

be contextualized not as a truth but as a rubric developed in relatively recent imperialist, white supremacist, and settler colonial histories (Miranda 2010, 2013; Swarr 2012; Najmabadi 2014; Aizura et al. 2014; Gill-Peterson 2018; Driskill 2016; L. Simpson 2017; Kauanui 2018; Tallie 2019).

In the late twentieth century, the term *transgender* emerged in resistance to the erasures, normativizing and institutionalizing practices that constituted the category “transsexual.” Now in the twenty-first century, the increasingly bold line of distinction wrought by the cis-trans binary has encouraged new language that again seeks to reject binaristic thinking. The use of “nonbinary” in non-Indigenous communities and elaborations of Two Spirit in many Indigenous communities express widespread recognition of the failures of the cis/trans and homo/hetero binaries to represent and support the vast field of possibilities through which people experience and express gender, sex, sexuality, embodiment, and community (Driskill 2016; Driskill, Heath Justice, et al. 2011; L. Simpson 2017; Anguksuar Anguksuar / Richard LaFortune 1997). Simply, humans exceed binary definition.

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Citizenship

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Understood as the status of permanent belonging in a nation-state, *citizenship* is the legal mechanism through which people claim rights in a territory and define their relationship to its government. In liberal states like the United States, citizenship is often said to function independently of race, ability, gender, or sexuality. Schoolchildren in the United States are generally told that all are equal before the law, even as their teachers may tacitly acknowledge that laws have changed with regard to reproductive rights, property ownership, inheritance, and other entitlements of citizenship. US students learn early on that citizenship was initially restricted to white men but that changing attitudes and new legal protections made it available to everyone. By contrast, scholars in fields like ethnic, gender, LGBTQ, disability, and migration studies have shown that access to US citizenship and its benefits continue to be distributed unequally in ways that mirror ongoing patterns of discrimination (Berlant 1997; Carey 2009; Day 2016; Minich 2014; Molina 2014; M. Ngai 2004). Additionally, scholars of Native studies have shown that state citizenship for Indigenous peoples has been experienced as what Kevin Bruyneel calls “a direct colonial imposition, worthy of resistance and refusal” (2007, xxiii). The institution of citizenship is, therefore, a double-edged sword: on one hand, it is the mechanism through which a state confers rights and privileges upon the people residing within its boundaries; on another hand, the means by which people are deemed (in)eligible for (or forced into) citizenship are inherently violent.

By examining citizenship from the perspective of those denied its benefits, we see that simply including the previously marginalized is not as simple a matter as we hear in grade school. Rather, the very value of citizenship depends on the existence of people excluded from its fold. Historically, those excluded were identified by race, gender, and national origin. Examples include the US Naturalization Act of 1790, the first statute defining US citizenship, which declared only nonenslaved white people eligible. While women married to citizens were technically citizens, they lacked many of the rights associated with citizenship (including reproductive and sexual autonomy as well as the rights to vote and to own or manage property). Later laws modified the 1790 law: after the Civil War, formerly enslaved people became citizens, Native Americans living on reservations were forcibly incorporated into the US citizenry in 1924 (Bruyneel 2007; Tuck and Yang 2012), and changing state laws gradually conferred more rights to white women and then to Black and Latinx women. Yet efforts to racially manage the nation's citizenry continued, particularly through immigration laws like the Chinese Exclusion Act of 1882 and the Johnson-Reed Act of 1924, which established national origin quotas favoring immigrants from western Europe. Similarly, immigration law has functioned as an instrument of gender and sexual control throughout much of US history; lesbians and gay men were formally barred from immigrating to the United States until 1990, and LGBTQ migrants (particularly those who are gender nonconforming) continue to face exacerbated violence throughout the migration process, including steep obstacles even to filing asylum claims (Luibhéid and Cantú 2005; Luibhéid and Chávez 2020). While these examples are sometimes explained as aberrations in an otherwise egalitarian history, the practice of restricting eligibility for citizenship continues, although today those deemed ineligible are

described not by race or national origin but with words like *criminal*, *undocumented*, or *terrorist* (Michelle Alexander 2012; Cacho 2012; Lowe 2015; Paik 2016; Puar 2007). As of this writing, for instance, approximately eleven million people who live in the United States have no path to becoming citizens: forced to migrate without authorization, upon arrival, they have no means of becoming naturalized citizens or even of resolving their status before US law.

The fact that there are people living in the United States without access to citizenship is a concern because it means that not every resident is promised the same legal rights. But it is also a concern that not all citizens enjoy the rights they are promised. For instance, throughout the early twentieth century, US citizens of Mexican descent were subjected to lynchings, land theft, and deportation (Muñoz Martínez 2018; Balderrama and Rodríguez 1995), while US citizens of Japanese descent were interned in prison camps (M. Ngai 2004; Paik 2016). Such events lead the historian Mae M. Ngai to describe US citizens of Asian and Latin American descent as *alien citizens*: those “who are citizens by virtue of their birth but who are presumed to be foreign” (2004, 2). Meanwhile, although the Fourteenth Amendment granted citizenship to formerly enslaved people in 1868, African Americans were not offered the full rights of citizenship until the 1960s, when the Civil Rights Act of 1964 and the Voting Rights Act of 1965 were passed. Furthermore, many scholars argue that the effects of mass incarceration and ongoing voter suppression efforts mean that many citizens of color, particularly African Americans, are still denied the benefits of citizenship (Michelle Alexander 2012; Combs 2016). Framing the use of the word *citizen* in relation to these facts means understanding that the idea of citizenship as a state of legal documentation is subtended by ideological concepts of who is a desirable citizen worthy of full benefits, privileges, and access to thriving.

Restrictions on eligibility for citizenship and the denial of rights to citizens are often mutually reinforcing processes. In June 2018, US attorney general Jeff Sessions issued a policy on behalf of President Donald Trump's administration that survivors of domestic violence were no longer eligible to apply for political asylum. Although the policy was quickly blocked by a judge and its fate is not settled as of this writing, it offers a particularly potent example of how gender, race, and national origin intersect in the regulation of citizenship. Because the rule was issued at the same time that increased numbers of Central American families—many of whom were requesting asylum—were arriving at the US-Mexico border, it was widely understood as designed to curtail migration specifically from Central America. In other words, a ruling ostensibly focused on gender violence functioned as a racialized restriction, rendering members of particular national origin groups from becoming eligible for citizenship. The rule also has implications for the rights of women and gender minorities more generally. In his decision, Sessions characterized domestic violence as “private behavior” (US Department of Justice 2018, 316), not political persecution. As feminist legal scholars note, such language minimizes gender-based violence as a problem that merits state intervention and public concern (Masulo 2015). In this way, Sessions also sought to create a precedent through which women and other gender minorities vulnerable to domestic abuse can be deprived of the right to a life free of violence.

The Sessions policy thus further illuminates how restrictions on citizenship, while most explicitly linked to racial ideologies, frequently operate through gender-based oppression. The most notorious example of this would be the eugenic sterilizations that were performed without consent on people of color and people with disabilities throughout the twentieth century (Gutiérrez

2008; Ross and Solinger 2017; Stern [2005] 2016). In 2020, news came to light of migrant women subjected to involuntary hysterectomies while detained by Immigration and Customs Enforcement, revealing how eugenic ideologies continue to inform immigration policy. The legacy of eugenics also lives on in less sensational but still devastating attacks on the parental legitimacy of poor people, people of color, and people with disabilities: family cap laws that deny benefits to people who become pregnant while receiving welfare, efforts to end birthright citizenship due to stereotypes about the fertility of immigrant women (particularly Latinas), and the systemic removal of Native American children from their birth families, a practice that was formalized with the establishment of Indian Residential Schools in the mid-nineteenth century and continues through court challenges to the Indian Child Welfare Act (Briggs 2017). These efforts are not all as blunt as forced sterilizations, but like both immigration restrictions and reproductive control, they rely on ideologies about who is fit to birth and raise (and thus to reproduce) citizens.

The above discussion might seem to offer a very dark view of the institution of citizenship, and indeed, many scholars are justifiably wary of its value. As media scholar Hector Amaya puts it, “There is something intrinsically poisonous in citizenship . . . an excess that feeds the power hungry and that convinces otherwise good people that oppression is just” (2013, 4). The “intrinsic poison” of citizenship might lead one to ask, Does the concept have any use at all? Why not abolish it altogether and appeal instead to a higher concept like human rights that is not tied to the laws of a particular nation-state? The problem is that *human rights*—which supposedly supersede the rights conferred by individual states—are themselves exercised through citizenship. Without a state to guarantee them, do rights become meaningless?

Recognizing this conundrum, other scholars have sought to illuminate how people assert their entitlement to the rights and benefits of citizenship even when they lack a legal claim to them. For instance, the field of Latinx studies has not only examined how Latinx peoples are denied the benefits of citizenship; it has also yielded a rich body of work demonstrating how people without legal standing take on the obligations of citizenship through civic participation and in doing so actively lay claim to its rights. This work focuses on what its scholars call *cultural citizenship* (Flores and Benmayor 1997; Oboler 2006; Rosaldo 1997). In theories of cultural citizenship, the citizen and the noncitizen are not so diametrically opposed, and room arises to think about redefining citizenship in ways that go beyond just conferring it on more people. Cultural citizenship, in other words, isn't just about making legal citizenship available to more people but about radically rethinking what citizenship could mean and how it might be enacted. The scholarship on cultural citizenship, therefore, enables us to ask whether the state is the most appropriate entity to function as guarantor of rights and whether there is a way to define citizenship so that its value doesn't depend on exclusion.

What critics of citizenship and advocates of cultural citizenship share is a commitment to dismantling citizenship as an engine of what the cultural critics A. Naomi Paik and Lisa Marie Cacho have separately theorized as *rightlessness*, a state ascribed to both noncitizens and devalued citizens. Paik argues that "there are variegations of rights and gradations of rightlessness" such that "the relatively rightful" and "the rightless" overlap and that "the stories that the rightless tell summon us to see their predicament as our own" (2016, 9). In a similar vein, Cacho suggests that taking seriously the position of those rendered rightless "enables us to privilege the populations who are most frequently and

most easily disavowed, those who are regularly regarded with contempt, those whose interests are bracketed at best because to address their needs in meaningful ways requires taking a step beyond what is palatable, practical, and possible" (2012, 31–32). In examining the state of rightlessness, Paik and Cacho offer a framework for thinking about citizenship as well. Although public discourse often seems to present a stark distinction between citizens and noncitizens, the lines are more blurry than they might appear. Not all citizens have access to the same rights, and citizenship itself is more precarious and easily rescinded than many wish to believe. For this reason, the dilemma of the noncitizen is a matter that implicates citizens and must be an ethical concern to all.