practices and histories and management of membership in Indigenous nations thus sustains sovereignty.

Most of the forms of citizenship and claims to citizenship we have seen in this chapter so far are in explicit relationship to the state. Jesus and his advocates seek for him to be able to obtain state education and for more general rights afforded to the citizen, Jonathan speaks out when his national rights are not protected in a pub, Alexander argues that Black

Americans do not have the same citizenship rights as white Americans, and Holston shows Brazilians demanding rights in the city. Here, let us continue to consider what we learn about citizenship through a refusal of settler state citizenship for Aboriginal and Torres Strait Islanders. We begin with the Aboriginal Tent Embassy in Canberra, Australia.

Tony Coorey was talking on the way down, he said, "What do we call this demonstration?" We said, "Land rights now." "No that don't sound good." So we kept talking about this in the car. And then we said, "Well there was the Indian fella burnt himself to death in the street over there, poured petrol over him." And Tony says, "Fuck that, you are not going to pour petrol on me and burn me." So that was out of the question. And I remember Billy Craigie saying, "Well there's no good us going on a starvation diet because we have been on that bastard all our lives. So that's not going to work." And we had no idea, absolutely no idea. But it was just land rights. Land rights and sovereignty. Sovereignty was a key issue. Because the two go together, as far as we are concerned. Anyway, we are sitting down there and we are debating this you see. And Tony Coorey went down the hall to the toilet. And he is sitting there with the door open, obviously because he is listening to everything we are saying. And we are in this discussion in the lounge room saying, "Well, what are we going to call it?" There's got to be some name. And out of the blue from the throne, deep down, in the hallway, there's Tony Coorey sings out and he says, "Well this is the home of the embassies, why don't we call it the Aboriginal Embassy?" Done. It snapped like that. It was just wonderful. You know, it was the thing. So Tony Coorey called that out and we said, "Yes, that's the name for it. We'll set up an Aboriginal Embassy."

In this account above, Michael Anderson (2013), a Gamilaroi man from New South Wales, Australia, recounts the 1972 founding of the "Aboriginal Tent Embassy," in Canberra (Figure 2.1). Anderson is recounting in detail the night of January 26, when after a series of longer conversations that sprang from meetings related to Prime Minister William McMahon's January 26 "Australia Day" statement (Anderson, M. 2013). Gary Foley, a member of the Gumbainggir nation, was expelled from school at 15, took part in the Tent Embassy protests, and later returned to school to complete a PhD and become an academic while continuing his activism. He is now a Professor at Victoria University and has also written about the events. In his account, it was Chicka Dixon who proposed the idea, after first floating the possibility of "tak[ing] over Pinchgut Island [like] the Indians in America had taken over Alcatraz. So I wanted to put it in the eyes of the world" (Dixon 1984 in Foley 2013, p.27). Considering the practicalities of this – given the sharks in Sydney Bay – Dixon then recalled how an earlier activist, Jack Patten, had said, "we should be setting up an Aboriginal mission station in front of this white man's Parliament House." Foley describes a series of events that unfolded both as the outcome of years of dedicated activism for Aboriginal rights as well as a stroke of luck, namely, that a loophole meant there was no law against setting up camp on the Parliament House lawn. The cleverness of the staging and fortunate timing meant that they could count on public support from Australians who had voted for the 1967 Referendum in support of Aboriginal rights, and, in Foley's words, "A large segment of the Australian people also appreciated the gentle irony that enabled the activists to make pompous government officials look like fools" (Foley 2013, p.23).

Australia Day celebrates the 1788 date on which the British Royal Navy arrived to establish a colonial settlement in what is now New South Wales; it is also called "Invasion Day" or a Day of Mourning by Aboriginal Australians (Foley 2013, 24; Iveson 2017, p.538). McMahon's statement was a reaffirmation that the Australian state would not bend to the



Figure 2.1 Aboriginal Tent Embassy, 27 January, 1972. Reproduced with permission of State Library of New South Wales and Courtesy Tribune.

demands of Aboriginal and Torres Strait Islander peoples for land rights. This followed a Northern Territory Supreme Court Case that had ruled against the Yolgnu people of Yirrkala, who were trying to prevent a Swiss company from bauxite mining in their land, and a growing Aboriginal Black Power movement that had been staging demonstration (Foley, Schaap and Howell 2013). McMahon's statement declared the mine to be in the nation's interest, and rather than granting land rights for Aboriginal Australians, he proposed land be *leased* to them in the Northern Territory, only temporarily, and only if they made judicious use of the land according to the government (Foley 2013). Thus, this was a denial of land rights *and* sovereignty, the right to determine your own people's affairs.

Before we continue tracing this story and its implications, consider the simple brilliance and spatial strategy of this series of actions. To set up an Aboriginal Embassy is to not only demand, but to enact nation-to-nation contact on equal terms, *not* on the terms of colonizing state to colonized subject. This act is in its own right a refusal to be citizens of a colonizing state (Simpson 2014). An embassy is many things: the place of ambassadors in a city abroad, the place where you get your visa and passport, a place of refuge and negotiations. The Embassy signals that Aboriginal Australians and Torres Strait Islanders have their own sovereignty and exist outside the purview of the Australian state.

At the Aboriginal Embassy, Anderson made the first statement: "As soon as they start tearing up Arnhem land we're going to start tearing up bits of Australia ... the land was taken from us by force ... we shouldn't have to lease it ... our spiritual beliefs are connected with the land" (Canberra Times January 26, 1972, cited in Robinson, S, 1994, p.5). By another fortuitous happenstance, members of the National Council of Aboriginal and

Torres Strait Island Women had been attending a conference at Australia National University: they visited the Embassy immediately and then used the platform provided by the conference to amplify and build on the message sent by the establishment of the Embassy. White students and anti-apartheid activists began helping with logistics, and the Embassy activists also hoisted both Marcus Garvey's flag for international Black consciousness and a flag of their own design (Foley 2013). Even local police became sympathetic to the cause, and landscapers conceded to demands not to turn sprinklers on the lawn. By February 5, a five-point plan was written, focusing on sovereignty, land rights, the right to protect sacred places, and compensation for land that could not be returned.

At stake in the accounts above is the question of the citizenship of the Indigenous people whose ancestors lived in Australia prior to 1788. As we have discussed, **settler colonialism** is a distinct form of colonialism that usually operates as imperial authority (here, Great Britain), sending groups of people to a place to "settle," or colonize that space and slowly replace the Indigenous population. This form of colonization, which is typified by the cases of the United States, Canada, and Australia, is distinct from other forms, such as the British colonization of India, the French in Vietnam, or the Dutch colonization of the islands that would become Indonesia. As the outsiders – here, all Europeans – begin to formalize rule and set up the kind of sovereign state form familiar from Europe, they are violently imposing this sovereignty upon an already-existing Indigenous sovereignty and set of relationships. Wolfe (2006) has argued that the long-term logic of settler colonialism is toward elimination: "to get in the way of settler colonization, all the native has to do is to stay at home" (Wolfe 2006, 388 paraphrasing; Rose 1991, p.128).

Wolfe's argument begins from an analysis of the foundational forms of racism that underwrite settler colonialism. To make his argument, he contrasts, as one example, the **racial capitalism** of slavery and the racial formation that created the category of "Indian," in the United States context – to point to the process of elimination as central to settler colonialism. Racial capitalism (Robinson, C.J. 1983) refers to the ways that the racialization of Black people supports capitalism by deepening differences that create low-cost labor and differential markets that capitalism requires to thrive. **Racial formation** (Omi and Winant 2014) refers to the specific, economically and contextually situated creation and maintenance of racial categories and relationships (which vary across time and space). While Black people who were enslaved and their ancestors were defined as Black through the "one drop rule," meaning that any African ancestry defined a person as Black. The enslavement of Black people added to the wealth of the white state and its white land-owning citizens, while on the other hand the resilience and survival of the Indigenous inhabitants constituted a barrier and problem. Thus, argues Wolfe, the racialization of Native peoples came instead to be defined by the concept of blood quantum, in which you could be $\frac{1}{2}$ or $\frac{1}{4}$ Indigenous, or, with assimilation, gradually not Indigenous at all (which he argues is the end goal of settler colonialism; for a more thorough unpacking of blood quantum see Dennison 2012). It is important to take care not to think of these racial categories as given – rather the political context of the settler state claiming land and extracting wealth creates them. Wolfe writes:

Indigenous North Americans were not killed, driven away, romanticized, assimilated, fenced in, bred White, and otherwise eliminated as the original owners of the land but *as Indians* ... Whatever settlers may say – and they generally have a lot to say – the primary motive for elimination is not race (or religion, ethnicity, grade of civilization, etc.) but access to territory. Territoriality is settler colonialism's specific, irreducible element. (Wolfe 2006, p.388)



Figure 2.2 Saif Azzuz, Clarion Alley, San Francisco. 2017. Reproduced with permission of Saif Azzuz. <https://clarionalleymuralproject.org/mural/no-ban-stolen-land/>

The Embassy enacted the refusal that Simpson describes. Distinct from this form of refusal (which is a refusal to engage on the terms set by the settler), it also created policy change. In February, the opposition leader, Gough Whitlam paid the Embassy a visit, considered the positions of the protestors, and conceded that changes needed to be made to Australian policy on Aboriginal Affairs (Foley 2013). He was elected later that year and officially disavowed the policies of assimilation. Aboriginal groups in Australia continue to work for their future, in opposition to the settler state.

The refusal of citizenship may also be directly related to the refusal to legitimate the sovereign state. We see this in coalitional movements or in the support given by Indigenous activists for refugees and immigrants, summed up in the phrase “no ban on stolen land,” (Figure 2.2) and “Refugees welcome on native land,” in reference to the Trump administration’s efforts at a Muslim ban (e.g., Monkman 2017). In this way, it can also be a call for a different form of citizenship or an abolition of citizenship altogether, as we will explore further in the chapter on security.

What Have We Learned and Where Do We Go From Here?

In this chapter, we have learned both that citizenship can be defined in a straightforward way, as the “right to have rights,” and a legal relationship to a state. However, we have also learned that this vision of citizenship does not account for its varied dimensions, the ways

it fails, and the ways that sometimes people refuse citizenship itself. For some groups, citizenship may be a partial or temporary answer to their difficulties: a path to citizenship for DACA recipients and their parents, or for refugees, could provide safety and stability. For LGBTQ+ people, equal access to the rights that citizenship provides could enable them to live their lives more fully and safely. That does not mean that all LGBTQ+ individuals desire the same things – so some may lean instead toward the abolition of marriage itself as a patriarchal institution and some may embrace being able to marry a person of their choosing and have the state affirm their choices. We have also learned that the material world – from water pipes to oil wells – can be a site where citizenship is contested. Finally, we have learned that citizenship may also be refused when to accept it means accepting the terms of your own elimination.

In the next chapter, we will turn from citizenship to nationalism, in order to understand how states become tied to a sense of collective belonging.

Keywords

Birthright citizenship *Jus soli* or birthright citizenship is the form granted to babies born in a state, regardless of the citizenship of their parents.

Citizenship A legal relationship with a state in which there are both rights and responsibilities – laid out in the state’s constitution.

Cruel optimism The ideal of a perfect storybook family that keeps us pursuing a life we can ultimately never obtain in our current economic structure, and thus a dream that hurts us.

De jure rights Rights according to law

De facto rights Actually existing everyday experience of having access to those rights

Formal politics/informal politics Formal politics refers to engagement with the political system, such as elections and political lobbying. Informal politics refers to political engagement that happens outside this formal sphere.

Heteronormativity Heteronormativity refers to ways that the assumption of heterosexuality is privileged and embedded into day-to-day life.

Insurgent or active citizenship Citizenship in which those excluded from citizenship create new spaces of political engagement

Nonbinary gender/genderfluid People who are nonbinary do not comfortably fit in either of the two common gender binaries (male/female), while people who are genderfluid may identify as both at different times or simultaneously.

Patriarchy Patriarchy refers to institutionalized governance by men in arenas from government to the business and home, accompanied by cultural explanations for this dominance.

Racial capitalism Refers to the understanding of how capitalism developed alongside and profits from the creation of racialized difference, particularly the institution of chattel slavery and subsequent anti-Black racism.

Racial formation The specific economically and contextually situated creation and maintenance of racial categories and relationships (which vary across time and space).

Reproductive futurity How reproduction creates particular kinds of futures (for instance, a changing demographic makeup).

Settler colonialism A form of colonialism in which the colonizers occupy stolen land and create their own system of laws and governance, displacing or seeking to eliminate local people and their culture.

- Sexual citizenship** The ways that citizenship is related to normative ideals of gender and sexuality.
- Sovereignty** The right and recognized ability to determine ones own affairs and the affairs of one's people.
- Transgender** People who are transgender have been assigned a gender at birth that does not match their gender identity.
- Uneven citizenship** Citizenship that is not uniform but varies according to one's position in society, for example due to discrimination.

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