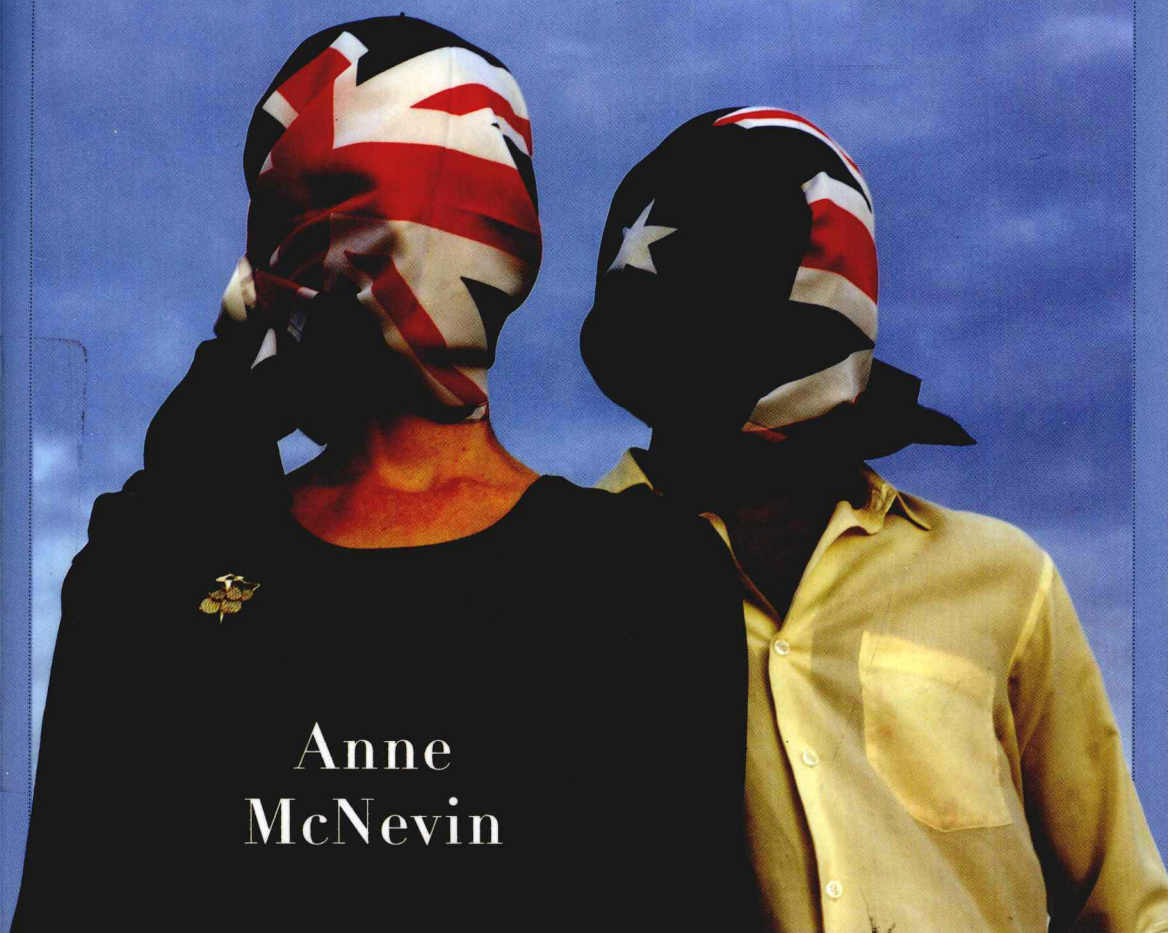


CONTESTING CITIZENSHIP

IRREGULAR MIGRANTS and
NEW FRONTIERS of the POLITICAL



Anne
McNevin

Contesting Citizenship

Irregular Migrants and New Frontiers of the Political

ANNE McNEVIN



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PREFACE AND ACKNOWLEDGMENTS

This book began as an idea in late 2001 against the backdrop of the “*Tampa* affair” when Australia refused to allow asylum seekers rescued by the Norwegian container ship *Tampa* entry into its territories. The incident remains symbolic of Australia’s recent history of border policing against men, women, and children who for many complex reasons are compelled to seek a better life—or, indeed, a life at all—in states that are not their own. It marked a shift in strategy to evade responsibility for refugee protection by pushing the border offshore into places and jurisdictions where refugees would be treated as “illegal” bodies and pawns in political maneuvers. The *Tampa* affair ushered in a political culture that denied association between the boats appearing on Australia’s shores and the journeys of European Jews fleeing Nazi persecution—the very (equally thwarted) journeys that inspired states to enshrine refugee protection in international law in the aftermath of World War Two. Instead, the boats and their occupants were actively linked to *the sources* of insecurity that threatened to erode our sovereign, liberal prosperity.

Ten years on, Australia’s approach has not been confined to a single chapter in a nervous island’s history. In 2010, Kevin Rudd’s Labor government raised the specter of return to the worst of Howard-era policies, suspending claims for protection for Afghanis and Sri Lankans on the basis that their countries were safe to return to (or would be soon enough) and reopening remote detention centers to accommodate boat arrivals. As this book goes to print, asylum seekers are once again the focus of electioneering as a new Labor leader, Julia Gillard, comes to power. John Howard’s hard-line stances made Australian policy the

envy of governments around the world, and the Australian context continues to inspire strategic innovation in the geographic, temporal, and symbolic technologies deployed to instrumentalize the movement of people. The *Tampa* affair thus resonates with *global* trends in border policing against all kinds of outsiders whose deaths on various borderlines is the shocking legacy of our time.

Why is this happening now? Why have specific migration flows that have long been part of the history of an interconnected world only recently been called “illegal”? And why does the movement of certain kinds of people inspire so much fear and anxiety at a time when cosmopolitanism is the catch-cry of a global age? The shift toward global frames of reference for all manner of human endeavor is a crucial factor in understanding contemporary border policing. Irregular migrants have become scapegoats for a series of rapid transformations that rupture long-held certainties about where and with whom our political cleavages and affiliations lie. The morphing spaces through which we shape our political relation to others and the hardening of borders against irregular migrants are interlinked phenomena that this book attempts to unpack. What human geographies give form to hierarchies whereby some people are welcome everywhere and others nowhere? What constellation of power is underwritten by these arrangements, and how does it operate to make arbitrary distinctions seem like matters of common sense?

These questions are driven by my own grave disturbance at the “common sense” that has made it possible in Australia, my home, and elsewhere to justify a regime of border control that systematically shatters lives or suspends people in a state of limbo from which few emerge without the scars of profound and ongoing trauma. Yet such scenarios, which so often inspire a deep sense of despair, are only part of the story. A different set of questions is driven by an equally compelling starting point: that irregular migrants are more than passive victims shuttled from one place to another. They are also active agents in the transformation of political belonging. This book also asks about the ways in which irregular migrants contest their positioning as illegitimate intruders on sovereign communities and, in the process, reconstitute the social and spatial parameters of citizenship.

This book has been written in different forms over several years with the support of many people. I am grateful for the time and freedom

given to me to devote myself to the task at both the School of Social Sciences at the Australian National University in Canberra and the Global Cities Research Institute at RMIT University in Melbourne. I am indebted to the encouragement, guidance, and intellectual generosity of mentors in both places, to thoughtful and critical feedback from old and new friends and colleagues, and to the good humor of loved ones who showed every confidence without letting me take myself too seriously. Thanks in particular to Jim George, John Dryzek, Kim Huynh, Katrina Lee-Koo, Fiona Browitt, Bina D'Costa, Judy Hemming, Barry Hindess, Heather Rae, Jane Stratton, Manfred Steger, Paul James, Lisa Slater, Andy Scerri, Erin Wilson, Vicki Squire, Peter Nyers, and Engin Isin. Heartfelt thanks to my family and partner, Andrew.

In the months leading up to completing the final version of the manuscript, one group of people influenced its human and intellectual development more than they probably realize. I had the great pleasure of sharing time and working with an unlikely bunch of asylum seekers and supporters who joined together in Melbourne to tell their stories on stage. The result of this collaboration—the theater production *Journey of Asylum-Waiting*—confirmed in my mind the power of everyday acts “from below” to resist what can sometimes feel like an overwhelming force “from above.” This group’s determination to find ways and means of being political shows me that the human spirit is always more than what can be captured by administrative categories, legal scenarios, and map-drawn spaces. This “excess” is precisely what holds the greatest potential to redraw and reinvigorate the most rewarding human solidarities. Although these particular stories have not made it into the pages of this book, the book is in many ways about them. To those who invited me so warmly into their journeys of asylum, I am deeply grateful, and this work is dedicated to them.

The discussion of the Australian neobliberal context in chapter 3 draws on an earlier version of the argument in my article “The Liberal Paradox and the Politics of Asylum in Australia,” *Australian Journal of Political Science* 42, no. 4 (2007): 611–30, although the argument has been modified substantially. The discussion on border policing and a new terrain of sovereign practice in this same chapter draws on a section of my article “Border Policing and Sovereign Terrain: The Spatial Framing

of Unwanted Migration in Australia and Melbourne," *Globalizations* 7, no. 3 (2010): 407–19.

The discussion of the Sans-Papiers in chapter 4 is a substantially modified version of sections of my article "Political Belonging in a Neo-liberal Era: The Struggle of the Sans-Papiers," *Citizenship Studies* 10, no. 2 (2006): 135–51. An earlier and more abbreviated version of chapter 4's discussion on the three forms of contestation appeared in "Contesting Citizenship: Irregular Migrants and Strategic Possibilities for Political Belonging," *New Political Science* 31, no. 2 (2009): 163–81.

CONTESTING CITIZENSHIP

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INTRODUCTION

In 2008, Alejandro was studying nursing at a college in Los Angeles, where he had lived for the past seven years. He also worked as a marketer for a private ambulance company. Originally from the Philippines, Alejandro believed that after seven years working and paying taxes, he now had the right to have a say in how his adopted country should be governed. He felt that eight years of the George W. Bush administration had run the economy down and driven too many jobs offshore. He was also aware that presidential nominee Barack Obama had spoken in favor of comprehensive immigration reform that would give many immigrants like himself a pathway to U.S. citizenship. Alejandro spoke out to his fellow students, asking them to vote for Obama and making them aware of federal and state bills under debate that would provide financial aid to undocumented students to assist with their college expenses and grant them legal status for the duration of their studies.¹

Alejandro is one of millions of irregular migrants whose ongoing presence is not formally sanctioned by the state in which they reside. Some have crossed borders illegally; others have overstayed valid visas. Many have traveled to work, and many send money home to families and communities abroad. Some, facing circumstances considerably different to Alejandro's, have fled conflict and disaster; others are seeking asylum from political persecution. Some in the latter category may be granted short-term visas, but their futures remain gravely uncertain. Most live with the ongoing prospect of deportation. Irregular migration provokes enormous anxiety within destination states. Stories like Alejandro's raise questions about the capacity of states to retain control not only over

entry and exit, but also over the social relations that shape political communities. Migration in all its forms creates social change that challenges prevailing ideas about who we are as citizens. When Alejandro plays a role in shaping the society from which he is technically excluded, a new set of questions arises around the status of citizenship itself.

In this book, I examine how citizenship is constructed, policed, and contested in relation to irregular migration. I argue that under conditions of globalization, the terms in which citizenship is understood, and the privileges it guarantees are changing. This change is happening alongside the more general transformation of the state. Globalizing states increasingly prioritize a transnational sphere of market relations. As a consequence, the territorial frame according to which citizenship has traditionally been shaped is being disrupted. In the face of these changes, border policing against irregular migrants helps to enforce a territorial account of citizenship that is otherwise challenged by globalizing trajectories. In the chapters that follow, I investigate these processes via illustrative examples that focus in particular on Australia, France, and the United States. I also examine the political strategies that irregular migrants employ to stake claims to belong to the communities in which they live and work. I contend that irregular migrants' struggles for legitimate presence and political equality are contestations of citizenship that both undermine *and* reinscribe the conventional form of citizenship and the state's power to enforce it. This book thus seeks to challenge the reader to think differently about citizenship by reflecting on the constitutive acts of those who are cast as its outsiders. It interprets that outsider status as both a mode of subjectification and a site of active resistance.

Two perplexing conditions inform the rationale for this book. The first concerns the apparent contradictions of the globalizing state. On one hand, states willingly open their borders to global market forces and do so on the pretence that liberalizing borders is the only feasible option for economic growth and development. This opening of borders raises questions about the meaning of citizenship, which has heretofore been based on the notion of a sovereign territorial political community. On the other hand, states are also under increasing pressure to close their borders to certain types of migrants and to maintain a strong sense of bounded national identity. Irregular migrants are caught at the crossroads

of these state practices. Many, as workers, respond to a transnational labor market that is part and parcel of global market forces. At the same time, they are brutally policed as transgressors of borders that are elsewhere compromised by states' neoliberal agendas.

These parallel trends suggest that simplistic readings of the contemporary global condition cannot account for the everyday realities that increasingly shape the experiences of citizens and migrants alike. Exaggerated notions of a deterritorialized and borderless world fly in the face of an extraordinary militarization of borders as key sites of defense against flows of unwanted people (irregular migrants and terrorists) and contraband goods (drugs and arms). Yet skeptics of globalization, who doubt the novelty of networks and circuits across transnational space, are likewise faced with the failure of borders to contain these various flows and new modes of communication and transit that challenge our assumptions about limits to time and space. The broader question, positioned between these two crude extremes, is how we are to understand the spatial framing of states, sovereignty, and citizenship in an age that defies "either/or" accounts of rupture or continuity with the spaces of the past.

From this starting point, the state that pursues both a globalizing *and* a border-policing agenda might be recognizable to us less in contradictory terms than in ways that reflect a complex rescaling of state space.² From this starting point, in turn, it is possible to discern a *logic* of globalization in its hegemonic neoliberal form whereby fast-tracked border crossings for certain commodities and persons are connected to heightened surveillance of others. These interlinked dynamics result in new subjectivities—new forms of citizenship based on global connectivity and new forms of alienage based on circumscribed access to mobility. From this perspective, the journeys of irregular migrants cannot be sufficiently explained by "push factors" that originate in isolation from destination states. Irregular migrants should be seen not as aberrant but as *immanent* subjects of contemporary global capitalism that come into being *on account* of the trajectories of globalizing states. Finally, from this starting point, we also find that irregular migrants are often located in sites more akin to a spatially rescaled conception of the state than to clear-cut distinctions between two sides of a territorial border. Whether working for transnational production circuits in

special economic zones, detained in offshore and excised territories, or safeguarded—at least to some extent—in official city sanctuaries, irregular migrants do not always fit within the spaces defined by prevailing territorial categories. Different kinds of spaces are at work in both technologies of border policing and counterpractices of political belonging. This spatial transformation is a crucial factor in this broader inquiry into the dynamics of citizenship.

The second condition informing this book is the emergence of irregular migrants as political actors. In recent years, irregular migrants have marched, occupied buildings, rioted, gone on strike, petitioned, blogged, written manifestos, and generally brought attention to their long-term presence in states where they live with the constant threat of deportation. The *Sans-Papiers*, a coalition of irregular migrants based in France, have occupied churches, government offices, union headquarters, and restaurant chains in Paris. They have demanded that their status be regularized and have contested the very basis on which they are positioned as outsiders. In other cases, irregular migrants have won political privileges *despite* their lack of legal status. In the United States, irregular migrants have obtained drivers' licenses, the right to vote for school boards, and "in-state" college tuition, and they have mobilized in huge demonstrations. In each of these cases, irregular migrants are being recognized as a semilegitimate presence. Administrations sometimes respond to their presence with measures that create an ambiguous status between legal and illegal, inclusion and exclusion, belonging and not belonging.

How should citizenship be understood against this background of border transgressions and ambiguous forms of status? If the state is said to represent a bounded community of citizens, what happens when the boundaries defining that community no longer act as buffers to a range of global forces? If irregular migrants are policed as illegitimate outsiders, what happens when they seek and obtain political rights in places where they technically do not belong? The stories of people who do not fit into defined categories of citizenship threaten to rupture a particular configuration of global political power that gives the state its *raison d'être*. Hence, the tightening of borders against such people is as much a defense of the conceptual framework legitimizing those boundaries as it is a defense of material borders themselves. Irregular migrants'

growing political activism generates new claims to citizenship that deploy alternative political geographies. These claims are made at a time when the fault lines of citizenship are very much unsettled and vulnerable to challenge. This timing accounts, at least in part, for the depth of emotion that surrounds the issue of migration and the status of irregular migrants in particular, for what is at stake are not only matters of material distribution—however important they may be—but also questions of life, death, and identity that shape our sense of who we are and how we determine our security into the future.

The theoretical groundwork for the book as a whole is established in chapter 1. Here, I ask, in more detail, who irregular migrants are and why this particular designation of status has so much to reveal about contemporary dynamics of citizenship. I argue that irregular migrants are brought into being in relation to particular constructions of citizenship. In recent decades, this co-constitution reflects a growing crisis of identity against the backdrop of globalization. As migration becomes more hierarchical, we are witnessing the *illegalization* of certain kinds of migrants as a bulwark against citizens' vulnerabilities. I contend that both border policing against irregular migrants and the strategies employed by irregular migrants to contest their "illegal" status add a crucial dimension to the question of citizenship's future. This question is central to a broad field of interdisciplinary scholarship that seeks to reimagine political communities in transnational, postnational, and cosmopolitan terms. Yet, as I show, irregular migrants' specific circumstances are largely absent within this field or insufficiently theorized.

My own approach is to interpret irregular migrants' acts of contestation as a new frontier of the political—that moment of confrontation and destabilization when one account of justice competes with another to shape what we think of as "common sense" justifications for particular status hierarchies. Citizenship in its conventional form has long been the marker of access to important rights and freedoms. Irregular migrants' claims make that relation controversial. They are implicated in new kinds of subjectivities that undermine citizenship as a clear-cut measure of status. In chapter 1, I introduce the notion of the political with respect to irregular migrants, drawing on the early work of Ernesto Laclau and Chantal Mouffe. I argue for an approach to the political that engages directly with the spatial dimension of contemporary

citizenship struggles, and I outline some key spatial concepts that are central to this task.

Chapter 2 engages with the spatial dimension more concretely. I examine a new terrain of sovereign practice emerging under conditions of neoliberal globalization and manifesting, for example, in offshore markets, special economic zones, transnational production circuits, and global cities. I show how the globalizing state both responds to and generates these spaces. Such spaces call into question long-held assumptions about the significance and function of state borders. They therefore prompt a range of anxieties about the onset of globalization, the limits of sovereignty, and the privileges that citizenship guarantees. In this unsettling context, states swing between a transnational orientation and the domestic political compulsion to demonstrate territorial loyalties. Irregular migrants are caught between these twin imperatives. As flexible workers, they are incorporated into new terrains in which the state is active, yet their identities continue to be constructed in territorial terms, as unwanted intruders into sovereign, bounded communities. This chapter identifies border policing against irregular migrants as both a strategy of neoliberal governance and a performance of territorial closure.

Neoliberal governance also produces an alternative tier of citizen subjectivities, which are also the subject of chapter 2. Neoliberal hierarchies and subjectivities do not map directly onto territorial containers. If a new terrain of sovereign practice does not cohere with the inside/outside logic of territorial norms, then corresponding hierarchies of mobility, labor, and status in turn defy the conventional line between citizen and noncitizen. Neoliberal subjects emerge at one extreme as hypermobile cosmopolitans imbued with all the privilege and access that new civic virtues of entrepreneurship and investment can accord. Other kinds of travelers who respond in different ways to the same neoliberal imperatives are rendered “illegal” and therefore amenable to extreme forms of exploitation.

Chapters 3, 4, and 5 expand on these general themes from the perspective of three different contexts. In chapter 3, the focus turns to Australia. Australia has experienced comparatively small volumes of irregular migration, yet its treatment of asylum seekers in recent years has been highly restrictive and punitive. Why has so much effort gone into border policing in this context? In this chapter, I argue that policing

Australia's borders has served to reinvigorate a particular notion of citizenship and national identity made vulnerable amidst anxieties about Australia's neoliberal trajectory. Border policing creates for domestic consumption an image of a state in control: a state with the power and will to defend its sovereign borders in spite of its integration with global governance regimes that defend the right to asylum. This image is precisely the opposite of the one generated by decades of neoliberal reform. In the latter case, painful structural adjustments have been justified as being the result of integration with global governance structures against whose liberalizing drive there is no rational defense. Thus, even where irregular migrants are not employed as a source of essential labor, border policing remains implicated in strategies to contain opposition to the advance of global capital.

The Australian case also reveals an additional layer of complexity in the spatial framing that shapes irregular migrants' experiences. Through the transnational marketization of border policing and various forms of extraterritorial policing, state authorities are engaged in sovereign practices that subvert the territorial clarity that border policing aims to enhance. Through the use of specific technologies such as excision and offshoring, Australia has led the way in this respect. Such practices are extraterritorial in the sense of being exercised beyond territorial borderlines, but also and more crucially in the sense of disrupting conventional spatial frames. As objects of policing, asylum seekers are caught at this intersection of territorial and extraterritorial space. Defined territorially, by virtue of a border crossing, asylum seekers are nevertheless in constant confrontation with a neoliberal rationality of governance that enacts a very different kind of space. As I show in chapter 3 and subsequent chapters, this confrontation has implications both for the forms that policing takes and for the modes of resistance that irregular migrants deploy.

Contestations of citizenship by irregular migrants are the subject of chapter 4. Here I begin by establishing a theoretical distinction between different types of contestations. The distinctions are important because they provide an analytical basis from which to assess the implications of diverse empirical examples. I distinguish among contestations that seek the extension of citizenship as it stands to approved outsiders, that challenge the meanings embodied in citizenship, and that

question the legitimacy of citizenship—no matter how transformed—as a measure of political belonging. The third kind of contestation is hard to perceive through a scholarly and political lens that is itself embedded in a discourse and practice of citizenship. It is even harder to articulate what kinds of subjectivities—beyond “citizens” and “aliens”—that such acts of contestation may engender. But it seems to me that a critical approach to the transformation of citizenship must at least remain open to the possibility of political claims that defy the limits of existing conceptual grids.

This discussion foregrounds an examination of the growing political activism of the *Sans-Papiers* of France in chapter 4. In recent decades, France has emerged as an immigration state with substantial populations from Muslim and North African backgrounds. Controversial legal cases, such as the famous “head scarf affair,” have focused public attention on claims to cultural and religious difference within the French republican project. Fierce debate has ensued over the nature of French citizenship and the hierarchies that distinguish citizens on account of their cultural backgrounds. Against this backdrop, the *Sans-Papiers* seek recognition and regularization. They base their arguments on a history of colonization that has shaped their paths of migration and on their contributions as workers to the French labor market. Claiming to be part of the past, present, and future of what it means to be French, the *Sans-Papiers* are challenging the reach of citizenship in spatial and temporal terms. They are also faced with dilemmas around the terms in which they stake their claims. Their case is linked to broader opposition to a global neoliberal hegemony, yet by leveraging their value as workers to support their demands, the *Sans-Papiers* risk weakening other claims to citizenship and legal residence made in nonmarket terms.

Chapter 5 extends the discussion of contestations into the United States. In 2006, hundreds of thousands of irregular migrants took to the streets of cities across the country demanding pathways to citizenship and an end to the brutal consequences of hard-line border policing. Enormous resources are devoted to policing the U.S.–Mexico border, but few genuine attempts are made to stem the demand for irregular migrant labor. The tensions within the globalizing state are especially clear in this case. The sheer volume of irregular migrants in the United States and their structural integration into the economy as workers and