

## CHAPTER 1

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### Divided Citizenships

POLITICAL AND LEGAL thought today are suffused with talk of citizenship. Whether the focus is equal citizenship or democratic citizenship or social citizenship or multicultural citizenship, whether the preoccupation is with civil society citizenship or workplace citizenship or corporate citizenship or postnational citizenship, some version of *citizenship* is now vital to the intellectual projects of scholars across the disciplines. Citizenship talk pervades our popular political discourse as well.

Citizenship, however, is a more confounding concept than most who employ the word usually recognize. Citizenship is commonly portrayed as the most desired of conditions, as the highest fulfillment of democratic and egalitarian aspiration. But this, I believe, reflects a habit of citizenship romanticism that tends to obscure the deeper challenges that the concept poses. These challenges derive from citizenship's basic ethical ambiguity. The idea of citizenship is commonly invoked to convey a state of democratic belonging or inclusion, yet this inclusion is usually premised on a conception of a community that is bounded and exclusive. Citizenship as an ideal is understood to embody a commitment against subordination, but citizenship can also represent an axis of subordination itself.

The fact that citizenship leads us in these contrasting directions is, in one respect, an idiosyncrasy of rhetoric. Certainly, citizenship is an overworked term, and its ubiquity inevitably leads to confusion. But the trouble goes deeper: the divided nature of citizenship as an idea also implicates core issues of political and social theory. It leads us especially to focus on questions about *who it is* that rightfully constitutes the subjects of the citizenship that we champion. To the extent that we express our ideals of justice and democratic belonging by way of the concept of citizenship, we need to be particularly sensitive to the questions of exclusion implicated in the discussion. Citizenship of, and for, exactly whom?

#### CITIZENSHIP'S "WHO" QUESTION

We tend to answer citizenship's "who" question differently depending on our analytical starting point. Sometimes we view citizenship from an internal or endogenous perspective. From this vantage, citizenship is un-

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derstood to designate the nature and quality of relations among presumed members of an already established society. As a normative matter, citizenship in this internal sense is understood to stand for a universalist ethic—for the inclusion and incorporation of “everyone.”<sup>1</sup> Most of the citizenship revival that has occurred in the academy has taken place within this inward-looking framework.

At other times we approach citizenship by attending to the community’s boundaries. Here the concern is not the internal life of the political community but its edges; our focus is the ways in which that community—usually a nation-state—is constituted and maintained *as* a community in the first instance. In normative terms, boundary-focused citizenship is understood to denote not only community belonging but also community exclusivity and closure. The status of citizenship in any given state is rationed, and the limitations on its availability mark the limitations on belonging.

As a matter of intellectual sociology, there has been a surprisingly limited degree of interchange between these inward-looking and boundary-conscious worlds of citizenship discourse. What has happened is that citizenship’s boundary questions are usually taken up by a specialized group of scholars across the disciplines in the field of immigration studies. Just about everyone else tends to *presume* the boundaries, or, more often, they presume away any world outside the nation altogether. The national society is treated as the total universe of analytical focus and normative concern, and citizenship then has to do with the nature of the relationships prevailing among already assumed members. Certainly, there have been some encounters and mutual incursions across this intellectual divide, but there has not been as much sustained dialogue as is necessary. I believe we need to deepen the conversation between inward-looking and boundary-conscious approaches to citizenship, in the interest of illuminating the dilemmas of inclusion and exclusion that are implicated by the concept. This book’s purpose is to advance that conversation.

#### THE CITIZENSHIP OF ALIENS

My own initial interest in citizenship developed from my work as an immigration scholar—as someone who was thinking about citizenship’s boundaries. I was preoccupied with questions of exclusion from formal citizenship status and what that means for people residing in liberal democratic states like the United States. It was within that context that I began to read other bodies of citizenship-related literature. These were the aspirational, inward-looking strands in constitutional and political and social theory, which treat citizenship as the fulfillment of all that is socially good

and valuable. In some respects, I found this literature inspiring; I identified with the progressive message expressed through ideas like “democratic citizenship” and “equal citizenship,” and I wanted to embrace it.

But I was also nervous about it. It seemed clear to me that these citizenships referenced nationally circumscribed conceptions of justice and well-being, though they were usually not acknowledged as such. And I wondered whether it was a good idea to use the language of citizenship in this aspirational way, given the potentially exclusionary implications of doing so, at least rhetorically. There was, first of all, the question of citizenship’s applicability to people beyond the boundaries of the national society. Could citizenship-linked conceptions of justice extend to such people?

But even leaving aside the difficult questions of transnational justice, and given my interests in issues of immigration, I wondered, in particular, about the meaning of this discourse for those people living within liberal democratic societies who lack citizenship by legal definition. If citizenship is treated as the highest measure of social and political inclusion, can people designated as *noncitizens* as a matter of status be among the universe of the included?

On first reflection, the answer is obviously no: common sense tells us that citizenship is—of course—only *for citizens*. Further reflection, though, greatly complicates the answer. In the United States, as in other liberal democratic societies, status noncitizens are, in fact, not always and entirely outside the scope of those institutions and practices and experiences we call citizenship. Indeed, many of citizenship’s core attributes do not depend on formal citizenship status at all but are extended to individuals based on the facts of their personhood and national territorial presence. The experiences of being a citizen and enjoying citizenship, it turns out, are not always aligned as a practical matter; status noncitizens are the subjects of what many call citizenship in a variety of contexts.

Recognizing that it is not necessarily incoherent to speak of the “citizenship of noncitizens”—or the citizenship of aliens, in legal terminology—is analytically important in a discursive context in which *citizenship* has become so central.<sup>2</sup> It makes clear that citizenship is not a unitary or monolithic whole: the concept is comprised of distinct discourses designating a range of institutions and experiences and social practices that are overlapping but not always coextensive. Citizenship is a divided concept.

The fact that citizenship is divided in this way might suggest that my initial apprehension about the increasing salience of citizenship talk among progressives is misplaced. Strictly speaking, to embrace citizenship as our normative benchmark is not necessarily to exclude status noncitizens. The trouble, however, is that we tend not to speak or to hear strictly. In conventional usage, citizenship’s meanings are conflated. It is easy and no doubt common to hear a reference to citizenship and to think simulta-

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neously of universal citizenship and of the citizenship of borders, or to be uncertain which meaning is intended. It is hardly surprising that, when the term is used aspirationally, we tend to suppose that what is at stake is universal citizenship for formal holders of citizenship status.

In one respect, what we have here is a semantic problem: the term citizenship has multiple meanings, and this creates confusion. But the trouble runs deeper than sloppiness of rhetoric. In fact, I have come to believe that the confusions of citizenship rhetoric are themselves a symptom of a more profound condition, one of substantive political theory. Citizenship is not just divided conceptually, it is divided normatively, and the ambiguities that plague our citizenship-talk often reflect this ethical divide.

#### CITIZENSHIP'S JURISDICTIONS

Citizenship in liberal democratic states stands, as I have said, for both universalist and exclusionary commitments. Usually, however, these contrasting normative orientations are not understood as conflicting but rather as complementary, with each one relevant to, and operative in, a different jurisdictional domain. Universalism, in this understanding, is applicable within the national political community, while exclusion applies at its edges. This division of normative labor is functional for many purposes, and indeed, it has come to represent our commonsense understanding of the way citizenship works. Citizenship, we tend to think, is *hard on the outside and soft on the inside*, with hard edges and soft interior together constituting a complete citizenship package.

Yet the complementarity aspired to in this construct of citizenship can stand only so long as the hard outer edge actually separates inside from outside. And in a world of porous borders, real separation is often elusive. This is nowhere clearer than in the context of transnational migration, where foreigners enter the bounded national territory from the outside and, once present, are assigned the status of alienage. These noncitizen immigrants have entered the spatial domain of universal citizenship, but they remain outsiders in a significant sense: the border effectively follows them inside. The question then becomes, which citizenship norms apply? In theory, both sets are relevant and applicable. The fact that they are—the fact that “hard” threshold norms have now come to occupy the same (internal) terrain as the “soft” interior ones—leads to uncertainty and conflict. Determining which set of norms should prevail when they conflict, and under what circumstances, is always difficult, in practice and in theory.

Recognizing that alienage lies at the interface of these normatively contrasting citizenship regimes, and that this liminality inevitably produces normative and policy conflict, is clearly important as a matter of immigration

theory. Doing so enables us to understand why it is that noncitizens, although marginalized and subordinated in significant ways, are also in some respects treated as citizenship's subjects. It makes clear, in other words, why the apparently paradoxical idea of "noncitizen citizenship" can make a certain kind of sense, while remaining a source of contestation as well.

But addressing the hybrid condition of alienage is equally important, I believe, for the development of citizenship theory beyond the immigration field. Exponents of citizenship in its inward-looking mode have been able, by virtue of the prevailing conception of spatially divided citizenship regimes, to avoid contending with citizenship's bounded dimension. Citizenship's exclusionary commitments (to the extent they are acknowledged at all) are viewed as relevant and operative not within the national territory but rather "out there," at the community's edges. Yet it is in the very nature of alienage to bring those boundaries to bear in the territorial inside: alienage entails the introjection of borders. Bringing alienage into view, therefore, requires inward-looking citizenship theory to attend to the national border, and in the process, to reflect on the scope and nature of the universality which it professes to champion. Citizenship, once again, of, and for, precisely whom?

#### THE NATIONALISM OF CITIZENSHIP THEORY

Several of this book's chapters begin with an observation (at times, a complaint) about the analytical and normative nationalism that characterizes discussions of citizenship in mainstream constitutional and political theory. Most such discussions presume that citizenship is enacted within bounded national societies. Ordinarily, these presumptions are unspoken and unacknowledged: theorists tend to treat both a national setting and a state of boundedness as already satisfied conditions for the practices and institutions and experiences of citizenship. Making these assumptions permits them to focus their attention on what citizenship requires and entails in substantive terms within these pre-given boundaries.

More often than not, in fact, this literature appears to presume not merely that citizenship is national as a matter of current fact, but also that it is national as a matter of necessity or nature. One of the arguments I make in chapter 2 is that the automatic correspondence commonly presumed between citizenship and nation-state is unfounded. Citizenship's intimate relationship to the nation-state is not intrinsic but contingent and historical, and the forms and locations of citizenship, as we conventionally understand the term, are more varied than ordinarily acknowledged. Citizenship has been, can be, and arguably should sometimes be enacted not merely within national borders but beyond and across them, as well.

There is, however, no denying that many of the institutions and practices and experiences that we call citizenship today take a prevalently national form. “Postnational” or “transnational” forms of citizenship remain a real but limited part of the citizenship landscape. For this reason, it is essential that scholars attend to the complex practices and institutions and experiences that we call citizenship within the national society. Doing so is a central aim of this book.

But to say that nationally situated citizenship requires scholarly focus is not to endorse the kind of insular framework that so many scholars of citizenship employ in their studies. To state the problem briefly, inward-looking citizenship scholars often treat the national society as the total universe of analytical and moral concern. They rely on the kind of analytical premise made explicit by Rawls, whose theory of justice presupposed a conception of a “democratic society [that is] a complete and closed social system.”<sup>3</sup> In his most influential work, Rawls aimed to develop principles “for the basic structure of society conceived for the time being as a closed system isolated from other societies.”<sup>4</sup>

Yet to the extent that a society’s completion and closure are the analytical starting points, these premises obviously escape critical examination themselves, and simultaneously serve to preordain an insularity of focus. As some of Rawls’s critics have pointed out, moreover, community closure and autonomy are empirically untenable and normatively unsatisfying premises on which to ground any political theory of justice and governance.<sup>5</sup> These presumptions, it seems to me, are equally (if not more) untenable as a backdrop for any convincing account of citizenship.

They are lacking, to begin with, because they are implausible. Few if any political societies are hermetically sealed, and certainly those that are the subject of most citizenship theorists’ interest—liberal democratic societies—are deeply imbricated, economically and socially and politically, with other societies in a larger world landscape. Cross-border relationships have always existed, but their intensity has accelerated to the point that most of us are embedded, irremediably, in various fields of interaction that traverse national borders. Transborder movements of consumer goods, production processes, money, crime, information, music, disease, religion (the list is long), as well as people, are less tightly constrained today by the territorial and institutional parameters of individual nation-states than they have ever been.

#### THE THEORETICAL COSTS OF NATIONAL INSULARITY

This growing (though uneven) permeability of national borders, often described under the rubric of “globalization,” has become axiomatic in

much social and economic scholarship. Yet these trends have registered surprisingly little in inward-looking theoretical work on citizenship, particularly among those scholars concerned with “equal” or “democratic” or “social” citizenship. The problem is not that these citizenship theorists fail to make globalization the direct object of their study, for as I have said, the nature of citizenship within national societies is itself a necessary object of analysis. The problem is that their disregard of the larger world frame and of the permeability of national borders serves to distort and limit any account these scholars may offer of the practices and institutions and experiences of citizenship as it is practiced *within* the nation-state.

There are several reasons for this. First, reliance on the premises of completion and closure permit scholars to avoid a host of crucial normative questions intimately linked to the debates over citizenship: those regarding the rightful scope of solidarity and the proper reach of justice claims. Questions, in particular, about the scope of our moral identifications—about the defensibility of national solidarities and the possibilities for, and desirability of, responsibilities and identifications extending beyond the class of one’s compatriots—are simply bracketed out of discussion<sup>6</sup> or are consigned, if acknowledged at all, to the seemingly utopian preserve of moral cosmopolitan theory. Analysts maintain a presumption of national priority without the need for either its acknowledgment or its defense. Their moral nationalism appears not to be a normative choice but a metaphysical given.

In addition, and of particular concern to me here, the presumptions of completion and closure inevitably thwart the development of a full descriptive accounting of the nature of citizenship as it is enacted within the national society. The inward-looking citizenship literature presumes or posits a firm separation between national inside and outside, yet in fact, the line between inside and outside—both social and territorial—is often very difficult to draw. Politically, borders are neither fixed nor static; what counts as part of the inside or outside is subject to ongoing negotiation and contestation. And whatever the prevailing understanding of their character and location, as a practical matter national borders are very often tested, stretched, permeated, or breached. Any vision of the world that presumes a stark dichotomy between a political society’s inside and out, in other words, is unequipped to contend with the complex interpenetration of institutions and practices and persons across borders that characterizes the contemporary landscape. A habit of dichotomous inside/outside thinking disables theorists from seeing, among other things, that the global is not merely situated “out there” but is also located, increasingly, within national borders.<sup>7</sup>

The internalization of the global is nowhere more vividly instantiated than in the case of cross-national migration. Cross-border movements of people are hardly new; they are a longstanding feature of the modern international system (and, of course, they precede it as well). Yet the rate of cross-national migration for labor and family reunification and humanitarian purposes has accelerated in recent years: large numbers of migrants from abroad have traveled to live and work in many liberal national societies each year. According to recent estimates, nearly 180 million people—more than three percent of the world's population today—have migrated across national borders during their lifetimes.<sup>8</sup> Many former countries of emigration, particularly in Europe, have become net importers of people, thereby joining the ranks of the traditional countries of immigration. In the United States, the numbers of foreign-born persons in residence is estimated to have reached 28 million—higher than it has ever been, even at the turn of the twentieth century.<sup>9</sup>

Although the United States and other liberal democratic immigrant-receiving states are precisely the kinds of societies that are of principal concern to most citizenship theorists, the subject of immigration, as I have said, has been neglected in much of their work.<sup>10</sup> The presumptions of completion and closure that so often frame this work tend to keep immigration policy questions off the agenda. Questions concerning the substantive standards and decisional processes for admission and exclusion of foreigners and questions having to do with the status and treatment of foreigners who reside within the national state without citizenship are almost invariably treated as the grist of the immigration specialists, who have lately produced a large and diverse body of scholarship on these issues.

The fact that there is such a division of labor among scholars of citizenship is not entirely surprising. No one can address every issue in a wide and complex field; specialization is inevitable, and lines have to be drawn somewhere. In the end, though, the occupational and conceptual divide between the inward-focused and border-conscious citizenship literatures is misleading and unproductive.

To begin with, the divide is nonsensical in purely formal terms. Two decades ago, Michael Walzer pointed out that the study of distributive relationships within a political community (or within political communities in general) always begs the prior question of how that community was constituted and is maintained in the first instance. At stake is what Walzer called the distribution of membership: “The primary good that we distribute to one another is membership in some human community,” he wrote. Political communities’ membership decisions are those that concern “their present and future populations.”<sup>11</sup> These are threshold citizenship matters, matters pertaining to the formation and maintenance of the community *within which* matters of substantive citizenship are enacted.<sup>12</sup>

There is no way to coherently address the substantive citizenship dynamics within a community until we contend with the citizenship questions of who belongs and how decisions about who belongs are to be reached.

In descriptive terms, furthermore, a thoroughgoing separation of threshold and internal citizenship concerns is impossible in any event.<sup>13</sup> The regulation of national boundaries is not confined to the specific domain of the nation-state's physical or territorial border<sup>14</sup> but extends into the territorial interior as well, and shapes the pursuit of democratic/equal citizenship within the national society.<sup>15</sup> This introgression of the border is precisely what occurs in the case of immigrants who reside within a liberal democratic society as status noncitizens, who live within the national territory and enjoy important rights and recognition by virtue of their presence but who remain outsiders under the community's threshold-regulating citizenship rules. That outsider status, which the law calls alienage, shapes their experience and identity within the community in profound ways. Among other disabilities, aliens are denied the vote and most significant welfare benefits, and, notwithstanding the ties they may have developed in and with the community, they are always potentially subject to deportation by the state.

The point is, there is no firm separation possible between the domains of citizenship at the border and citizenship within. Instead, the two domains are overlapping and interpenetrated in various respects. Citizenship theory needs to be able to address the ways in which the institutions and norms of citizenship at the threshold and in the interior meet and shape and constrain one another. This book seeks to map this interplay in legal thought and practice; its focus is how these twin citizenship regimes—one committed to inclusion of persons, the other to the exclusion of strangers—converge to produce the ambiguities of alien status in liberal democratic societies.<sup>16</sup>

#### ALIENAGE AND SUBORDINATION

A book about the condition of noncitizens in liberal democratic societies necessarily implicates important questions about the nature of status inequality and social subordination more generally, and I address these questions in various ways throughout this book. The category of alienage puts pressure on our conceptualizations of inequality and subordination in challenging ways. To begin with, my discussion often treats aliens in the aggregate, as a social group; but it is not always clear to what extent, and in what respects, status noncitizens can be said to represent a social group in the conventional sense. At one level, they plainly do: they are categorized as such by the state, and in objective terms, their condition

is “linked to their being so categorized . . . with respect to the relevant interactions or allocations of benefits and burdens.”<sup>17</sup> On the other hand, it is less than clear that noncitizens specifically identify themselves *as* noncitizens or aliens, beyond what Iris Young calls the simple “passbook” meaning of identity, as in “an acknowledgement of the power of the rules over my life because of my lineage or bureaucratic status.”<sup>18</sup> Deeper forms of identification and solidarity based specifically on this status have not been the rule in the case of noncitizens.<sup>19</sup> Still, this may be changing, as evidenced by the Immigrant Freedom Rides in the United States in 2003 and by recent campaigns to obtain local voting rights for some noncitizen immigrants.<sup>20</sup>

The category “alienage,” furthermore, can be misleading unifying. In objective terms, the people who comprise the group of aliens are socially divided in many significant ways. Some of these differences are a matter of legal status. There are crucial distinctions between lawful and unlawfully present aliens and between those in the United States temporarily and those here permanently, and each of these distinctions is itself divided by legal category in ways that matter for the experience of the people involved. There are also social differences, including gender differences and ethnic, national, racial, and class distinctions, that affect noncitizens’ experiences in ways that frequently compound, and frequently ameliorate, the disadvantage associated with alienage status.<sup>21</sup> For these reasons it is often not very meaningful to talk about aliens as a unitary class.

Nevertheless, it seems clear that there are certain characteristics of alienage that structurally shape the lives of most noncitizens, usually in disadvantaging forms. Aliens’ lack of formal citizenship status has rendered them politically disenfranchised; they are formally ineligible for many aspects of “social citizenship,” or the public provision of basic needs; and they are always subject to the possibility of deportation from the territory.

Strikingly, these particular forms of disadvantage have often been overlooked by theorists who engage the subject of social subordination in general terms. In the critical literature across the disciplines, it is common to come upon laundry lists of the vectors of subordination—such as race, ethnicity, gender, class, sexual orientation, religion, disability, and appearance—that fail to include or even acknowledge the category of alienage. One reason for this disregard is the pervasiveness in legal, political, and social thought of the baseline premises of completion and closure, as described earlier. Within such a conceptual framework, “we are the world” entire, and the idea of citizenship is invoked to refer to the condition of full belonging and recognition among already presumed members of the nation. Ample attention is paid to “second-class citizenship” in various guises, but the issue of formal noncitizenship simply does not arise.

Still, I suspect that the reason for the traditional disregard of alienage goes deeper. Alienage presents real difficulties for antistatist theorists. While it shares some characteristics with other forms of social subordination, it can also appear to be a different species of exclusion altogether: not social disadvantage but, instead, an instance of constitutive boundary maintenance, a necessary condition for preservation of the community *within which* the struggle against social subordination takes place. At different moments, aliens can appear as oppressed insiders and as relative strangers, with (at least temporarily) inadequate claims for full membership. Not infrequently they are viewed as embodying *both* identities—subordinated insiders and national strangers—at once. Given the confusions that these simultaneous perceptions can generate, and given the historically sensitive nature of immigration politics for the left more generally,<sup>22</sup> I suspect it has often been easier for progressive theorists to avoid these issues rather than to engage them head-on.

The widespread disregard of alienage in social theory may be changing. The category of “immigration status” has been appearing with greater frequency in various catalogues of subordination axes offered by commentators.<sup>23</sup> Any increasing attention paid to the condition of noncitizenship in status terms is a positive development, given the traditional disregard the subject has suffered in mainstream social and political theory. Yet it is not enough to add alienage to “the list,” as if it were simply one more category of social exclusion. Instead, it is important to understand how, precisely, disadvantage based on alienage is both like and unlike other forms of disadvantage, and what these similarities and divergences reveal about our conventional understandings of subordination.

One way in which I approach this question throughout the book is to ask what it means for people to *lack* citizenship, not merely as a matter of formal status but in other respects as well. Like citizenship itself, noncitizenship is a complex and divided condition. I argue that, by recognizing the various forms of noncitizenship and by examining the relationships among them, we are able to think more productively about subordination and disadvantage in general. Taking account of the particular form of noncitizenship that alienage represents demonstrates the inadequacy of the national and territorial premises that characterize so much liberal and critical theory today.

#### CITIZENSHIP: THE CONCEPT

The term *citizenship* conventionally describes a certain set of institutions and practices and identities in the world, and this book is concerned with examining some of these. However, “citizenship” is also a contested polit-

ical and constitutional concept whose scope of reference and application are subject to ongoing dispute. It is, therefore, not only citizenship's multiple referents but also the concept of citizenship itself that require scholarly attention. In substantial part, this book is concerned with examining the ways in which legal and political theorists employ the concept of citizenship in their arguments about the social and political world.<sup>24</sup>

Citizenship is one of those “keywords” in political language that are subject to much confusion and debate.<sup>25</sup> Misunderstandings and disagreements abound about what citizenship is, where it takes place, and who exactly can claim it. One of my principal aims is to sort out these various disagreements.

In one respect, however, the meaning of citizenship is not in contention at all. The term's normative valence—its appraisive meaning<sup>26</sup>—is almost unfailingly positive. To characterize practices or institutions or experiences in the language of citizenship is to afford them substantial political recognition and social value. It is for exactly this reason that political actors and scholars often vie to characterize practices and institutions and experiences *as* citizenship. Describing aspects of the world in the language of citizenship is a legitimizing political act.<sup>27</sup>

My approach rejects an essentialist notion of language, according to which words have intrinsic and unchanging meanings. Claims of this kind have frequently been made by participants in the debates over citizenship. Some commentators have maintained that citizenship has a fixed and true meaning that has been distorted in recent uses, sometimes beyond recognition.<sup>28</sup> Certainly, the notion of alien citizenship will be viewed by purists as linguistically nonsensical as well as provocative. I agree, however, with those analysts who view language as a field of political contest,<sup>29</sup> and who characterize efforts to recast key political terms as a kind of “political innovation.”<sup>30</sup> In this view, there is no way to clarify the meaning of words once and for all, or to purify them of unconventional uses.<sup>31</sup> The task, instead, is to understand the source and nature and direction of these efforts and to recognize the debate's imbrication in the broader political landscape.

In the end, I argue, our understandings of citizenship will depend on the shape and the outcomes of the substantive debates in legal and political thought in which the conceptual debate is embedded. These debates center on two principal kinds of questions—questions of identity and questions of responsibility.<sup>32</sup> Uncertainties about who “we” are and to whom we maintain special commitments are perennial questions, of course, but they arise today in a particularly challenging environment, one in which the factual and normative presumptions of national closure that liberal democratic theory maintains are increasingly untenable. Our arguments about citizenship are, in large part, arguments about these questions.

The book is structured as follows. In chapter 2, I examine the idea of citizenship in largely conceptual terms. I first show how understandings and uses of citizenship are multiple and contested, but I also make clear that citizenship is by no means entirely indeterminate in scope and meaning. There are, in fact, common themes and common divides that have come to organize citizenship discourse both within and beyond legal studies. Broadly speaking, citizenship questions can be divided into three (inevitably overlapping) categories: those that concern the substance of citizenship (what citizenship is), those that concern its domain or location (where citizenship takes place), and those that concern citizenship's subjects (who is a citizen). Each of these questions in turn has elicited a range of conventionally acceptable answers that have served to structure the citizenship debates.

I also argue, however, that pressure has recently been brought to bear by scholars across the disciplines on the prevailing approaches to each of these questions in ways that seek to significantly redefine citizenship's scope and meaning. Briefly, scholars have sought to take the concept of citizenship beyond the strictly political, beyond the nation-state, beyond the individual, and beyond the ethical particularist and even humanist commitments usually associated with the concept. These efforts at redefinition are often supported by way of an appeal to citizenship's own expansive logic and ethics; the challengers purport to better capture the normative heart of the citizenship idea than prevailing approaches have thus far done.

I pay special attention in chapter 2 to the contested constitution of citizenship's subjects—to citizenship's "who" question. One of the persistent themes in the academic literature on citizenship concerns the question of how far citizenship extends in social terms: this is the question of who will constitute the class of citizenship's subjects. Because citizenship is conceived as representing political or social membership (almost always, as we have seen, in the context of the nation-state), the question of citizenship's subjects is consequently the question of who will be counted as (usually national) political or social members. But because membership is very differently conceived in different understandings of citizenship, the answers to citizenship's "who" question often vary as well. Some citizenship scholars treat citizenship principally as a universalist project, while others emphasize its exclusionary attributes. Much of the literature on citizenship's "who" question can be divided along this normative fault line.

The third and fourth chapters consider the legal structure of alienage and citizenship in American constitutional thought and practice. In chapter 3, I argue that alienage is an intrinsically hybrid legal category that is simultaneously the subject of two distinct domains of regulation and relationship. The first domain governs membership in the national

community; it includes the government's immigration power, which the state regulates through the admission and exclusion of aliens and imposes conditions on their entry. In the landscape of current American public law, this power remains exceptionally unconstrained. The second domain governs the rights of persons within the national society. In this domain, government power to impose disabilities on people based on their status is far more limited: formal commitments to the elimination of caste-like status and to norms of equal treatment have significantly shaped our public law during the past several decades, and these developments have made aliens appear to be precisely the sort of social group that requires the law's protection.

Given the hybrid legal character of alienage, I contend, government discrimination against aliens is perennially burdened by the question of when and to what extent such discrimination is an expression, or a rightful extension, of the government's power to regulate the border—that is, to impose conditions on entry and to control the composition of the national community, and when it implicates a different sort of governmental authority, one shaped by interests not in sovereignty but in equality, and one subject to far greater constraints. When, in other words, is alienage a question of national borders, when is it a question of legal equality, and how are we to tell the difference? In chapter 3 I show how these questions both plague and structure U.S. law of alienage discrimination—constitutional, statutory, and common. I argue that the major strands of thought in legal and political theory on aliens' rights represent competing approaches to their resolution. In this chapter, I closely analyze the work of political theorist Michael Walzer, whose own approach to the status of alienage casts powerful light on the questions at stake.

Chapter 4 addresses what I take to be the ambiguous meaning of the category "citizenship" in the U.S. constitutional tradition. I contend that the Fourteenth Amendment can be read to approach citizenship at once as a kind of formal status and as the enjoyment of basic rights. My concern here is the relationship between these understandings. The pathway into this discussion is the question of how the increasing revival of interest in citizenship as a basis for rights in contemporary constitutional thought might affect aliens—people who lack citizenship by formal definition. More specifically, the chapter considers the question of whether aliens will necessarily suffer in the wake of the citizenship turn in constitutional law.

Although there is a good case to be made that aliens will be disadvantaged, some constitutional commentary from the 1970s provocatively suggests, though with little elaboration, that the position of aliens would not necessarily be undermined if we were to reorganize constitutional doctrine and house individual rights in the citizenship clause or the privi-

leges or immunities clause of the Fourteenth Amendment. I argue in this chapter that the prospect of citizenship for aliens, however paradoxical, is not logically impossible. This is because in our law and conventional understandings, the status of citizenship and the rights we associate with citizenship are not always convergent. We typically talk about second-class citizens; these are people who enjoy status citizenship but who nevertheless are denied the enjoyment of citizenship rights, or “equal citizenship.” Conversely, aliens could be said to enjoy certain incidents of “equal citizenship” in our society today by virtue of possessing an important range of fundamental rights despite their lack of status citizenship.

Although alien citizenship is not an incoherent construct per se, and although in some respects we could say that aliens do already enjoy certain incidents of equal citizenship, I argue that the equal citizenship that noncitizens can aspire to is limited in scope. This is because the constitutional ideal of equal citizenship is committed not only to universal rights (thereby including aliens) but also to an ethic of national solidarity and to practices of bounded national membership. It is by virtue of these nationalist commitments that aliens—so long as they remain aliens—can aspire to partial citizenship at best.

Chapter 5 examines the interplay of our competing conceptions of citizenship in a distinct intellectual and political context: that of the ongoing debates in feminist thought over the organization of domestic labor. Much of the discourse about women and work relies on the language of citizenship. Yet thinking clearly about work and gender requires thinking not just about equal citizenship or democratic citizenship or economic citizenship for women, conceived in universalist terms, but also about citizenship as an exclusive national status. And once we attend to status citizenship, we see that what many theorists describe as the achievement of “citizenship” for some women through participation in paid work depends increasingly on the labor of people from poorer countries who themselves lack status citizenship.

The question I ask in Chapter 5 is how to think about the configuration of citizenships embedded in this situation. It might initially appear that first-world women acquire their citizenship *at the expense of* the citizenship of their domestic workers. Rhetorically tempting as such an account might be, however, it fails to capture the nature of the relationship between equal citizenship and status citizenship as they are usually conceived. Citizenship is not a single quantity that can be transferred from some women to others in zero-sum fashion. Status citizenship and equal democratic citizenship are analytically distinct and nonfungible.

This is not to say that these citizenships are unrelated. But how should we understand their relationship? In the conventional account (to the extent

the daulity even registers), they are viewed as complementary parts of a larger whole, with bounded citizenship providing the necessary bordered framework for the pursuit of equal/democratic citizenship within. This hard-on-the-outside, soft-on-the-inside conception of citizenship is broadly accepted, but it does not entirely capture important contemporary understandings and practices of citizenship. Most relevantly, bounded citizenship often operates inside the community's territorial perimeters, especially by way of exclusionary laws on immigration and alienage. The chapter concludes by reflecting on the desirability of employing "citizenship" as the central normative concept in political and social thought, including in the scholarship on women and work.

In chapter six, I return more directly to the legal status of alienage and to the troubled place of aliens in a society committed to liberal egalitarian citizenship values. My focus is the hard-on-the-outside, soft-on-the-inside conception of citizenship introduced earlier. This is a conception that Walzer powerfully (though indirectly) articulated and that often grounds—explicitly or not—liberal democratic arguments on behalf of rights for aliens. I consider the model's attractiveness to many theorists, and suggest that the idea represents an understandable effort to resolve the perennial tensions in liberal theory between norms of universalism and particularism by way of a strategy of splitting, with the conflicting norms assigned to interior and to border, respectively.

The splitting strategy ultimately fails, however, because the separation between these jurisdictional domains is unachievable. Border and interior are in fact inevitably interpenetrated—nowhere more clearly than in the case of alienage. The impossibility of splitting citizenship means that citizenship's contrasting normative impulses remain directly in contention *within* liberal democratic national societies. In this respect and in this context, citizenship stands against itself.