All nation-states struggle to manage the social differences they distinguish among their inhabitants. Some measures they take are drastic, like slavery, forced migration, and genocide. But most administer differences according to formulations of equality and inequality that define their citizenships. Democracies have held particular promise for more egalitarian citizenships and thus for greater justice and dignity in the organization of differences. In practice, however, most democracies experience tremendous conflict among citizens, as principle collides with prejudice over the terms of national membership and the distribution of rights. Indeed, citizen conflicts have increased significantly with the extraordinary democratisation and urbanization of the twentieth century. Thus, the worldwide insurgence of democratic citizenships in recent decades has disrupted established formulas of rule and privilege in the most diverse societies. The result is an entanglement of democracy with its counters, in which new kinds of citizens arise to expand democratic citizenship and new forms of violence and exclusion simultaneously erode it. Moreover, if cities have historically been the locus of citizenship’s development, global urbanization creates especially volatile conditions, as cities become crowded with marginalized citizens and noncitizens who contest their exclusions. In these contexts, citizenship is unsettled and unsettling.

This book studies the engagements of a particular citizenship with such processes of change. It takes the case of Brazil as paradigmatic of a type of citizenship that all nations have at one time or another developed and one that remains among the most common: a citizenship that manages
social differences by legalizing them in ways that legitimate and reproduce inequality. Brazilian citizenship is typical, moreover, in the resilience of its regime of legalized privileges and legitimated inequalities. It has persisted under colonial, imperial, and republican rule, thriving under monarchy, dictatorship, and democracy. Yet this book also demonstrates that the most entrenched regimes of inegalitarian citizenship can be undone by insurgent citizen movements. It shows that in the peripheries of Brazilian cities, since the 1970s, the working classes have formulated an insurgent citizenship that destabilizes the entrenched. It argues that their experience of these peripheries—particularly the hardships of illegal residence, house building, and land conflict—became both the context and substance of a new urban citizenship. Contrary to so much nineteenth and twentieth century social theory about the working classes, members of those classes became new citizens not primarily through the struggles of labor but through those of the city—a process prevalent, I suggest, throughout the global south. This book is thus about the persistence of inequality and its contestation. However, it presents no linear progression. Rather, it shows that the dominant historical formulations of citizenship both produce and limit possible counterformulations. As a result, the insurgent and the entrenched remain conjoined in dangerous and corrosive entanglements.

When I first went to Brazil in 1980, I rarely heard the words citizen or citizenship in everyday conversation. Certainly, people spoke about having particular rights. But they did so without an apparent connection with citizenship. Rights seemed to exist apart, conferred by statuses other than citizen, such as worker. When I noticed the use of “citizen” (cidadão), it mostly had a different sense among Brazilians of all classes. It meant someone with whom the speaker had no relation of any significance, an anonymous other, a John Doe—a person, in fact, without rights. When I asked directly, people described themselves as Brazilian citizens and suggested how their citizenship (cidadania) had changed under Brazil’s military dictatorship (1964–1985). Occasionally in our conversations, people also used the words as a status of respect, for example, to complain that they were “not being treated as citizens but as marginals” by public officials. But at the same time, among themselves, they generally used “citizen” to refer to the insignificant existence of someone in the world, usually in an unfortunate or devalued circumstance. People said “that guy is a cidadão qualquer” to mean “a nobody.” They said it to make clear that the person was not family, friend, neighbor, acquaintance, colleague, competitor, or anyone else with a familiar identity—to establish, in short, not only the absence of a personal relation but also the rejection of a commensurable one that would entail social norms applied in common. “Citizen” indicated distance, anonymity, and uncommon ground.
In this formulation, citizenship is a measure of differences and a means of distancing people from one another. It reminds people of what they are not—even though, paradoxically, they are themselves citizens—and defines citizens as others. I call this formulation a differentiated citizenship because it is based on differentiating and not equating kinds of citizens. Moreover, it considers that what such others deserve is the law—not in the sense of law as rights but of law as disadvantage and humiliation, a sense perfectly expressed in the Brazilian maxim “for friends, everything; for enemies, the law.” To people like myself accustomed to a rhetoric of liberal democracy that emphasizes the centrality of law-as-rights and citizenship in social relations, this expression presented a radically different articulation of what is near and far in the social order. I found it hard to understand, and the aphorism, which made immediate sense to Brazilians I asked, became emblematic during fieldwork of my attempts to chart an unfamiliar territory of social taken-for-granted.

Twenty years after this initial disorientation, I was in São Paulo for the victorious presidential campaign of Luiz Inácio Lula da Silva, of the Workers’ Party (PT). It was a massive, ecstatic victory, under red banners of “citizenship,” “democracy,” and “social justice.” I realized that Brazilians voted for Lula not only to demand future change but also to acclaim as emblematically theirs a life story about what has already changed: a story of industrialization, urban migration, city transformation, and citizen struggle that has remade Brazil in the last fifty years. It is a history that Lula personifies charismatically. In 1952, at age seven, he migrated from a dirt-poor region of Brazil’s Northeast, traveling two thousand miles in the back of a truck to São Paulo. Although he remained poor, the urban conditions of poverty were not stagnant: he became both a factory worker and an urban pioneer, as he and legions of other migrants powered São Paulo’s industrial boom and transformed its hinterland by turning the shacks they had to build for themselves into masonry homes and urbanizing their neighborhoods. Through their labor, they became modern industrial workers in urban peripheries they constructed out of “bush.” By 1980, they had defied military rule to mobilize factories and founded a political party of their own, the PT, that organized the periphery’s neighborhoods through a mix of leftist politics and popular Catholicism. After three failed presidential bids, Lula and the PT won, with more than 60% of the national vote, by pledging to forge a “social pact” for all citizens and a “social justice” for the poor.

Brazilians voted for Lula not only to celebrate an ascension story as his opponent, José Serra, overcame a lower-class childhood to become an elite professional. Rather, they were finally willing to elect to highest office a man who campaigned explicitly as a nonelite—not merely as “the Brazilian equal to you,” which had been the slogan of Lula’s first
failed campaign against the elite Fernando Collor de Mello, but as a man who had triumphed without becoming elite, who had succeeded through his experience of the common, and who presented his individual success as expressly collective. Lula won because Brazilians recognized in this common aspect of achievement the best possibility for remaking a nation rotted by the convergence of great wealth and grotesque inequality. In that recognition, Lula’s story touched the deeply messianic nerve of Brazilian popular imagination. What impressed me on election night in October 2002 was how many people, mostly working-class, I saw openly weep on the streets of São Paulo after Lula’s victory. And they cried on national television over the next days when asked to recall the Lula they once knew as a worker and common Brazilian. They cried when trying to explain what that experience of commonality was and what it meant to them that such a man could become president. The tears of tough working-class men and women sprang from their painful, passionate longing for Brazil to *dar certo*, to “succeed and become right,” as much as from their own suffering. There is such frustration among laboring Brazilians. They long for their nation to make good after so many misses, for their work to be valued, accomplishments recognized, and injustices righted. They long for a just share in their country’s immense resources, forever monopolized by a habitually disparaging, pampered, and immune elite who always seem relentlessly in control of Brazil’s destiny.

Lula represents this laboring Brazil precisely because he comes from the “autoconstructed” peripheries—from the kind of impoverished urban periphery in which a majority of Brazilians now live and in which they build, through a process called autoconstruction (*autoconstrução*), their own houses, neighborhoods, and urban life. In that struggle, they also construct a new realm of participation, rights, and citizenship. Lula embodies, in other words, not only the individual self-making of an immigrant and industrious São Paulo. He also exemplifies the collective experience of the city making of peripheries and their citizenry throughout Brazil. That Lula’s administration is today sunk in profound corruption, having apparently traded its project of social justice for one of mere power, is another matter—if a tragic one—I consider later. On that October night, his election affirmed the body and spirit of this complex autoconstruction, synthesizing the unprecedented national force the peripheries had become. In just a few decades, the urban working classes had constructed a civic force capable of striking hard at that still-dominant Brazil in which the historical norm of citizenship fosters exclusion, inequality, illegality, violence, and the social logics of privilege and deference as the ground of national belonging. The development of the autoconstructed urban peripheries had thus produced a confrontation between two citizenships, one insurgent and the other entrenched.
This book investigates their entanglement. It does so by making three sorts of arguments. The first analyzes the historical trajectory of Brazilian citizenship as a combination of two considerations. One is formal membership, based on principles of incorporation into the nation-state; the other is the substantive distribution of the rights, meanings, institutions, and practices that membership entails to those deemed citizens. This combination produced a distinctive formulation, distinguishing Brazil from other nations on the world stage of eighteenth and nineteenth century nation building: it generated a national citizenship that was from the beginning universally inclusive in membership and massively inegalitarian in distribution. This inclusively inegalitarian citizenship has been remarkably consistent in maintaining its principles of both incorporation and distribution since the inception of the Brazilian nation-state almost two hundred years ago.

This formulation of citizenship uses social differences that are not the basis of national membership—primarily differences of education, property, race, gender, and occupation—to distribute different treatment to different categories of citizens. It thereby generates a gradation of rights among them, in which most rights are available only to particular kinds of citizens and exercised as the privilege of particular social categories. I describe it, therefore, as a differentiated citizenship that uses such social qualifications to organize its political, civil, and social dimensions and to regulate its distribution of powers. This scheme of citizenship is, in short, a mechanism to distribute inequality. Citizehships do not directly create most of the differences they use. Rather, they are foundational means by which nation-states recognize and manage some differences as systematically salient by legitimating or equalizing them for various purposes. Typically, a regime of citizenship does both simultaneously, and its particular combinations give it historical character. The Brazilian formulation equalizes social differences for national membership but legalizes some as the basis for differentially distributing rights and privileges among citizens. Thus, at the beginning of the republic, it denied education as a citizen right and used literacy and gender to restrict political citizenship. In legalizing such differences, it consolidates their inequalities and perpetuates them in other forms throughout society.

Due to this perpetuation, most Brazilians have been denied political rights, limited in property ownership, forced into segregated and often illegal conditions of residence, estranged from the law, and funneled into labor as servile workers. These discriminations result not from the exclusion of Brazilians from citizenship itself. If that were the case, it would be difficult to explain their sense of belonging to the nation. Rather, these Brazilians are discriminated against because they are certain kinds of citizens. The question I ask, therefore, is what kinds they are and how the
application of a particular type of citizenship generates their discriminations. The difference-specific citizenship I identify is not an archaic embodiment of backland Brazil. I stress that it remains a dominant aspect of Brazilian modernity. Indeed, one of my objectives is to account for the persistence of its inequalities.

My second argument is that since the 1970s, Brazil’s working classes have articulated a different formulation of citizenship, as they moved to cities and built the urban peripheries. This urbanization transformed them. They were drawn to Brazil’s industrializing cities to become the new labor force of a modern urban economy and society. Yet as nationalizing elites redeveloped city centers to become the modernized capitals of this new Brazil (figure 1.1), they expelled the working poor and forced them to reside in undeveloped hinterlands. There, they lived in precarious and typically illegal conditions (figures 1.2 and 1.4). They had to construct their own houses, organize to gain basic services, and struggle to retain their house lots in often-violent conflicts over landownership. Nevertheless, within decades, they had urbanized their neighborhoods and improved their living conditions remarkably (figures 1.3 and 1.5). Moreover, as residents spent decades transforming shacks into finished, furnished, and decorated masonry homes, this autoconstruction became a domain of symbolic elaboration. It expresses both collective and equalizing narratives of settling the peripheries and individual ones of unequal achievements (figures 1.6 and 1.7). Thus autoconstruction turned the peripheries into a space of alternative futures, produced in the experiences of becoming propertied, organizing social movements, participating in consumer markets, and making aesthetic judgments about house transformations.

Figures 1.1 to 1.7 register the force of these conditions in shaping the city of São Paulo. They compare the principal ethnographic sites I investigate in studying the entanglements of Brazilian citizenship: São Paulo’s center and its peripheries, the latter typified by the neighborhoods Jardim das Camélias and Lar Nacional. These comparisons suggest that the city is not merely the context of citizenship struggles. Its wraps of asphalt, concrete, and stucco, its infrastructure of electricity and plumbing also provide the substance. The peripheries constitute a space of city builders and their pioneering citizenship. Through autoconstruction, the working classes transformed the unoccupied hinterlands of 1940 into the densely populated, socially organized, and urbanized peripheries of 1990 in all major Brazilian cities. They made them not only their principal residential space within Brazil’s city-regions but also a new kind of political and symbolic space within Brazil’s social geography. In particular, residential illegality galvanized a new civic participation and practice of rights: the conditions it created mobilized residents to demand full membership in
the legal city that had expelled them through the legalization of their property claims and the provision of urban services.

Thus I argue that in the development of the autoconstructed peripheries, the very same historical sites of differentiation—political rights, access to land, illegality, servility—fueled the irruption of an insurgent citizenship that destabilizes the differentiated. Although these elements continue to sustain the regime of differentiated citizenship, they are also the conditions of its subversion, as the urban poor gained political rights, became landowners, made law an asset, created new public spheres of participation, achieved rights to the city, and became modern consumers. In such ways, the lived experiences of the peripheries became both the context and the substance of a new urban citizenship. In turn, this insurrection of the local transformed national democratization.

I do not study these developments, as some theorists and activists do by separating civil society and state. Nor do I view the mobilization of social movements as the resistance of the former and their demobilization as cooptation by the latter. I avoid such dichotomies by focusing on citizenship as a relation of state and society, and I study its processes to reveal the entanglements of the two that motivate social movements.
Figure 1.2. Jardim das Camélias being autoconstructed in the eastern periphery of São Paulo, 1980. Photo by Teresa Caldeira.

Figure 1.3. Jardim das Camélias, approximately the same view as in figure 1.2 after ten more years of autoconstruction and urbanization, 1990. Photo by James Holston.
FIGURE 1.4. Lar Nacional at the beginning, 1973. Photo by Ezequiel V. dos Reis Filho.

FIGURE 1.5. Lar Nacional thirty-three years later, 2006. Photo by James Holston.
Figure 1.6. Lar Nacional, José Raimundo’s house: original model of attached housing, modified only with gate and carport, 1996. Photo by James Holston/Teresa Caldeira.

Figure 1.7. Lar Nacional, Antonio’s house next door: identical house type transformed through autoconstruction, 1996. Photo by James Holston/Teresa Caldeira.
to emerge and subside. I examine these processes as they appear in the practices of citizens. That is, I emphasize the experiences of citizens with the elements—such as property, illegality, courts, associations, and ideologies—that constitute the discursive and contextual construction of relations called citizenship and that indicate not only particular attributes of belonging in society but also the political imagination that both produces and disrupts that citizenship. But because what counts as experience is never self-evident, I try not to naturalize or essentialize it. Rather, I interrogate experience: when I use it to indicate, in terms of what people say and do, the efficacies of categories, rules, and constructions of citizenship, I simultaneously develop a historical investigation (in Foucault’s sense, a genealogy) of them to account for the production of citizenship’s experience, that is, to interpret both its perpetuation and its transformation as experience. 2

Hence, the agency of citizens this book investigates is not only one of resistance. I have learned, especially from feminist theory, to see that human agency also produces entrenchment, persistence, and inertia. Thus citizens actively perpetuate the entrenched regime of citizenship, even as some also resist it. Accordingly, I do not reduce the concept of agency to one or the other. Moreover, taking clues from the subaltern historian Ranajit Guha (1983), I do not situate possibilities of entrenchment, insurgence, persistence, and resistance as something in the consciousness of individual agents. Though they may be there, I emphasize their location in the historical structuring of a paradigm of citizenship around sets of social relations, resources, and concepts—around access to land, labor, urban services, and rights, for example, and around supposed antinomies like illegal/legal, political/domestic, and public/private. That is, I consider these possibilities as inherent in structures of power and their practices. This focus shows that the insurgent undoubtedly perpetuates attributes of the historically dominant citizenship, like the significance of property ownership, the practice of legalizing the illegal, and the norm of special treatment rights. Yet it also shows that rather than merely nourish new versions of the hegemonic, the insurgent disrupts: it remains conjoined with the entrenched, but in an unbalanced and corrosive entanglement that unsettles both state and society.

Under the political democracy that Brazilians achieved in 1985, this corrosion became perverse: as the working classes democratized urban space and its public, new kinds of violence, injustice, and impunity increased dramatically. Brazilian cities experienced a generalized climate of fear, criminalization of the poor, support for police violence, abandonment of public space, and fortification of residences. The judiciary and the police became even more discredited. My third argument considers this entanglement of democracy and its counters and the erosions...
of citizenship it causes. I contend that because the old formulas of differentiated citizenship persist, the confrontation between the insurgent and the differentiated creates inherently unstable and dangerous spaces of citizenship in contemporary Brazil. The new democracy disrupts established formulas of rule and their hierarchies of place and privilege. If not, it would be inconsequential. Democracy is not the only force of destabilization, and it gets tangled with others, such as urbanization and privatization. But, undeniably, democracy erodes taken-for-granted categories of domination and deference that gave the everyday its sense of order and security. Such destabilization provokes violent reactions, some to restore old paradigms of order and others to express outrage that their elements—now more visible because disrupted—persist. I conclude that although Brazil’s democratization has not been able to overcome these problems, neither have the counterconfigurations of violence and injustice been able to prevent the development of significant measures of democratic innovation. Above all, they have not prevented the widespread legitimation of an insurgent democratic citizenship.

Such disjunctions of government and citizenship are in fact found in many electoral democracies that have emerged beyond the North Atlantic since the mid-1970s. I describe Brazil’s case in these terms not to brand it as pathological or deviant from some supposed norm. This kind of evaluation thrives among both Brazilian and international critics because all too often they understand citizenship, democracy, rule of law, and modernity itself as original formulations of European or North American experience. In that register, these notions can only seem incomplete, pathetic, derivative, or failed when grafted onto countries with different histories and cultures. To the contrary, my work in Brazil leads me to see them as assemblages of the modern that have circulated around the world for centuries and that people engage with variously depending on their circumstances, so that any one current of social time and place is always a mosaic of superimposed engagements. In this view, contradictions between forms of government and practices of citizens, simultaneous expansions and erosions of rights, and other contradictions characterize modern citizenship everywhere.

Therefore, the problem in this book is not an incomplete modernity, dysfunctional citizenship, ineffective law, deficient nationality, or failed democracy, but the particularity of Brazil’s engagement. From this perspective, North Atlantic formulations appear as particulars as well, though ones often presented as universals. Thus, the disparity between the form of government and the substance of citizenship I analyze in Brazil suggests that all democracies—emerging and established—are normally disjunctive in their realization of citizenship. It indicates not only that the timing and substance of citizenship’s development vary in
different historical and national contexts but also that this development is never cumulative, linear, or evenly distributed. Rather, citizenship always simultaneously expands and erodes in uneven ways.

This book considers, therefore, the insurgence of democratic citizenship in Brazil’s urban peripheries, its engagement with the dominant historical regime of citizenship, and its contradiction in violence and injustice under political democracy. To analyze these processes of differentiation, domination, insurgence, and disjunction, I divide the whole into four parts. Part 1 develops a framework to consider the unsettling of citizenship. Part 2 establishes the historical foundations and premises of Brazil’s differentiated regime and accounts for the persistence of its inequality. Part 3 focuses on the insurgence of new citizenship in the urban peripheries of São Paulo. Part 4 considers disjunctions that violate this citizenship under electoral democracy and that make citizenship an unstable sphere of social change.

Although grand national events, like Lula’s election, certainly put citizenship into practice, most of its performances involve commonplace public encounters. This chapter continues with an example of the latter to illustrate an everyday confrontation between the entrenched and the insurgent formulations of citizenship in São Paulo. I then use it to structure a discussion about the terms of my analysis—about the formal and substantive study of particular citizenships, the importance of the city, the problem of equality and inequality, and my use of history as an argument about the present.

Public Standing and Everyday Citizenship

As I investigated the formulations of citizenship and law that Brazilians took for granted, I began to see them at work in everyday public encounters. I realized, for example, that standing in line for services is a privileged site for studying performances of citizenship, because it entails encounters between anonymous others in public space that require the negotiation of powers, rights, and vulnerabilities. Surely, such encounters are mundane. But trafficking in public space is a realm of modern society in which city residents most frequently and predictably experience the state of their citizenship. The quality of such mundane interaction may in fact be more significant to people’s sense of themselves in society than the occasional heroic experiences of citizenship like soldiering and demonstrating or the emblematic ones like voting and jury duty. Everyday citizenship entails performances that turn people, however else related, into fellow citizens related by measures specific to citizenship. These may be empowering or debilitating, equalizing or differentiating; but, in that
manner, they become evident. Moreover, although they reproduce authority, they typically relate citizens directly to each other through mutual self-regulation without its explicit vigilance. Rather, they depend on the internalization of assumptions that get expressed in the performance. Let me give an example.

Like most other interactions with bureaucracy in Brazil, bank lines are notorious for humiliating the poor and the unprivileged. Lines are long because all bills (from utility charges to installment payments to state fees) are paid at banks and because most people pay them in person. However, privileged customers do not wait in line. Those who have so-called special accounts get preferential treatment from bank managers. Others employ errand “boys” to pay bills. A few other categories of people are privileged as well. Pregnant women, seniors, and the physically challenged have the right to cut the line or go to a special window. The rest wait. In my experience, unfortunately extensive in this regard, people in line do not complain, at least publicly. When I asked fellow line sufferers to explain why the preference, privilege, or right of some and on what basis, they would shrug off the special treatment by saying “that’s the way it is for them” (the rich), or “it’s the law,” or “the bank authorizes it” (for certain people), pointing to a sign saying as much hung above a teller’s window. Sometimes, they would explain that these kinds of people deserve special treatment and the authorities recognize that. In other words, those I asked raised issues of authority and the authorization of privilege, different rights for different categories of persons, relative public standing and worth, need and compensation, and resignation to the reinforcement of social inequality in everyday public interactions. They did not raise issues of fair treatment, accountability, or other aspects of equal worth.

These submissive responses to everyday negotiations of public standing occur when citizenship disempowers citizens, strange as that might seem. Empowerment happens when a citizen’s sense of an objective source of right in citizenship entails a corresponding sense of subjective power—power to change existing arrangements (legal and other), exact compliance, compel behavior. In turn, such citizen power establishes the liability of others to it. However, when some people lack citizen power in relation to other people, the latter benefit from an immunity, an absence of liability. The one is powerless, the other immune. These relations of powerlessness for most and immunity for some precisely characterize the public realm of Brazilian citizenship I describe.

In general terms, such relations of right establish the compact of citizenship as a specific distribution of various kinds of power in society (political, economic, repressive, sovereign, legal, and so forth). Moreover, the subjective aspect of these relations nourishes a self-interest in fortifying the objective conditions that are their source and justification, namely,
the premises of citizenship. Hence, people practice everyday citizenship because it is in their self-interest, because it gives them rights, powers, and privileges. This sort of egoism is not, however, solipsistic or isolating. Rather, it requires social relations and thus public performances to establish its objective and subjective claims. This framework of negotiating public standing lets us appreciate the following confrontation between entrenched and insurgent formulations of citizenship.

I was standing in line at a bank in São Paulo in the mid-1990s. I recognized ahead of me a manicurist who works in a beauty salon near my home. I could imagine the occupations of others in line: domestic workers, clerks, errand boys, drivers, store attendants, many of them people of color. Nearer the front was a decidedly more middle-class-looking man, dressed in a tie and jacket. Suddenly, a teenager cut the line in front of this man. He was dressed in a recognizably middle-class style for his age. Neither the man nor the teenager said a word to each other or exchanged a glance that I could see. At that point, the manicurist stepped forward and objected: “You can’t cut the line.” Others nodded, and someone added: “You can’t; your place is at the back.” The teenager said nothing and remained at the front. Then, the man in the tie and jacket turned to the manicurist and announced: “I authorize it.” If the man had said, “he’s my son,” “he’s my friend,” or even “he’s with me,” that would surely have been a satisfactory explanation. But regardless of whether the two even knew each other, which was not clear, the man had used the language, tone, and gesture of power and privilege. His was a predictable response to achieve what he assumed would be the predictable outcome of this classic encounter of Brazilian social identities in public space. Without retreating a step, however, the manicurist turned this world of assumptions upside-down: “This is a public space,” she asserted, “and I have my rights. Here, you don’t authorize anything. You don’t rule [mandar]. You only rule in your kitchen and over your wife.” She replied with such assurance that the man turned around without a word, and the teenager went to the back of the line.

Leaving aside for the moment the issue of “kitchens and wives,” the manicurist’s performance indicates the force of a new conviction about citizenship among the working classes. Her demand for respect and equality; assertion of rights in public and to the public; and realignment of class, gender, and race in the calculations of public standing are evidence not only of being fed up with the old formula of civic assumptions. They also articulate essential premises of a new formulation. They establish a radically common measure among Brazilians who are anonymous to each other—neither friends nor enemies, but citizens who, for some purposes, are equal. This performance of a new civility has not, I stress, replaced the historic one of citizen privilege for some and degradation for many—as
the higher-class man assumed and tried to enact. Rather, the two formulations coexist, unhappily and dangerously, creating the mix of contradictory elements that constitutes Brazilian public space today. Nevertheless, an insurgent form of citizenship has arisen, and its rising threatens many long-term and deeply entrenched assumptions about the compact of Brazilian society. Even at banks, waiting in line has changed as a result. Within a decade of the manicurist’s protest, banks massively installed automated teller machines that offer equal access to most banking services.

**Particular Citizenceships**

To be sure, many forms of protest have had significant consequences throughout Brazilian history. These include millenarian movements, slave rebellions, popular insurrections, social banditry, urban mobs, agrarian revolts, and organized land seizures. There have been countless factory-based strikes and labor agitations, and many since the 1930s have been based on rights specifically authorized for workers. Moreover, during the nineteenth and twentieth centuries, several periods of broad and vibrant public debate engaged fundamental questions of membership in Brazilian society. As subsequent chapters discuss, these debates galvanized segments of all classes to consider access to political citizenship and land (mid-nineteenth century), socioeconomic rights (1920–1940), and democracy (from 1970). Of more spontaneous and individual reactions, I have also seen Brazilians burn buses in anger over fare increases and demonstrate against violence, both police and criminal. Without doubt, a strong sense of injustice and outrage at the betrayal of values (especially familial and religious) drives many of these protests. Sometimes, anger over the state’s abuse of power or failure of responsibility sparks them. Thus, members of the Brazilian lower classes have consistently struggled for dignity, resources, and at times rights, both collectively and individually, even though they also maintain an attitude of deference and accommodation with respect to established powers.

Nevertheless, if we consider the course of five centuries, it is a standard of Brazilian history that popular protest gets crushed. Occasionally, it is co-opted. But, until recently, it has met its end in the police bullet, henchman’s truncheon, and army cannon. Almost always, the vibrant public spheres of debate have been shut down by those at the top of society who do not tolerate any underlying erosion of their position. Thus, Brazilian elites have typically and mercilessly responded to popular mobilization with repression, and the force of protest has rarely been sufficient to avoid destruction. In this relation, the masses have been deeply vulnerable to the power of elites while elites have been broadly immune to their force.
This relation of vulnerability and immunity is one of the hard kernels of Brazilian society that has resisted change for centuries. In this persistence, the elite construction and application of law has been a significant factor. Far from “having no law” or a law that “doesn’t work,” as one frequently hears from Brazilians and foreigners alike, I demonstrate in later chapters that elites have used law brilliantly—particularly land law—to sustain conflicts and illegalities in their favor, force disputes into extra-legal resolution where other forms of power triumph, maintain their privilege and immunity, and deny most Brazilians access to basic social and economic resources. This use of law not only sabotaged universal application but also estranged most Brazilians from the institution of law itself as an ally of their citizenship. Rather, it became what I call a misrule of law: a system of stratagem and bureaucratic complication deployed by both state and subject to obfuscate problems, neutralize opponents, and, above all, legalize the illegal. This law has little to do with justice, and obeying it reduces people to a category of low esteem. Thus, for friends, everything; for enemies, citizens, the poor, squatters, marginals, migrants, inferiors, communists, strikers, and other others, the law. For them, law means humiliation, vulnerability, and bureaucratic nightmare.

When this legal system is played to advantage, Brazilians have generally viewed rights as providing special treatment to particular categories of citizens that the state differentiates, regulates, and rewards. Rights have not referred to citizenship per se, unconditionally, but to statuses that only some citizens have for reasons that do not determine their citizenship. For example, registered workers (a small minority) have the right to employment benefits others do not, women can retire five years earlier than men, military police have the right to be tried in military courts, the educated get a special jail cell, and only the literate could vote between 1881 and 1985. As rights have generally meant special treatment, and people seek them on that basis, citizenship itself became formulated as a means to distribute rights to some citizens and deny them to others. The social groups targeted for such rights view them as their privilege—privilege in the Hohfeldian (1978) sense of a freedom from the claims of others and therefore an absence of duty. For them, different treatment for different categories of citizen, called citizenship, means privilege and immunity. For most, however, differentiated citizenship is harsh: it means a lack of rights and powers and, as a result, vulnerability.

In a brilliant essay, Roberto DaMatta (1991) advances a different view of law in Brazil. He argues that Brazilian society establishes a powerful dichotomy between individual and person that opposes the former as the seat of universal law, equality, anonymity, impersonal relations, and citizenship to the latter as the domain of special treatment, social differences, known identities, hierarchical personal relations, and clientelism.
In DaMatta’s analysis, Brazilians always promote the person at the expense of the individual. Thus the person demands that the law be bent especially for him, that he obtain a singular application of law. This special pleading based on personal circumstances often happens, I agree. I am this and that sort of person, so the law should apply this way and not that. But this pleading for special treatment occurs in every society, including the United States, which is DaMatta’s contrasting case. I argue against this kind of dichotomization, using a historical and not a structuralist analysis. In my view, Brazilian law is already personalized, developing since colonial times with personalization. No special pleading is required. The individual is the seat of rights that are distributed to him or her because s/he is a certain kind of social person. The law does not divide individual from person. Rather, it unites them in the paradigm of differentiated citizenship explicitly, legally, and without special pleading. Certainly, as I show later, Brazilian law is often formed as a compendium of particularisms (individual acts tailored for specific people or personal statuses). However, the key point is that far from opposing the individual and the person, it treats all individuals equally according to personal distinctions that are legalized—such treatment is precisely what the principle of “equality before the law” means in Brazil, as I discuss in the next section.

I hasten to add that all national citizenships I know of have, at one time or another, assigned most categories of rights differentially. Typically, they use differences in property, education, race, gender, and religion to discriminate. Furthermore, such qualification tends to be more significant early in the development of national citizenships. The next chapter considers this comparative history to show that during the first part of the nineteenth century, Brazil is not that different in matters of citizenship from most European countries. In fact, in some aspects, it is more generous. Both use similar criteria to restrict the exercise of citizenship among citizens. I do not refer here to the obvious difference that Brazil had slavery, but only to the treatment of citizens. However, as part 2 demonstrates, Brazilian citizenship becomes even more restrictive during the course of the nineteenth century, while European and American citizenships expanded dramatically on the basis of struggles for inclusion, equality, and uniform legal treatment. To be sure, there are a host of problems, hypocrisies, and failures in these expansions. But there can be no doubt that in Europe and North America equalization becomes a driving force of citizenship, while in Brazil it does not. Moreover, in many cases, local and national elites support significant aspects of an egalitarian citizenship, whereas in Brazil they resolutely oppose it.

The question this book examines, therefore, is not Brazil’s singularity in developing a difference-based citizenship. Most if not all nation-states
have done so. Rather, the important historical problem is Brazil’s particular development, which permitted an overwhelming persistence of inequality. Thus, the next four chapters consider why and how Brazilian citizenship remained inclusively inegalitarian, while other citizenships—especially those of nations with which Brazilians have consistently engaged in dialogue about issues of modernity, primarily France and the United States—moved toward significantly greater formal and substantive equality for their citizens during the last two centuries.

To reveal the course of particular citizenships is, therefore, to study them within a framework capable of sustaining comparisons in time and space. The case of citizenship is especially challenging because it both constitutes fundamental structures of modern society and unsettles them. Since the eighteenth century, one of the defining marks of modernity has been the use of citizenship to establish such structures of social membership. Citizenship, rather than subjectship, kinship, or cultship, has defined the prerogatives and encumbrances of that membership, and the nation-state, rather than the neighborhood, village, city, or region, established its scope. To a significant degree in many areas of the world, people came to comprehend their standing as members of society in terms of their standing as national citizens. Correlatively, national governments came to rely on citizenship as a basic means and rationality for organizing their nation-states, imposing it on populations within their borders through specific programs, policies, plans, and works.

The peculiarity of this modern citizenship is that although it is one of many associational identities people normally assume, the state that defines it is like no other association. Although the state is part of society, it also frames it. Although the state is an association, it is also an association of associations that establishes the rules of other associations and regulates their membership. Therefore, as the primary identity of state association, citizenship is like no other status. Its conditions have greater effect because it articulates the other statuses in terms of the nation-state’s particular framework of law, institutions, demands, and sentiments. Accordingly, where the modern state came to compete with and dominate other forms of union, national citizenship became a trump status, managing the differences of other identities.

Viewed comparatively on the world stage of nation-states, however, the development of this citizenship has been anything but homogeneous. Rather, as a means of organizing society, citizenship has been both subversive and reactionary, inclusionary and exclusionary, a project of equalization and one of maintaining inequality. Moreover, these modes usually occur simultaneously in the same society. On the one hand, for persons deemed eligible, many nation-states have promoted citizenship as an identity that subordinates all other identities to a framework of common
standards of justice and dignity. Overwhelming other titles with a universal one, such citizenships erode local hierarchies, privileges, and statuses in favor of supralocal jurisdictions, equal rights, and respect for anonymous others. In these ways, they may advance a project of democratic equality among citizens who think of themselves as commensurable. On the other, most national societies have also used citizenship as a means to exclude and discriminate on the basis of selected differences among citizens. Through laws, institutions, and social performances, this differentiating citizenship produces and maintains inequality. Nations have typically employed this kind of citizenship to modernize long-standing regimes of social difference and prejudice by rearticulating them in terms of the modern language of rights and powers of state. Indeed, citizens often hold these contrary conceptions of their status simultaneously, as I suggested in my opening observation: “citizen” may be both a status of privilege, opposed to “marginal,” and “a nobody.” Citizenship is therefore much more than a formal political institution. Its lived history develops in the tensions between conflicting productions of social life as it both motivates struggles for inclusion and equality and sustains deep and common desires for exclusion.

To investigate this lived history in Brazil in ways capable of sustaining comparison, I focus on the engagements between projects of government and practices of people that give both the formal and the substantive aspects of citizenship their vitality. By formal, I refer to membership in the political community, based in modern times on national belonging. It establishes who is and who is not a citizen, whether citizenship has degrees (inclusive or restrictive), and who owes allegiance to the community and is owed protection by it. By substantive, I refer to the distribution of rights, duties, and resources this formal status entails and people actually exercise. Part 2 analyzes how both aspects combine to produce and sustain the Brazilian regime of an inclusively inegalitarian citizenship. Part 3 demonstrates how the urbanization of the working classes created conditions that undermine this particular combination.

The experience of the city is, therefore, critical to the insurgence of a new formulation of citizenship. This urban unsettling of national citizenship is comparatively significant because for most of the modern era, in Brazil and elsewhere, the nation and not the city has been the principal domain of citizenship. Indeed, one of the fundamental projects of modern nation building has been to dismantle the classic primacy of urban citizenship and replace it with the national. Nevertheless, as I have argued elsewhere in greater detail, cities remain strategic arenas for the development of citizenship. Far from dematerializing their importance, today’s globalizations of capital, industry, migration, communication, and democracy render cities more strategic: by inscribing these global forces
into the spaces and relations of daily life, contemporary cities make them manifest for unprecedented numbers of people. City streets combine new identities of territory, contract, and education with ascribed ones of race, religion, culture, and gender. Their crowds catalyze these new combinations into the active ingredients of political movements that develop new sources of rights and agendas of citizenship concerning the very conditions of city life. This chemistry in turn transforms the meanings and practices of national belonging. Thus cities provide the dense articulation of global and local forces in response to which people think and act themselves into politics, becoming new kinds of citizens. In the process, cities become both the site and the substance not only of the uncertainties of modern citizenship but also of its emergent forms.8

The third part of this book analyzes how the urban peripheries of São Paulo became such an arena. It shows that residents generated new kinds of public participation, conceptions of rights, and uses of law to redress the inequities of their residential conditions, primarily as they struggled to develop and legalize their housing stakes. I consider such new publics to constitute an urban citizenship when they develop under four conditions: when urban residence is the basis of mobilization, right claims addressing urban experience compose their agenda, the city is the primary political community of reference for these developments, and residents legitimate this agenda of rights and participatory practices on the basis of their contributions to the city itself. In the case of São Paulo, I show that the working classes developed a new sense of citizenship in terms of their contributions to the city’s construction through house and neighborhood building, to its government through paying taxes, and to its economy through consumption. Thus, in building the urban peripheries, São Paulo’s workers became property owners, taxpayers, and modern consumers. Through the development of these unprecedented identities, they came to see themselves as contributor-citizens entitled to stakeholder rights in the city.

To understand both the articulations and the limitations of this change, I study it at the intersection of two historical perspectives. One is the promotion by state agencies and elite organizations of projects to turn the urban poor into a modern, productive, and disciplined labor force—projects of urban development, land-tenure reform, and public works. The other is the working-class engagement of these projects, which inevitably re-fashions them. Thus, in the 1930s, promoters of Brazilian modernization advocated home ownership as the means to “rationalize” workers around values of property and single-family residence. Yet when public and private developers opened the hinterlands for working-class residence, the urban segregation they created politicized workers who settled there—producing a new rationality, but not the one promoters anticipated.
CHAPTER 1

I consider especially three ways that formal qualifications and substantive distributions combine in these engagements of project and practice to produce a specific historical confrontation of citizenships: I focus on relations of illegality and legality, meanings of inequality and equality, and citizen performances. The first refers to the consistent and reliable use in Brazil of law to legalize illegalities and thus of illegality itself (and its accomplices of bureaucratic complication and legislative manipulation) as a mode of constituting legitimate power. The legal and the illegal maintain, in other words, a porous intimacy. If citizenship establishes complex relations of legal right between individuals, groups, and the state, then the conditions of illegality that also bind them produce a very different rationality of citizenship and law than T. H. Marshall, the doyen of modern citizenship studies, imagined when he described citizenship as “a direct sense of community membership based on loyalty to a civilization which is a common possession” (1977: 101). To consider this array of legal and illegal relations, I use the three “elements” into which Marshall divided the whole of citizenship—namely, the political, civil, and social (or socioeconomic). I find this typology useful because it expands the legal conception of citizenship beyond the narrowly political, suggests how citizenship mediates state and society, and helps to distinguish the practices as well as the institutions and bureaucracies through which citizenship becomes substantive. However, I jettison Marshall’s progressive, cumulative, and law-abiding historical scheme in favor of one that emphasizes admixture, assemblage, simultaneous expansion and erosion, disjunction, unevenness, and illegality.

Hence, chapter 3 examines the exclusion of most Brazilians from political citizenship from 1881 to 1985. Chapter 4 considers the limited legal access to landed property that the vast majority of Brazilians experienced, which forced many into some form of illegal residence and which had dire consequences for their civil citizenship. Chapter 5 analyzes the development of social rights in the 1930s and 1940s as special entitlements available only to certain kinds of urban citizens, as well as the urban segregation that organized the peripheries for the settlement of an industrial workforce.

In mapping the historical form and substance of Brazilian citizenship, I give particular attention therefore to their expression in legislation, bureaucracy, and practices associated with each. Without doubt, this perspective has limitations. The gap between legislated text and social practice is usually wide enough to accommodate the passage of history itself. But this passage is also of the law’s making. Its distribution of rights and duties, powers and liabilities, and statuses and procedures establishes not only the formal requirements for the assumption of citizenship but also the means of its practice. Even when other factors animate the
performance of citizenship, their efficacy is in some fashion grounded in its legal framework. Moreover, legislation represents the social order to the nation, especially elite conceptions of it. This representation submits specific cases to general principles and therefore allows us to interrogate particular social facts as part of larger projects. Furthermore, people craft legislation and exploit its complications as strategies, or stratagems, of social action. Especially important in my analysis is that Brazilians have massively used the strategies of law to legitimate illicit appropriations of land—to legalize the illegal as I describe it—to the extent that illegality became a general condition of settlement and the distinction between legal and illegal porous. Even in its violation, law establishes the terms if not the means of conflict.

By making available strategies of action and argument, law also motivates the development of specific types of citizens to enact citizenship. It creates a cast of dramatis personae who mold their characters to citizenship’s specificities: not only the voters, soldiers, taxpayers, and nationals but also the bosses, swindlers, thugs, and residents who come into conflict around its possibilities and who therefore populate the pages of this book. Thus, although law is only part of the story, it structures what I am after in the following chapters: the self-understanding of particular citizenships as it emerges at the intersection of the assignments of general membership, the distributions of rights, and the performances of citizens.

Treating the Unequal Unequally

The formal qualifications and substantive distributions of citizenship that define a particular formulation ultimately depend on the meanings of equality and inequality they embody. All citizenships manage the social differences of citizens according to these underlying meanings. As Aristotle (1962: 119) observed long ago in the *Nicomachean Ethics*, different types of citizens agree that those considered equal deserve the same “just share” but disagree on the criterion by which people should be considered deserving: “Democrats say it is free birth, oligarchs that it is wealth or noble birth, and aristocrats that it is excellence.” The French *Declaration of the Rights of Man and Citizen* (1789) promotes the first standard. This revolutionary charter is important to my story because it was selectively copied into Brazil’s independence constitution of 1824. The *Declaration*’s famous initial article proposes that “Men are born and remain free and equal in rights.” It proposes, in other words, that the natural condition of people’s freedom (by virtue of birth) is sufficient to determine a universal equality among them. Furthermore, this equality is substantive, an equality *in* rights, meaning that people deemed equal
(i.e., by nature, everyone) must have the same distribution of rights regardless of other differences. Article 2 specifies what these rights are: “The aim of every political association is the preservation of the natural and imprescriptible rights of man,” which are “liberty, property, security, and resistance to oppression.” Although equality itself does not appear among these fundamental rights, it is an enabling condition, as Article 6 establishes that all citizens have an equal right to participate in making the law itself, “personally or by their representatives”—to participate, therefore, in the constitution of the political association that safeguards the egalitarian distribution of rights. The Declaration’s first principle of natural and substantive equality is radical indeed. It is a theory of origins intended to ground a new type of polity by countering the ancient and then-dominant concept of rule that political power derives from the inherently hierarchical inequality of people.11

However, this principle of fundamental equality is immediately conjointed to another concept of equality in the first article with which it is in deep and lasting tension: “Social distinctions can be based only upon public utility.” This second principle means that a political association may make legal social distinctions if they are useful to it, but only those founded on that utility. The latter part of Article 6 specifies the criteria of such distinctions: “All citizens being equal in its [the law’s] eyes, are equally eligible to all public dignities, places, and employments, according to their capacities, and without other distinction than that of their virtues and their talents.” Thus, under the new French citizenship, the law may legalize social distinctions if they are publicly useful and based on individual merit. This principle establishes that everyone must submit to the same rules of individual qualification in obtaining public positions and resources, as evaluated by uniform criteria rather than by ascribed social categories such as family origin.

Both of these principles concern a radical equality, but of different sorts. The first is about indefeasible substantive equality, as indicated by the distribution of fundamental rights; the second, about formal or procedural equality, “equality before the law.” The latter is a measure meant to eliminate the legal privileges of nobility, against which the French had rebelled. It abolishes the private jurisdictions and legal spheres to which feudal society assigned individuals on the basis of their ascribed group status, rank, and family, rather than individual achievement. Its new equality of merit also establishes that the state’s law binds all its subjects equally because all equally belong to the state. On both accounts, it too is a radical measure, nullifying the previous legal order.

The problem is that these two revolutionary standards of citizenship contradict essential aspects of each other. The principle of equality before the law contradicts the principle of equality in rights, because it allows
group differences to flourish as long as they are reducible to individual capacities and based on legislators’ assessment of public utility. Hence, it permits capacity qualifications of citizenship that produce an unequal distribution of rights, based, for example, on the wealth of individuals. It permits the first French Constitution (1791), a few chapters after the Declaration that introduces it, to divide the citizenry into active and passive citizens and to deny the latter political rights. This provision thus contradicts the first part of Article 6 of the Declaration by denying the right to make the law to some 3 million Frenchmen, about 39% of voting-age males (Soboul 1974: 180). The same principle allowed the Assembly to make constitutional distinctions between men and women based on supposed differences in their capacities, refuse workers the right to strike as a contravention of public utility, and yet permit the wealthy to form employer associations based on individual affinities.

Therefore, the standard of equality before the law permits the legal distribution of greater citizen powers to some individuals. What it prohibits is that general laws apply to some citizens but not to others and that laws tailored for legally distinguished groups apply selectively among members of that group or to other groups. Thus, the laws of French political citizenship required that all citizens submit to the classifications active and passive and that those for active citizens not apply to passive and vice versa. In these ways, the principle of procedural equality establishes that all citizens are formally equal in terms of whatever classifications and distinctions may legally apply. In deep contradiction with the principle of equality in rights, it allows that this formal equality may generate new substantive inequalities.

Brazil’s Imperial Constitution (1824), the nation’s independence charter, imports the French Declaration to construct its article on citizen rights (Art. 179), much of it translated verbatim. However, it leaves out the first half of the Declaration’s first article. That is, it stipulates equality before the law but omits equality in rights. Brazil’s Republican Constitution (1891) follows suit. The imperial charter mentions the word equality only once in the thirty-five sections of Article 179. Section 13 copies from the French (Art. 6) “The Law will be equal for all, whether it protects or punishes,” adding “and will recompense in proportion to the merits of each one.” The republican charter uses equality in paragraph 2 of Article 72 to guarantee to citizens and resident foreigners that “all are equal before the law.” The next paragraphs in each article make clear that for both constitutions, equality before the law means the elimination of the private legal spheres that characterized aristocratic privileges at law and thus signifies the equalization of ascribed status. Hence, the Republican Constitution abolishes the legal privileges of nobility, including all titles, honorific orders, special courts, and exemptions. The Imperial Constitution
CHAPTER 1

says nothing about the titles and privileges of nobility outside the law but abolishes aristocratic privileges at law. In addition, it stresses the compensatory function of law, but bases it on individual merit and “public utility” rather than ascribed status. Hence, copying the French, it declares that “All citizens can be admitted to Civic, Political, and Military Public office, without other difference, except for those of talents and virtues” (Art. 179, sec. 14). What is missing, however, in both the Imperial and the Republican legal orders is precisely a concept of fundamental substantive equality.

Sometime near the end of the Empire (1822-1889), the politician, lawyer, abolitionist, republican, and advocate of public education Rui Barbosa is credited with coining a maxim that encapsulates this Brazilian formulation of equality and that has become a mantra for law students ever since: “Justice consists in treating the equal equally and the unequal unequally according to the measure of their inequality.” I have not been able to locate the exact reference in Barbosa’s writings, and perhaps the attribution is folkloric. In any case, if the phrase is his, he was reiterating a view usually traced to Aristotle. As it has become a fixture of legal education in Brazil, I researched its significance by consulting legal textbooks and questioning law students, professors, and judges in São Paulo. Both sources gave essentially the same assessment. Everyone I asked took the phrase to mean that unequal treatment is a just means to produce equality by leveling or adjusting preexisting inequalities. In this sense, justice is clearly compensatory. Nearly all also provided the same example, the same one commonly found in standard Brazilian law books (e.g., Silva 1992: 199): The law permits women to retire five years earlier than men. This discrimination is just because over the course of a normal life, working women “have more service” than working men in that, in addition to work outside the home, they have to do the housework and childcare with which they are little aided by their husbands. “Thus,” renowned law professor and scholar Silva concludes, “she has an overload of services that is just to compensate by allowing her to retire with less time of service and less age.” The solution for the social facts of inequality in this case—that working women are unequal because they work more—is not to propose to change the social relations of gender and work. Rather, it is to produce more inequality, in the form of the compensatory legal privilege of earlier retirement.

None of the legal professionals I asked or textbooks I consulted questioned this solution. None discussed the fact that regardless of whether its compensatory function is actually realized, this kind of justice not only legalizes new inequality but also reinforces existing social inequalities by rewarding them. None suggested that it uses the legal system to distribute unequal treatment throughout society. None observed, furthermore, that
in Barbosa’s maxim the unequal may also be the elite who, because of their individual education, wealth, or achievement, deserve to be treated differently. Does not the maxim justify their different standing at law and different recompense, on the basis of different individual capacities, from that of the illiterate and the poor? For example, by this legal reasoning—as standard today as it was in the nineteenth century—it is not unjust to treat a slave differently from her owner, but only to treat the one as the other or to treat the members of each group differently among themselves. Until recently (1985), the same compensatory logic legitimated the right of literates to monopolize political citizenship and continues to justify the right of university graduates (and other “dignitaries”) to a private jail cell. In these examples, the preexisting measures of elite inequality justify their unequal treatment, even though it amounts to privilege.¹⁴

Rui Barbosa’s justice may be a means of compensating an inequality of disprivilege by legalizing privilege. But it may also compensate an inequality of privilege by legalizing more privilege. In either case, it reproduces privilege throughout the social and legal system. It is, moreover, a static concept of justice. It does not contest inequality. Rather, it accepts that social inequalities exist as prior conditions of either disprivilege or privilege and treats them differently by distributing resources accordingly. Thus, the justice system in which Barbosa’s maxim is a taken-for-granted standard enforces a differentiated citizenship: it maintains a society of social differences by organizing it according to legalized privileges and disprivileges.

Brazilian elites formulated this notion of justice out of Greek and French elements because it made sense to them as a foundation of citizenship during the nineteenth century and, indeed, throughout the twentieth. Like other nationalizing elites, Brazil’s founders faced the problem of how to construct a national citizenship to regulate the vast social differences of inhabitants. They recognized that the conflicts over equality that the French Revolution ignited determined the outcome of this construction. For that reason, the terms of the French debate became a central preoccupation in the development of many new nation-states. Brazilians selectively appropriated these terms for their own purposes because they perceived, in the rhetoric of the day, that the French constitution had entangled a liberal understanding of equality with a democratic one they wanted to avoid. The liberal emphasized equality only in the formal sense—an equality before the law—establishing that individuals were the seat of rights and were equally free to pursue their differences in the market. But it entailed no responsibility of state or society to insure substantive rights that would equalize opportunity or realize a measure of social justice among citizens. The democratic emphasized precisely such substantive equality in rights and resources regardless of citizen
CHAPTER 1

differences. It created a principle of indivisible national membership that equated prior differences for purposes of citizenship. Where these principles of equality became conjoined in a single national charter—as in both the French and the American cases Brazilians studied—they observed that tremendous conflict, instability, and violence resulted over the management of social differences. Principle collided with prejudice in pitched battles over the terms of incorporation into the polity and the distribution of rights to those admitted. As I examine in the next chapter, these conflicts were largely absent from the development of Brazil’s national citizenship. They did not occur because the principles of universal equality that drove French and Americans to fight each other over citizenship never became either the core or leading edge of the citizenship Brazilians constructed. I am by no means holding up French or American citizenships as democratic standards. I present them rather as specific historical regimes that Brazilians studied and criticized in formulating a regime that excluded these principles. Rather, dominant elites devised an inclusively inegalitarian national citizenship, fundamentally antithetical to the French and American because the kind of liberalism they aimed to create had no compromise with democracy. It was liberal only in the sense that individuated rights depended on the formal equality of individuals before the law without substantive equality or justice. This type of liberalism reigned among elites in many Latin American countries during the nineteenth and twentieth centuries, where it neither required nor engaged democratic projects of citizenship. Instead, elites governed by combining economic liberalism and authoritarian rule with regimes of differentiated citizenship. Thus they managed the enormous social differences of these nations with a politics of difference.

In contemporary debates about citizenship, the politics of difference is not usually presented in this context. Rather, it is offered as an alternative to a liberal regime of citizenship based on supposedly difference-neutral rights, of which the French and the American are seen as prime examples. The politics of difference—also called identity politics and multiculturalism—accuses this liberal citizenship of disrespecting the salient differences of the many peoples and cultures that constitute modern nation-states. It contends that this liberalism uses putatively difference-blind principles to homogenize differences into common denominators that are little more than reflections of the particular interests of a dominant culture. For cultural minorities, liberal equality, where it means the mold of sameness, is not neutral at all. The politics of difference rejects this equality-as-sameness with the charge that homogenization disrespects and impoverishes while creating a norm of assimilation that in fact discriminates. Instead, it demands a new principle of equality that respects salient differences. This demand becomes especially unsettling when minority groups become
convinced that the relegation of their cultural differences and convictions to the private sphere under difference-blind liberal citizenship not only belittles their dignity but also threatens their survival. At that point, they demand explicit public and legalized support for the differences that they define as essential to their identity.16

While defenders of supposedly difference-blind citizenship often recognize the validity of these criticisms, they counter that a compelling account of a different notion of equality remains elusive and that current experiments in legalized multiculturalism do not give cause for enthusiasm.17 How does one decide which differences are salient in a society and worth distinguishing as such in law? If public debate is the answer, how does one avoid majority tyranny or the terror of a Jacobin citizenship obsessed with its own virtues? How does the law avoid discrimination if it legalizes particular differences for some, without common standards that privilege none? If the legal system gives full expression to cultural differences, will it not create a honeycomb of jurisdictions in which there are as many kinds of law as kinds of citizens? What would justice mean in such a configuration of nonuniform memberships? What constitutes a culture, and which cultures are authentic, autochthonous, and original, all notoriously slippery categories of past and discriminating precedent? What is to prevent majority populations from using a politics of difference to give explicit legal mandate to their cultural values (e.g., language) and thereby overwhelm minorities? Despite the enormous difficulties of these questions, barely broached in detail in most cases, the politics of a difference-specific citizenship remains the most popular focus of debate about new forms of citizenship in both emerging and established democracies.

The sum of these challenges has profoundly unsettled the assumptions of many national citizenships. While not providing many solutions, the challenges indicate nevertheless that a basic change is underway in the historical role of citizenship as most modern societies have used it to regulate difference.

My intension is not to review these debates, some of which I discuss elsewhere. It is rather to make two points. First, Brazil’s differentiated citizenship is a case of a centuries-persistent politics of legalized differences. It has thrived under every major type of regime, including monarchy, military dictatorship, and electoral democracy. If we want to understand the possibilities and problems of this politics, if we want to have reasonable answers to the questions above, it is critical to investigate this kind of case. Second, the study of this persistence suggests that when citizenships are viewed historically, the dichotomy of difference-neutral and difference-specific that structures many of the debates is false. From the perspective of their particular histories, all citizenships struggle in managing the differences they distinguish among their citizens and between citizens.
CHAPTER 1

and noncitizens. Although this regulation is an overarching purpose of citizenship, it generates chronic conflict. In assessing differences, citizens confront each other in making decisions about their significance, assembling regulations for their management, and realizing them in practice. In these assessments, they calculate the consequences of legalizing differences to legitimate inequality or denying them by means of principles of abstract equality. A specific right may be legislated to ignore social differences—and in that way be considered difference-neutral—but the citizenship that makes it meaningful had to problematize these differences to produce it. All citizenships engage this calculation of differences and equalities and, furthermore, are forced to reevaluate it periodically. Thus they must be studied historically.

Rather than categorizing citizenships ahistorically as difference-blind or difference-specific, therefore, the important question is to investigate how a citizenship problematizes the legalization and equalization of differences and struggles with the problems of justice that result. Some so-called difference-neutral citizenships have consistently generated extraordinary turmoil in structuring the differences and equalities of their citizens. Other citizenships have managed differences by legalizing them in ways that consistently legitimate and reproduce inequality. Thus, American citizenship has set armies of people against each other and erected libraries of legal opinion to figure out how both to equalize and to legalize differences—for example, whether to admit free blacks as full citizens or preemptively exclude them and whether to give special treatment to veterans (on civil service exams), farmers (crop subsidies), and minorities (admission to university). The last two questions remain passionately debated. Thus, American citizenship combines problems of equalization and differentiation in matters of both incorporation and distribution, and it struggles with the legitimacy of each combination. By contrast, Brazil’s citizenship has managed the differences of Brazilians—no less great than those of Americans—in very different ways. While Americans fought over inclusion, Brazilians opted for universal membership. But by denying the expectation of equality in distribution, Brazilian citizenship became an entrenched regime of legalized privileges and legitimated inequalities.

Most of the world’s citizenships beyond the North Atlantic are decidedly more like Brazil’s. Yet their chronic reproduction of inequality is rarely studied and more rarely compared—a persistence not revealed in institutional history alone, but in studies that also analyze citizenship as a development of processes, mechanisms, categories, and practices. When democratization destabilizes these differentiated citizenships, their re-imagination should be based no more on a shallow critique of liberal citizenship than on a naive advocacy of a politics of difference. The study of
Brazilian citizenship I undertake in this book demonstrates that the most inegalitarian politics of difference can be unsettled by insurgent-citizen movements. It suggests, moreover, that new differences do not necessarily become a basis for new privileges. But it also shows that entrenched regimes of legalized inequality remain the ground, boglike and treacherous, in which new democracies and their citizenships must take root.

History as an Argument about the Present

This book combines ethnography and history to study this entanglement of citizenships. It began with fieldwork on land disputes that mobilized residents in the urban peripheries of São Paulo. My objective was to use ethnography to register these conflicts with depth and precision. But the mappings of fieldwork have always suggested to me that a particular social problem encountered in the field takes on a specific articulation because its historical formulation continues to structure its present possibilities. Thus I realized that the use of law to legalize illegal land seizures in the contemporary peripheries makes sense as a strategy only in relation to the centuries of land occupation in Brazil that made illegal settlement the norm of residence. In this case, moreover, the historical accounting was also ethnographic: I soon discovered that all parties in these neighborhood land conflicts struggled over the meaning of history. They searched for origins to justify their claims to land, following the disputes back in time, typically to the nineteenth century and often to the sixteenth, to construct their genealogies of right. Whether and to what extent people use this history are significant contemporary ethnographic and political issues. But they are important precisely because what structures and sustains these conflicts are various installments of a relation between land and law first developed in Portuguese land policy as an instrument of colonization, refashioned in imperial and republican attempts to use land reform to bring free European immigrants to Brazil to replace slaves, and later reiterated in the development of segregated urban peripheries to house an industrial workforce. This history is not past. It continues to structure the present.

Contemporary citizenships develop as assemblages of entrenched and insurgent forms, in tense and often dangerous relation, because dominant historical formulations simultaneously produce and limit possible counterformulations. The insurgent predictably irrupts at the very same sites that sustain the entrenched, but under changed circumstances. In the case at hand, the same factors that fragmented and dominated the rural poor—restricted access to political rights and land, residential illegality, misrule of law—mobilized workers in the urban peripheries. Insurgent citizenship
is inevitably bogged down by this past because it is shaped and constrained by the terms these factors assume, even as it unsettles them.

The sense of “insurgent” I use to investigate this entanglement is not normative. It has no inherent moral or political value. Insurgent citizenships are not necessarily democratic or just, socialist or populist. Each case must be evaluated. Nazism surely launched an insurgent movement of citizenship in Germany, as did the American fundamentalist right in the United States. Rather, insurgency describes a process that is an acting counter, a counterpolitics, that destabilizes the present and renders it fragile, defamiliarizing the coherence with which it usually presents itself. Insurgency is not a top-down imposition of an already scripted future. It bubbles up from the past in places where present circumstances seem propitious for an irruption. In this view, the present is like a bog: leaky, full of holes, gaps, contradictions, and misunderstandings. These exist just beneath all the taken-for-granted assumptions that give the present its apparent consistency. I study this ethnographic present historically not to give a historian’s complete account. Rather, I use historical investigation to show how the past always leaks through the present, breaking it up into heterogeneous elements, and permitting it to be recomposed and transformed. I use history to make an argument about the present.

Most Brazilians who live in the peripheries understand them as a process of transformation because they have built them, turning their hinterlands into urbanized neighborhoods. But most who do not reside there have only a presentist view of their formation and significance. They do not consider them a work in the making. In fact, they often see them as little more than “crime-infested favelas,” committing the flagrant mistake of assuming that all their residents are squatters. Instead, they think of the peripheries as something to be acted upon from the outside. As they look down on them from airplanes, view them on television, and drive past them on highways, they may see them as targets of assorted political and economic proposals for a different future in Brazil. This bird’s-eye view of history is, paradoxically, dehistoricizing because it works backward from an imagined future to a proposal for the present as its precondition. As it hovers outside and above, it does not recognize the peripheries as a place where Brazil’s past and present disrupt each other, much less does it consider this disruption an important agent in constructing a different future. If my ethnography of the peripheries remained in such a dehistoricized present, or if it proposed historical baselines of before-and-after change but neglected historical process, it would be complicit with this kind of reductive dismissal. To avoid it, this book works in the opposite direction by historicizing the present.

In doing so, it aims to produce not only a work of scholarship but also one of critical research. By critique, I do not mean pronouncing what is
right or wrong with the way things are, judging them by some external measure. Rather, I mean pointing out the ways that thoughts and actions rest on taken-for-granted, unexamined assumptions and the consequences that both the unexamination of the familiar and its defamiliarization have for the construction of the way things are. Thus, in the course of my study, I use ethnography and history to debunk a number of professional policies, practices, and presuppositions: to expose practices of urban planning that segregate; to doubt distinctions between the illegal and the legal that ground the profession of law and the constitution of political power; to demonstrate how land reform policies have predictably promoted conflict because they set the terms by which encroachments are reliably legalized; to argue that political definitions alone are inadequate to evaluate democratic development and that political democracies do not necessarily produce a democratic rule of law. In addition, I investigate the ethnographic and historical sites of insurgent citizenship to open up the present to their possibilities. Their study not only makes them evident. It also indicates opportunities for further change that are not based on utopian impositions but grounded in a defamiliarized, messy ethnographic present, where projects that I value—of social democracy, justice, and equality—have a better chance to flourish.