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# 3. Governing Indigenous citizenship in Australia: From objects and partial subjects to coexisting sovereign citizens?

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**Abstract** The chapter explores how Indigenous citizenship has been shaped and reshaped within a volatile intercultural field, since British settler colonisation of Australia. The Australian nation-state has governed Indigenous peoples as 'incapable citizens', 'subject citizens' and 'partial citizens'. Within their own culturally-based groups, Indigenous people give citizenship an expanded relational content; of 'belonging' to kin and 'Country'. A model of co-existing sovereign citizenships is proposed.

**Keywords** Indigenous citizenship | relational citizenship | co-existing sovereign citizenship | Indigenous education

## INTRODUCTION

The question of what constitutes the rights, form and exercise of Indigenous peoples' citizenship in the modern nation states in which they reside is not a new one; but neither has it been adequately resolved. Indeed, in recent years the global displacement of people as refugees, in the context of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the current emergence of what could be called 'pandemic neo-nationalisms', have intersected to create increasing uncertainty and contestability in the boundaries of citizenship. Today, many countries appear to be undergoing a turbulent moment of increasingly liquid citizenship (Bauman, 2000; Calzada, 2021) where individuals are simultaneously experiencing and claiming differing rights and forms of belonging (Altamirano-Jimenez, 2010; Beiner, 1995; Davies et al., 2018; Kymlicka, 1995; Murphy & Harty, 2003).

In the international context of settler-colonial nations, the question of who is a citizen is even more vexed, being heavily embedded in violent histories of the dispossession and dispersal of Indigenous peoples from their traditional lands. The result for many has been a disenfranchisement from the place-based citizenships of their own collective groups, replaced by forms of mendicant citizenship under the control of the settler-colonial nation state. Australia is a case in point. This chapter explores two very different modes of citizenship and their intersections within Australia: namely, the citizenships of Indigenous peoples within their own diverse First Nations; and the citizenship that has been defined for them within the Australian nation state. In this way, the chapter considers what it means to be an Indigenous citizen in Australia today. To whose 'nation' does an Indigenous person belong? What kinds of rights, identities and responsibilities are entailed? And, central to the purposes of this chapter, who gets to make the authoritative decisions on these important matters – that is, who governs the content and exercise of Indigenous citizenship?

In considering these questions over time, it is clear that Indigenous Australians have been categorised by the Australian nation state in many, often contradictory, ways. At the beginning of British colonisation they were positioned as excluded objects – as a citizen *nullius* or 'citizen minus' (Mercer, 2003). Then they were constructed as 'deficit subjects' needing to be trained and made capable of becoming civilised citizens (Peterson & Sanders, 1998), and 'normalised citizens' enjoying only those rights and obligations due to all Australian citizens (Ivison, Patton, & Sanders, 2000; Rowse, 2000). State-gifted membership in the Australian citizenry required Indigenous people to renounce citizenship of their own Indigenous polities and identities.

Indigenous Australians in turn have deployed their own understandings and expressions of how to be an Indigenous citizen of their own traditional nations, at the same time as strategically demanding the rights of Australian citizens. In this way, they have asserted themselves to be 'citizens plus' (Cairns, 2000) and 'sovereign citizens' (Moreton-Robinson, 2007), based on the unique rights arising from their original relationship as the First Nations of lands and waters. This positioning causes considerable legal and political anxiety for Australian governments, because it foregrounds the fiction of colonial sovereignty and hence the fragility of its governance of citizenship. The implications of these positionings and tensions are examined in terms of their implications for Indigenous citizenship today in Australia. Several turning points that have recently occurred in Australia are briefly considered as they have renewed attention to what Indigenous citizenship – as a mode of belonging and doing – means. Specifically, Indigenous people and their representative organisations are reclaiming modes of citizenship that suit

their cultural affiliations, reflect their newly secured legal rights, and give voice to political aspirations.

Accordingly, this paper explores the ways in which Indigenous citizenship has been shaped and reshaped within an 'intercultural field' (Nakata, 2002) since the British colonisation of Australia, focusing on the more recent reassertions of the self-determined citizenships being enacted by Indigenous Australians. To do so, multiple standpoints are explored. In the first section, the paper describes the culturally-constructed characteristics of citizenship as belonging that operate within the diversity of Indigenous polities or 'First Nations'. The second part examines the measures of settler-colonial governments historically carried out by in order to govern the conditions and conduct of Indigenous citizenship, via its various institutional tools and diverse agents. Here the paper identifies a debilitating recursive pattern of inclusion/exclusion created by the state, arising out of its own profound distrust of Indigenous institutions and capabilities. In this context, the paper then discusses the persistent historical advocacy by Indigenous peoples to assert their own views of citizenship and reclaim a different mode of citizenship within the Australian nation.

During the various historical manifestations of their citizenship, the Australian education system – in its accessibility and pedagogy – is revealed as a battlefield where the boundaries and content of citizenship are contested. Examples given in the paper highlight that Indigenous Australians' struggles about citizenship have directly engaged with education as both a place-based cultural expression of their own mode of citizenship, and as a political and pedagogic right at national and state government levels. The paper concludes that *Indigenous* citizenship remains contested ground in Australia, not only in respect to who gets to 'be' a citizen and of which nation, but also how the content of citizenship is governed by the nation state. But the paper also argues that Indigenous advocacy, promulgated in the political and educational arena, has historically challenged the norms of Western citizenship. Today, this is giving rise to innovative possibilities for co-existing, nested citizenships within the Australian State.

## INDIGENOUS CITIZENSHIPS

To understand contemporary Indigenous demands for particular forms of citizenship, it is necessary to understand the culturally-based ways of acting as citizen-members within their own societies. The practice of acting as an Indigenous nation arguably predates the formation of the more recent Westphalian system and its modern 'nation-states'. Prior to British colonisation, Indigenous nations were sovereign entities, organised as place-based connubia of kin with a

collective identity and agency, so giving shape to a form of collective networked self-governance. This sense of nation recognises the conditions not only of political solidarity but also of collective 'grouphood' where individuals share a common language, culture, descent and history. It expresses the idea of a group or society with deep affiliations to, and collective ownership of, a specific territory of land and waters. In other words, the Indigenous nation was and is embedded as a form of relational sociality, as much as it is a political formation (Smith, 2021). This culturally infused notion of the nation as a relational polity forms the bedrock of Indigenous conceptualisation of citizenship – likewise being a relational mode of rights and responsibilities expressed within a place-based collective (see additional characteristics discussed by Sollid & Fogarty, this volume; see also Murray & Evans, 2021; Rigney et al., 2021).

Within Indigenous societies in Australia, there is a strongly valued cultural preference, on the one hand, for autonomy marked by a tendency towards localism and a high value placed on small kin-based groups of people attached to core geographic locations, usually referred to as 'own Country'. Here the Indigenous citizen 'belongs' to their own local clan group or extended family, and that belonging entails particular rights, mutual interests and kin-based responsibilities that are squarely linked to particular territories or 'Country'. In this context, Indigenous modes of learning and decision-making are specifically place-based and kin-based.

A consequence of the ever-expanding connectedness of Indigenous kin networks in Australia is that the momentum towards societal atomism and autonomy is balanced by an equally compelling strain towards relatedness, collectivism and interdependence (Martin, 1993; Sutton, 1995). This enables the small-scaled polities to opportunistically come together – for shorter and longer periods – along lines of spiritual, territorial and kin connections, to form larger-scale collectivities and alliances that are able to mobilise wider cultural geographies and their resources (see Smith, 1995; Sullivan, 1995; Sutton, 1995). At these aggregating levels, Indigenous people are also citizens of a wider meshed network of polities. Conversely, the dynamics of kin-meshed networks can also lead to political and social aggregations contracting or fracturing. This societal dynamic gives rise to a complex developmental cycle of expansion, disintegration and reformation that is observable at all levels of Indigenous social and political organisation, from the domestic units of extended families and linked households, through to clans and larger nation groups, and in their representative organisations.

While individuals are able to operate as autonomous actors or citizens, the relational pathways of their kin networks insert a strong balancing counterweight of interconnectedness and interdependence. Each person has numerous

short-distance ('close up') relational pathways, which create the meshedness of Indigenous networks, enabling them to live and work closely together, with a higher expectation of being able to coordinate activity, have an immediate say in group life, maintain social order and have their needs met by each other. This has the effect of reproducing a 'measure of self-similarity' in the social heartland of a network over time and space (Fuchs, 2001, p. 157). It creates a strongly bonded sense of personhood and grouphood – a shared identity and each person's place in it, producing a form of citizenship that is very much 'in place', as Stephan Fuchs would say (2001, p. 156).

In other words, Indigenous kin networks generate social and political dimensions of core-periphery, close-distant relationships, which in turn give rise to associated rights, interests, loyalties and mutual responsibilities for individuals to each other. This also means that people can (and do) claim to be citizen members of more than one polity. This is because people can jump kin linkages, activate or renounce others, until a preferred social destination or repositioning is reached – sometimes across multiple layers of their linked networks. This helps explain the oft-noted plurality of 'selves', including of citizen membership, within Indigenous Australian societies, that gives rise to assertions of having a primary membership in one heartland polity, at the same time as asserting the 'right' to exercise other situational modes of citizen membership in related group networks. This can be evidenced, for instance, in claiming rights to have a say, exercise responsibilities to 'look after' places, or get access to particular resources in another group's Country. In effect, Indigenous Australians are social experts in exercising multiple modes of citizenships within and across their own networked polities.

Indigenous citizen members enact their rights and mutual obligations in ways that arguably resonate with the ancient Greek Athenian ideal of a full active participation in the process of governing. Where 'citizens as collective rulers' exercise the political prerogatives of power over the local polity, while at the same time also being the group of individuals who are the subject of that collective rule. In many ways, Indigenous people within their own local groups and First Nations could be said to be more deeply enfranchised and have a more active direct voice than do those in contemporary Western democracies, because they are directly involved in the daily work of governing their own polities. This deep traditional enfranchisement and voice is the product of sophisticated modes of relational autonomy and circuitries of governing subsidiarity that are embedded within tightly meshed kin networks and ancient cultural geographies (Smith, 2007).

Such networked polities constitute what Indigenous anthropologist Professor Marcia Langton refers to as 'ancient jurisdictions'; that is, juridical, knowledge-holding social spaces in which Indigenous laws, practices and behaviours may also

survive (Langton, 1994; see also Reynolds, 1996, pp. 208–215; Reynolds, 1998). 'Jurisdiction' in this Indigenous context can be defined by its common-sense meaning as 'the right, power, or authority to administer the law by hearing and determining controversies'; 'the extent or range of judicial or other authority'; and the 'territory over which authority is exercised' (Smith, 2002, p. 3). Where jurisdictions and distinct polities continue to exist with affiliations to territorial bases, so too do citizens as members of collective Indigenous nations.

The practice of Aboriginal governance at the time of British colonisation and today is indistinguishable from the practices of land ownership that are informed by networked polities and culturally-based jurisdictions. Collective self-governance is an 'extremely localised one, elaborated across regions, but exercised by individuals with authority' (Langton, 2002, p. 1). It constitutes a pattern of decentred diverse nations where autonomy is practiced as an 'interdependent' process, in relation to each other (Havemann, 1999, p. 472; Nedelsky, 1989; Young, 2000, pp. 238, 253). Citizens of such networked polities are oriented to sharing multiple affiliations across tightly meshed social groups which have their own overlapping cultural geographies. It produces what could be called relational citizenship. This is distinct from the highly 'autonomous self' of Western individualistic modes of citizenship. In contrast, the Indigenous 'relational self' as citizen is not an isolate, but directly constituted by their interaction with known others and mutual undertaking of their interdependent responsibilities.

The concept of the Indigenous 'relational self' means Indigenous nations and citizenship can accommodate interdependent layers: a 'pooling of sovereignties' (Hawkes, 2001, p. 154) producing overlapping fields of citizenship in which individuals can actively participate. This systemic characteristic also means assertions of citizenship can be situationally contested and negotiated. Given the subtlety and radical difference of such Indigenous polities and their relational citizenries, it is perhaps not surprising that British colonists (and still today) have been unable to see, let alone understand, the nature and implications of such modes of Indigenous citizenship.

Membership of such place-based relational polities was one of the first foundations of Indigenous citizenship to suffer under the onslaught of British settler colonisation of Australia. Nevertheless, successes in land rights, native title and cultural resurgence mean it continues to inform assertions of there being a particular kind of *Indigenous* citizenship within the wider Australian nation state. Culturally-based relational citizenship appears to be a common quality underlying membership in many Indigenous societies internationally: for example, amongst Sami in Norway and other First Nations in the USA, New Zealand and Canada. However, the occurrence of settler colonisation or not makes a telling difference

in the extent to which Indigenous peoples feel themselves to be an integral part of the wider nation state in which they reside.

## GOVERNMENTAL CONTROL OF INDIGENOUS SUBJECT CITIZENS

From the beginning of settler occupation, Indigenous groups were denied recognition as polities having their own citizen members who collectively exercised self-governance. Under the political institutions of Australian federalism established from 1900 onwards, governmental power was formally distributed across nation, state, territory and local government jurisdictions. Such was the federalist patchwork of settler-created jurisdictions operating in Australia, that in 1959 the then Commonwealth Attorney-General Garfield Barwick made reference to there being 'nine different 'citizenships' in Australia' (Barwick cited in Chesterman & Galligan, 1997). The ongoing consequence for Indigenous Australians has been the imposition of Western systems of governance, participation and voice, which have deeply constrained the ways they were able to 'be' a citizen. Often that meant being excluded and marginalised from wider Australian citizenship rights, at the same time as being severed from their citizenship of their traditional lands.

The institutional tools (policies, legislation, legal cases, regulations, programs) of federal and state governments to govern Indigenous citizenship created regimes that actively denied or tightly controlled the conditions of Indigenous people's access to many mainstream citizenship rights, entitlements and responsibilities. Such tools were diligently deployed by a vast armada of administrators and officials in the guise of 'Protectors', 'Welfare Officers', 'Directors of Aboriginal Affairs', 'Commissioners of Native Welfare,' 'Aboriginal Welfare Boards' and 'Settlement Managers' who in turn were able to call upon the punitive forces of the police and the reforming zeal of church missionaries to control the citizenship rights and conduct of Indigenous people. In the earliest phase of colonial settlement, people were controlled as 'objects' (i.e., not even human) – a view that became widely accepted and influenced the extent to which they were even considered capable of being citizens:

> Australia is the present home and refuge of creatures, often crude and quaint, that have elsewhere passed away and given place to higher forms. This applies equally to the Aboriginal as to the platypus and kangaroo. (Spencer, 1927, p. vii)

Later they were to be categorised by governments as subject citizens, or more accurately as indentured citizens, to provide a heavily regulated labour force, but

never enjoying full citizenship rights. This exclusionary legislative and policy edifice of government was built around a mathematically complex system for classifying people's indigeneity (via 'race', 'blood' or 'caste' designations), with different and partial citizenship rights and responsibilities assigned to different categories. An expanding government bureaucracy was tasked with interpreting and enforcing these categories.

Significantly, the word 'citizenship' was not used in the Australian Constitution of 1901. Indeed, the founding 'fathers' of the Australian Constitution explicitly rejected the use of the term 'citizenship' for *all* the Australian population, favouring instead the designation for all Australians as being British 'subjects'. The *Commonwealth Franchise Bill 1902* explicitly excluded 'aboriginal natives of Australia' from citizenship and the new Commonwealth franchise. As a consequence, Australian state governments were subsequently able to systematically legislate to discriminate with impunity against Indigenous people.

The passage of the *Nationality and Citizenship Act 1948* created for the first time the legal status of 'Australian citizen' for all Australians. Under this legislation, Australians were both Australian citizens and British subjects, which remained the case until 1984 when Australians were legally no longer British subjects. For Indigenous people, the 1948 Act had little practical impact upon what was by then a labyrinth of other legislation and bureaucratic practices that more often actively excluded them from the benefits and responsibilities of citizenship within the Australian nation state. In 1959, the Australian Attorney-General Garfield Barwick was asked to clarify exactly what 'citizenship' meant when applied to Indigenous Australians. He responded that while Aboriginal people were Australian citizens under the *Nationality and Citizenship Act*, like all citizens they

> are subject to many disabilities ['that which they may not do within Australia'] by reason of the general law. … Further, those rights and disabilities are not necessarily the same throughout Australia. … The word 'citizenship' in Western Australia does not refer to the same quality or attribute as does the Nationality and Citizenship Act, and any limitations to their rights as citizens came from laws passed by state legislatures. (Barwick, 1959)

Barwick's explanation was in fact a politically dexterous allusion to the fact that there were multiple citizenships operating within Australian federalism, and that the lowest on the ladder of citizenship rights were Indigenous people owing to the 'disabilities' legislatively imposed on them across every state.

Government conferral of what could be called 'conditional citizenship' upon Indigenous people was tied to legislated requirements that they renounce their

own ways of being citizen members of their own First Nations. For example, in the early 1940s various state governments passed legislation to introduce Exemption Certificates, which exempted certain Indigenous people from the restrictive legislative controls applied to all others. Famously referred to as 'dog tags', the written certificate allowed a person to enter a town, to vote, and send their children to the local school. But exemptions could be withdrawn at any time by authorities for a myriad of reasons linked to failing to observe behavioural prerequisites that were regarded as norms of white Australian citizenship. Another common reason for government withdrawal of a person's exemption was their continued association with other Indigenous people. Exemptions were seen by governments to be key tools in their assimilation and integration policies. Upon gaining this form of citizenship, a person was officially 'deemed to be no longer a native or aborigine' and was legally bound to give up their cultural activities and contacts to family and community. The legislation's aim and effect was to sever individuals from the collective. It was an effective way to undermine the foundations of people's relational citizenship, and it remained in force until 1969.

Even with exemptions, assimilation and integration policies, the full suite of Australian citizenship rights and benefits did not follow; indeed, there were significant citizenship 'disabilities'. Many ordinary components of citizenship such as access to social welfare payments and mainstream education, freedom of movement, employment in certain industry sectors, choice in marriage and family life continued to be denied to 'exempted' citizens. The rights that did apply continued to be applied erratically across different state jurisdictions and at the local levels. The effect was to create Indigenous people as subject citizens permanently on probation. This positioning was characterised by Chesterman and Galligan (1997) as 'occupying an empty shell of citizenship' (p. 3); or perhaps more accurately, a shell in which some Indigenous people were selectively recognised as partial citizens with rights to partial participation and voice, while others were excluded.

## EDUCATION AS A GOVERNMENTAL TOOL FOR CITIZENSHIP

Education has often stood at centre stage of the historically contested ground of citizenship in Australia, both as a tool to deny citizenship by governments, and as an aspirational claim by Indigenous peoples for the right to equal treatment. In the hands of the Australian nation state, Western education became an instrument of assimilatory eugenics and later integration policies. The overarching motivation being to ensure Indigenous people became 'good citizens' of Australia.

One of many governmental tools used to achieve this across the country was by the forced dispersal of families from their traditional Countries and relocation onto newly established reserves, and the forced removal of children from families and their placement into so-called 'training institutions'. The first such colonial school for students – The Parramatta and Black Town Native Institute – was established in Sydney, New South Wales in 1814 by Governor Lachlan Macquarie. It was 'attended' by Indigenous children who had been forcibly removed from their parents, 'to effect the civilisation of the Aborigines' and 'render their habits more domesticated and industrious' (Brook & Kohen, 1991; Norman, 2015).

A hundred years later, the same social evolutionist paradigm for an assimilated citizenship remained in force, with J. W. Bleakley the Queensland State Government's 'Chief Protector of Aborigines' writing in the 1920s that it would be 'a great stride in citizenship for one generation if young Aborigines could be trained to appreciate settled life, develop the desire for self-dependence, and learn something of the spirit of social service'. He proposed that all so-called 'half castes' under 16 years of age who are 'not being satisfactorily educated be placed in aboriginal industrial homes, and that education be made compulsory for all half-castes up to the age of sixteen'. Bleakly reinforced that those Aborigines 'with a preponderance of white blood be sent to European institutions at an early age' (as cited in Chesterman & Galligan, 1997, p. 145).

In such ways, British-based education became a powerful primary tool for people's enforced assimilation into Western norms of what it was to be a 'good' citizen. The benefits conferred by citizenship education were primarily manual training for the purpose of people's mandatory work as domestics or labourers for white employees, often for no pay, or with meagre payments controlled by government officials. In effect, such people were unilaterally transferred from the status of non-citizens to what has aptly been called 'market citizenship' (Altamirano-Jimenez, 2010). When later reflecting on the impacts of settler-colonial education on Indigenous Peoples in Australia, C. D. Rowley (1972) concluded that

> Traditionally, emphasis has been on control and tuition as the prelude to eventual full citizenship. Thus while the goal of 'assimilation' expressed the best intentions, the special laws introduced to bring it about through tuition and control inevitably set the 'native' apart in a special category of wardship. (p. 20)

As wards of the Australian State, any Indigenous child could be taken away from their families for training to become 'good' subject citizens. But they could also quickly be excluded from schools under government legislation and policies, or given a sub-standard form of education judged to be appropriate for them (Fletcher,

1989). For instance, the early colonial policy known as 'Exclusion on Demand' (Beresford, 2012; Reynolds, 1998) meant that when a white parent objected to Indigenous children being present in the classroom of a local school, teachers were permitted to expel the Indigenous student immediately. Such exclusions and partial citizenship were commonplace across all jurisdictions in Australia and continued for many decades, albeit in different guises. As a consequence, the Australian education system remains an unsettling space where Indigenous norms and approaches to place-based citizenship and their preference for relational modes of learning are hotly contested.

## INDIGENOUS ADVOCACY: RECLAIMING CITIZENSHIPS

In parallel to every government strategy to control, partially include or exclude Indigenous people from citizenships in the nation state, there was persistent Indigenous advocacy and resistance. This was done through petitions and letters, public demonstrations, lodging court cases, and establishing representative organisations to fight not only for full and equal access to the benefits of Anglo-Australian citizenship, but also to maintain First Nation culturally-based ways of *being* citizens within their own land ownership and kin-based groups. A small survey of this advocacy demonstrates the continuing force of this twin motivation, and once again the delivery and accessibility of education became a hotspot. While the section below focuses on the dual citizenship aspirations raised by Indigenous advocacy, the chapter by Sollid & Fogarty (this volume) examines the differing content and pedagogy of Indigenous and Western forms of education in Australia.

Fletcher (1989, pp. 116–119) reports an early action well over a hundred years ago in 1915, when Indigenous parents took legal action against the school for their children's exclusion from Bellata Public in northern New South Wales. Mr Quinn (the father of the excluded student) made a case based on his understanding of his rights and responsibilities as an Australian citizen, writing to the government,

> For the past year my child has been deprived of education and the only reason is that she is the offspring of coloured parents. I am a taxpayer and an elector, so therefore I am assisting to carry the burden of education for the children of NSW. … I am perfectly justified in asking that the same facilities of education will be extended to my child. (Letter to the Minister of Education, 6 March 1916, Bellata School files [5/14854] SRNSW, as cited in Fletcher, 1989b, pp. 116–117)

The NSW Government Education Board successfully defended its policy of exclusion of Indigenous children from schools if a non-Indigenous parent complained.

A decade later in the 1920s, another Indigenous parent sought, as a last resort, to engage the King of England in his fight to gain access for his children to the local public school. His letter argued that

> The Quadroon and half-caste people of Batemans Bay have been writing to different places namely the Minister for Education, the Child Welfare Department, the Aborigines Protection Board, and also our members of parliament but we cannot get fair play. Even the reserve where the coloured race were bred and born, the white race are trying to have them turned off on to another piece of land. It is unfair and I hope you will see that fair play be given; let them stay on the land that was granted to them, also compel the children to be sent to the Public School at Bateman's Bay. (Ms J Duren to King George V, 14 June 1926, as cited in Fletcher, 1989b, p. 125)

It is also clear from the substantial historical literature that Indigenous people generally did not equate their getting access to Australian citizenship and education as meaning they should or would give up their collective Indigenous identities and own ways of learning. They claimed the right to both. Evelyn Crawford (1993, pp. 26, 101) a Baarkinji woman who became a teacher's aide and then TAFE Regional Coordinator explained the nuances of this standpoint, based on her own childhood 'education':

> The white man's school was only a part of our life, and not the most important part. We had the white feller school all day, then in the afternoon we'd have to learn all our Aboriginal training. Our teachers were our grandparents and our oldest aunty. … But the most special teachers were uncles – our Mum's brothers. … I could say that our lessons on the sandhills at Yantabulla were our primary schooling, and so our time at Mootawingee was our Aboriginal 'College'.

A positive change came in the 1930s when, in response to restrictive legislation, the worsening conditions on Indigenous reserves and several damming reports, Indigenous groups established a number of political organisations to act on their behalf. These included the Australian Aboriginal Progressive Association and the Aborigines Progressive Association in New South Wales, the Native Union in Western Australia and the Australian Aborigines' League in Victoria (see Attwood & Markus, 1999; Maynard, 2007). The concerns of such organisations included the continuing forced removal of children from families, the ongoing dispossession of

their lands, the denial of their full citizenship rights, and the exclusion of children from the education system.

A major turning point was the 'Aboriginal Day of Mourning' first held on Australia Day 1938 by the Aborigines Progressive Association (APA) in Sydney. Organised to protest the national celebrations being conducted for the sesquicentenary of British settlement of New South Wales, speakers at the APA Conference called for 'full citizenship rights' and passed a resolution demanding that

> We, representing the Aborigines of Australia … on the 26th day of January, 1938, this being the 150th Anniversary of the white man's seizure of our country, hereby make protest against the callous treatment of our people by the white men during the past 150 years, and we appeal to the Australian Nation of today to make new laws for the education and care of Aborigines, and we ask for a new policy which will raise our people to full citizen status and equality within the community. (Horner & Langton, 1987, pp. 29–35)

The powerful statement 'Aborigines Claim Citizen Rights' was made on the Day of Mourning and discussed, with photographs, in major daily newspapers across the country. An Aboriginal deputation met with Prime Minister Lyons a week later to submit a plan for recognising people's citizen rights (Bandler, 1983, pp. 54–59). The political momentum from these initiatives eventually led to the national 1967 Referendum, regarded by many First Nations as a turning point in their fight for rights. However, it is important to note that the Indigenous historical demands for equal citizenship rights were not motivated by the underlying notion of there being a common 'shared fate' in Australia. In particular, with major successes in securing legislated native title and land rights from the 1970s to the 1990s, there have been growing calls for a distinctly *Indigenous* mode of citizenship linked to self-governance over their own lands and collective polities, where Indigenous citizens have different rights as members of their own First Nations, as well as the same rights as other Australians.

Indigenous nations are thus challenging the Australian state as being the sole conferring source of citizenship, challenging the very content of what citizenship could look like in Australia. However, First Nations in Australia have not secured jurisdictional recognition as self-determining governments over their own communities (as has occurred in different ways in Norway, the USA and Canada). So again, their ability to be and act as Indigenous citizens and also as citizens of Australia remains contested and unresolved. The most recent context of emerging treaty negotiations and native title settlement agreements in Australia may afford a political space in which Indigenous citizenship could be legally differentiated,

and conceptually reshaped to comprise multiple modes of co-existing citizenship across different government jurisdictions.

Several recent political and legal events are serving to reinforce the potential realisation of Indigenous notions of collective belonging to land and each other as being the basis of a differentiated citizenship. Perhaps most important amongst these is 'The Uluru Statement from the Heart'. The outcome of 12 First Nations Regional Dialogues held during 2016 culminated in a National Constitutional Convention at Uluru in May 2017. There, Indigenous people from across the country worked to form a consensus position on the constitutional recognition they desired (later to be referred to as a constitutionally entrenched Indigenous 'Voice' to Parliament), culminating in the 'Uluru Statement':

> Our Aboriginal and Torres Strait Islander tribes were the first sovereign Nations of the Australian continent and its adjacent islands, and possessed it under our own laws and customs. This our ancestors did, according to the reckoning of our culture, from the Creation, according to the common law from 'time immemorial', and according to science more than 60,000 years ago. … This sovereignty is a spiritual notion: the ancestral tie between the land, or 'mother nature', and the Aboriginal and Torres Strait Islander peoples who were born therefrom, remain attached thereto, and must one day return thither to be united with our ancestors. This link is the basis of the ownership of the soil, or better, of sovereignty. It has never been ceded or extinguished, and co-exists with the sovereignty of the Crown. (https://ulurustatement.org/the-statement)

The statement speaks to an inclusive, but differentiated understanding of Indigenous citizenship – where people are simultaneously citizens of the Australian nation, and citizens of their own nations. This poses the possibility of a 'citizen plus' (Cairns, 2000) mode of Indigenous citizenship based on political participation, legal rights, cultural belonging and voice, where First Nations' relationship with the Australian nation state is mediated through the mechanism of an Indigenous sovereign citizenry.

This broader more inclusive understanding of Indigenous citizenship has arguably been further supported in a recent decision of the High Court of Australia in *Love, Thoms v Commonwealth (Love)* in 2020. In this case, the High Court acknowledged the increasing incidence of Indigenous people being born in another country, yet having a parent who is an Indigenous Australian. Their birth overseas means they are legally required to hold a visa to enter Australia in accordance with the *Migration Act 1958 (Cth)*. But this means they are also liable to deportation and exclusion from Australia if they breach visa conditions. As occurred to

the defendants in Love, such Indigenous people can be deemed by the Australian Government to be an 'unlawful, alien, non-citizen'. In its landmark decision, the Court recognised that Indigenous people 'belong' to Australia and so cannot be deported, even if they are not Australian citizens under statute.

The vexed matter of what it is to be a citizen of Australia was vigorously engaged by the Court, which held by a 4:3 majority that Indigenous Australians are not aliens and are therefore not subject to the exclusionary powers under Section 51 sub-section (xix) of the Constitution. The decision is, in effect, a legal recognition that Aboriginal people 'belong to Australia' in a way that is different to other Australians (*Love v Commonwealth of Australia*, per Edelman, J. [2020] HCA 3, at 398). The practical import is that Indigenous people hold a unique place in the fabric of the Australian nation because they were and are the First Nations and custodians of our land. The Court held this to be the fundamental premise from which the decision in Mabo [No 2] v Queensland proceeded – recognising a 'deeper truth' that they are the First Peoples of Australia, and that the connection between them and the land and waters that now make up the territory of Australia was not severed or extinguished by European settlement (per Edelman, J. [2020] HCA 3, at 398). The implication of this decision is that Indigenous people cannot be removed or excluded from the country of their ancestors, their culture and their identity. This substantially supports the notion of there being a different citizenship status capable of being applied to Indigenous people – one that is rooted in a distinct Indigenous sovereignty within the Australian nation state.

## CONCLUSION: CO-EXISTING SOVEREIGN CITIZENSHIPS

This chapter proposes that citizenship should be understood not only as a legal or political entitlement of individuals to rights and affiliation common to all citizens of a polity, but also as fundamentally entailing culturally-based entitlements and obligations, which may be differentiated from commonly held rights. Indigenous people's self-identification as members of their own polities, with rights of self-governance and collective identities, requires solutions that positively enable the exercise of Indigenous-specific citizenship rights and allegiances to Indigenous polities, *at the same time* as holding and exercising those common to all citizens of Australia (see also Kymlicka, 1995; Young, 1989). These solutions should recognise and facilitate the co-existence within the nation state of sovereign citizenships.

The Australian Indigenous conceptualisation of the individual as being *a priori* a 'relational self' is a fundamentally different construction of citizenship to that within many Western Anglo-traditions. It proposes a model of Indigenous citizenship as being relational, networked and place-based, operating as an ordered form

of social and political relationship, affiliation and loyalty within particular groups, and their local cultural geographies. This lens of 'citizenship-as-relationality' enables us to see Indigenous polities as providing valued collective spaces for Indigenous citizen members to experiment and reassert Indigenous modalities of participation and voice. It follows then that the form and content of education, and who has the decision-making authority over designing educational and learning content, is itself a sovereign citizenship issue (Akama, Evans, Keen, McMillan, & West, 2017; Holm, Pearson, & Chavis, 2003). These politics of Indigenous citizenship challenge the norms of citizenship in neo-liberal Australia.

Indigenous advocacy provokes an unsettling view of the narrow Westphalian concept of 'citizen' and 'citizenship' in Australia, and creates a space for resurgence in their practices of being citizens within the wider nation state. The political struggles of Indigenous Australians have given rise to more expansive, fluid and sovereign modes of citizenship whose cultural and social lived experience transcends the nation state's Western narrow constructions of the individual citizen. The concept of 'co-existing sovereign citizenships' is a model that can account for and recognise the multiplicities of new Indigenous sovereignties that are emerging in Australia – especially in the context of land rights, native title and new treaty negotiations. Such co-existing sovereignties have implications in turn for the content and delivery of civics education for all Australians.

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