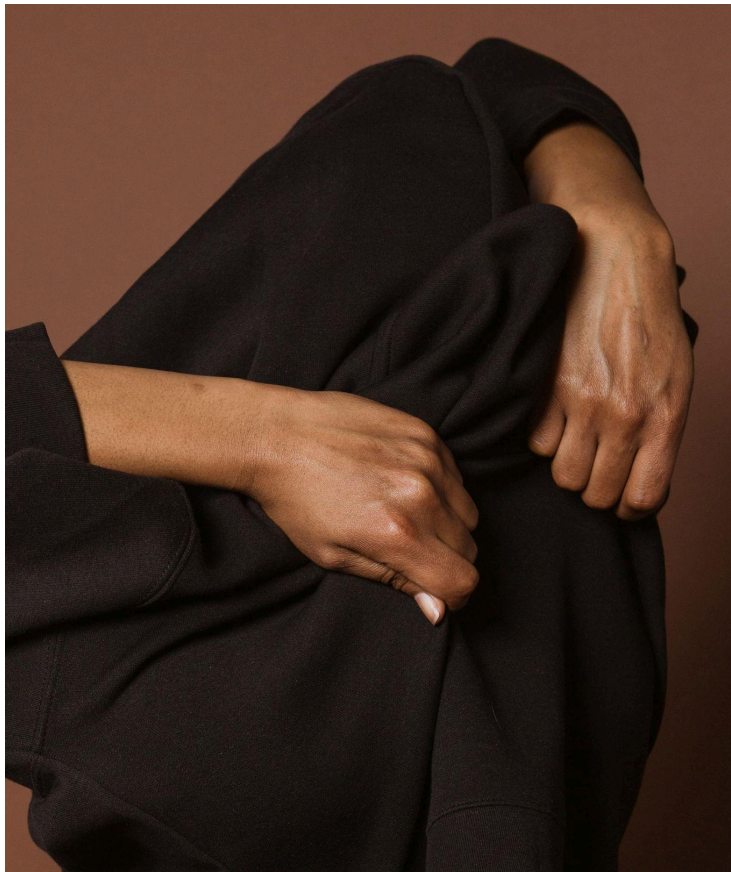


Sexual Citizenship

Who Gets to be a Citizen Through the Lens of Gender, Sexuality, and Identity

Hannah Wohlbold

Women's Rights Team – July 8, 2024



© Picture by Angela Roma, March 15th, 2021 via Pexels, <https://www.pexels.com/de-de/foto/fashion-mode-person-hand-7480096/>



C O N T E N T S

INTRODUCTION	3
1. INSTITUTIONAL DIMENSION OF SEXUAL CITIZENSHIP	4
1.1 HETERONORMATIVITY AS THE ONLY RIGHT	4
1.2 PERFORMATIVITY	5
2. INDIVIDUAL DIMENSION OF SEXUAL CITIZENSHIP	6
2.1 EMBODIED EXPERIENCES AND MULTIPLE IDENTITIES	6
2.2 ACTIVISM AND RESISTANCE	7
CONCLUSION	9

INTRODUCTION

[...] The origin of citizenship can be traced back to Ancient Greece, when "citizens" were those who had a legal right to participate in the affairs of the state. However, by no means was everyone a citizen: slaves, peasants, women or resident foreigners were mere subjects. (Council of Europe, n.d.)

This quote by the Council of Europe (CoE) highlights the underlying structure that, to this day, influences who is considered a citizen of a nation and who is not. Historically, citizenship is closely linked to belonging to a political and legal entity that grants individuals access to certain rights and imposes corresponding duties. The origins of citizenship can be traced back to ancient Greece, where one was only considered a citizen if he was “male aged 20, [from] an Athenian family, [...] patriarch of a household [and] a warrior” (Bellamy, 2015, p. 31). Gender, race, and class were fundamental in defining the boundaries of citizenship, thus excluding women, children, immigrants, and slaves. Over time, this understanding changed, and the good citizen was the one who could naturally contribute to the reproduction of the state (Josephson, 2015). He was white, male, and heterosexual. Men were therefore at the centre of citizenship from the very beginning. This definition, according to which all persons within a state who do not meet the above criteria are excluded from the right to citizenship, is no longer valid. Article 15 of the Universal Declaration of Human Rights (UN General Assembly, 1948) recognises everyone's right to a nationality and the right to change one's nationality. It stipulates that no citizen shall be stateless because of the denial of their nationality. However, the reality is very different. Millions of people are stateless for various reasons and are thus excluded from the rights of citizenship. The degree of statelessness and the reasons why people are stateless can vary widely. For pragmatic reasons and due to space limitations, this article will focus on one aspect of citizenship, namely sexual citizenship and asks: Through the lens of gender, sexuality, and identity, who gets to be a citizen and why?

Most studies dealing with sexual citizenship focus on Western countries (Richardson, 2017; Richardson & Turner, 2001). This allows for a better comparison and generalisation, as Western countries are similar in their understanding of democracy and equality and share a basic political and legal structure. Thus, this paper also limits its analysis primarily to Western countries. Additionally, since the issue of sexual citizenship is too complex to be fully covered in this article, the aim is to establish a basic understanding of who is entitled to the full right of citizenship. To do so, this paper will first examine the institutional dimensions of sexual citizenship, focusing on the legal framework and the importance of heteronormativity. It will then examine the personal dimension of sexual citizenship, defined by the impact of lived experiences and intersectional identity. By reviewing both dimensions and how they impact citizenship, this paper will conclude by attempting to answer the underlying question of the entitlement to citizenship.

1. INSTITUTIONAL DIMENSION OF SEXUAL CITIZENSHIP

Within the lines of our binary societal structure, citizenship has always been about the inclusion of some and the exclusion of others. While it was obvious which group was *in* and who was *out* when the concept of citizenship was first constructed, the differentiation became multifaceted and turned into a highly complex relationship between the individual and the state. To better understand this multilayered relationship, this section focuses on the institutional dimension before discussing individual implications for citizenship in the next section.

1.1 HETERONORMATIVITY AS THE ONLY *RIGHT*

In the area of legal and institutional frameworks, heteronormativity is an essential structure that shapes the definition of citizenship. To better understand this, we draw on Michel Foucault's (1979) concepts of biopower and biopolitics to provide a basis for understanding how the institutionalisation of heteronormativity regulates and defines the boundaries of citizenship. Heteronormativity refers to the social expectation that heterosexuality is the norm. Everything that corresponds to the understanding of heteronormativity is good. Anything that contradicts it is wrong, if not criminalised (Johnson, 2002; Mogul et al., 2011). This understanding is deeply embedded in the institutional structure of our society. This becomes clear, for example, when looking at the legal recognition of relationships. Not so long ago, marriage laws around the world were explicitly designed to uphold heteronormative ideals, and to this day most still exclude non-heteronormative couples from legal and social privileges (Richardson, 2017; Turner, 2008; Watkins, 2024). This exclusion, rooted in the biopolitical regulation of relationships, not only denied equal citizenship to LGBTQIA+ individuals but also reinforced a narrative that positioned heterosexuality as the normative standard. The impact of heteronormativity extends to family structures, an area intimately linked to citizenship. Legal frameworks historically favoured nuclear, heterosexual families, reflecting a biopower that sought to regulate and control reproductive norms. Same-sex couples faced legal barriers in adopting children or accessing reproductive technologies, reflecting the institutionalisation of heteronormative ideals within citizenship structures (Fletcher, 2023; Lasio et al., 2019). Davis' perspective on bodily autonomy (1997) as well as Grosz's exploration of bodies and power (1994) allows us to understand better how heteronormativity affects the regulation of bodies in the context of citizenship. In the context of LGBTQIA+ people, particularly transgender and non-binary individuals, the legal recognition of gender becomes a crucial battleground. Many legal systems struggle to recognise gender identities beyond the binary. As a first step, this can prevent individuals from receiving gender-affirming health care which can drastically influence their quality of life as they are legally prevented from fully becoming who they are. In the next step, if gender-affirming healthcare is available, individuals might still face obstacles to having their gender identity recognised in official documents, affecting their autonomy over their bodies

and, potentially, making them prisoners of their own country as their legal documents do not confirm their identity, preventing them from crossing national borders.

1.2 PERFORMATIVITY

Since its inception, our patriarchal society has favoured heterosexual white males. The privileges enjoyed by this group stem from the heteronormative expectation that a man will have a wife at home to take care of his domestic affairs, allowing him to dominate the public arena. (Becker, 1999; Miller & Borgida, 2016; Volpp, 2017). The previous section has provided an understanding of the ingrained heteronormativity within our societal structure. However, as Butler (1988) argues, there is no such thing as gendered natural behaviour. Instead, she states that gender is merely a performative act that is subject to societal norms. Our society is constructed to benefit heterosexual married monogamous couples (Richardson, 1998; Wolkomir, 2009). Thus, our legal frameworks reinforce heteronormative gender norms and as a result neglect individual reality outside of these norms. We find this, for example, in the workplace, where maternity leave is considered ‘the norm’ while paternity leave is only slowly making its way into existence. It can also be seen in custody battles, where mothers are more likely than fathers to win the case, a situation which can be ascribed to our natural understanding of mothers as caregivers (Lazic, 2023). This is not to say that custody laws favour mothers over fathers. Most decisions are made on a previous agreement between the parents who tend to agree that the mother would be better suited for custody, not necessarily because they are, but to keep the status quo. Furthermore, under EU-Law, only “a mother automatically has parental responsibility for her child” (EU, 2023). However, this only applies to the father if he is married to the mother (EU, 2023). Again, this can be attributed to our patriarchal understanding of women as natural caregivers and parents, which is not transferred to men to the same extent. In line with Butler's idea of performativity, this could be because mothers as caregivers are what we know, what we see and what we therefore reproduce in our legal system and our social behaviour. Take, for example, German tax law, where there is a tax advantage for married couples called ‘marital splitting’, which “allows for a couple's joint income to be halved, and the income tax due is then doubled — meaning the greater the disparity in earnings, the greater the tax benefits.” (Whittle, 2023). Not only does this reinforce the traditional idea of marriage between a man and a woman as the norm. Given the gender pay gap, where men tend to earn more than women, this can increase women's financial dependence on their husbands or encourage them to accept lower-paid work or stay at home, ultimately perpetuating the structure of the husband as the main breadwinner. In many countries, women are still legally expected to take their groom's surname, reinforcing a gender hierarchy whereby women are subordinate to men. These are just a few examples of how our institutional frameworks contribute to the perpetuation of primarily heteronormative gender norms and, as a result, only those who conform to these norms are considered full citizens of a state from an institutional perspective.

2. INDIVIDUAL DIMENSION OF SEXUAL CITIZENSHIP

While the legal framework defines at an institutional level who gets to be a citizen and why, the modern understanding of citizenship goes beyond the legal construct to include a personal sense of belonging and identity (Yuval-Davis, 2011). As citizenship has always been a matter of inclusion and exclusion, it becomes a lived experience with a personal sense of belonging that is not universally guaranteed (Beasley & Bacchi, 2000). This section therefore looks at the individual dimension of sexual citizenship.

2.1 EMBODIED EXPERIENCES AND MULTIPLE IDENTITIES

The group most favoured by citizenship is the one that fits into heteronormative norms. Thus, individuals who do not fit in are constantly navigating and negotiating their identity self-perception within the framework of citizenship (Gatens, 2014; Grosz 1994). As highlighted above, bodies are regulated and disciplined, particularly in relation to their gender. Identities are fluid and shaped by the environments one is surrounded by and the conditions one navigates (Grosz, 1994; Yuval-Davis, 2011). With transgender people, for example, their ability to shape and navigate their identity in the society in which they live is largely dependent on the institutional recognition of gender, the resulting access to gender-affirming health care, and the security that the state guarantees for their person. If a state does not recognise identities outside the gender binary, this means that at an individual level, their person is not fully desired as a citizen of the state. Consequently, they are denied rights that other citizens of the same state are entitled to. As people's identities are diverse, they need to be considered from an intersectional perspective, since the reality of the extent to which one is a citizen of a state gradually decreases as one's identity deviates from the heteronormative norm (Yuval-Davis, 2006). Thus, a white, homosexual man may feel more like an actual citizen of a state than a non-white, homosexual woman would. Drawing back on the above established institutional dimension, this feeling is justified, as she is in fact less privileged in the sense of citizenship because of her identity. This is, of course, a very blunt example, yet illustrative of how multi-dimensional a person's factual and emotional belonging to the State is, and how much it depends on the intersecting, multiple identities of each person.

As a citizen of a state, one has the right to freedom from discrimination and equal rights (UN General Assembly, 1948). However, a queer person of colour may face intersecting forms of discrimination that exacerbate their experience of citizenship because the institutional dimension of citizenship is simply not made for them (Yuval-Davis, 2006). Apart from the legal consequences, this deprives these people of a sense of belonging that is an essential part of sexual citizenship. The more diverse a person's identity is, the less it is recognised by the institutional framework of citizenship and, consequently, the less they can see themselves as a citizen of the country in which they live. We find these individual experiences, which are influenced by the diversity of people's identities, in all areas of our

daily lives. As Europe is currently experiencing a dangerous shift to the right (Liger & Gutheil, 2022), the question of belonging has been put in a new light for many people. The high number of votes that these parties are currently receiving sends a signal: the racist, sexist, and queer-hostile policies that these parties are pursuing are gaining recognition among an increasing number of members of our society. However, to people with a migration background or part of the queer community, this sends the message: 'We don't want you'. Of course, the group holding these views is far from being a majority. Nevertheless, it has a major impact on the sense of national belonging of marginalised groups. When the nation to which one feels they belong as a citizen is pursuing a political agenda that aims to marginalise their identity and generate votes by seeking to exclude them from that nation, they will naturally feel less of a sense of belonging to that country than other individuals who are recognised in the political agenda.

The ongoing debate about abortion also affects the sense of belonging and, in a broader sense, the right to citizenship. There is no country without restrictions on abortion (CRR, 2024). Although many countries have reformed and liberalised their abortion laws in recent years, the conditions under which abortion is possible are still subject to several barriers. Whether it is the 'reflection period' between two medical appointments, where a pregnant person has to think about whether they actually want an abortion for a legally defined period of time before their decision is respected and accepted, the financial costs, the advanced stage of pregnancy or abortion in general, pregnant persons are legally deprived of their autonomy over this aspect of their bodies. The focus is no longer on the person carrying the baby, but on the unborn child, regardless of any mental or physical health risks to the pregnant person. The fact that this decision can be made by anyone other than the pregnant person is, again, due to the patriarchal structures of our society, in which women¹ are responsible for the reproduction of the nation and are expected to reproduce (Alexander, 2011; Turner 2008). Thus, abortion is heavily regulated, and the right to bodily autonomy for pregnant people does not exist until they are the sole decision-makers regarding their pregnancies. So again, while full citizenship rights are partially denied at the institutional level, it also affects the sense of belonging to the nation at the personal level. If the state is allowed to regulate such an important part of someone's life, then they do not feel, and in fact are not, as fully recognised within the state as other people who are not regulated in this way.

2.2 ACTIVISM AND RESISTANCE

This final section will emphasise the importance of resistance and activism (Bebbington et al., 2010; Powers, 2019; Yuval-Davis, 2011). The preceding pages have highlighted the multi-layered and complex understanding of citizenship. It has been shown how a multidimensional identity - both in an institutional and personal sense - can become a

¹ The term 'woman' is used here because the focus is on the patriarchal values that are being imposed on women since they are seen as responsible for reproduction within a patriarchal society. However, it is this article's understanding that not only women can become pregnant and that non-cis women are just as much negatively affected by patriarchal values and structures. It goes without saying that non-binary/trans/intersex people, and therefore men, can indeed become pregnant. While this is not the 'mainstream' understanding of gender, it is indeed a current understanding of gender and the understanding of gender on which this article is based.

disadvantage in terms of citizenship. It has become clear that even this many years after the emergence of States and the concept of citizenship, and despite the progress that has been made in the political, social, and private spheres, the basic understanding of the nuclear family and heteronormativity still serve as the basis for our understanding of what is right and wrong. This highlights the importance of activism and resistance: steps towards a more just society have only been possible through commitment, perseverance, and the demand for rights (Bhattacharjya et al., 2013; Russel, 2002; Santini, 2016). Activism serves several functions at once. First, protesting groups make their voices heard. Protests and demonstrations send a message to society saying: "We are here, and we are not going away." This opens up the possibility of influencing social understanding of the society in which they live (Hubbard, 2013). People only feel comfortable with that which they are familiar (Chew et al., 2008; Knudsen et al., 2018). When people see the collective power behind a movement, that group becomes part of the lived reality within the society in which they are a part. Secondly, it fulfils a representative function. Making oneself vulnerable to demand the validation of one's identity reassures others who share one or more aspects of that identity that they are not alone. This way, heteronormative values can be undermined (Johnson, 2002). However, it is important to recognise that progress made through activism does not automatically lead to improvements in the lives of marginalised groups. Progress is often reversed and patriarchal structures persist. The recent overturning of *Roe v Wade* in the US, which ended 50 years of abortion rights, is a case in point. Something that was almost taken for granted in Western countries was reversed overnight, depriving pregnant people of a significant part of their bodily autonomy. Patriarchal structures are so deeply ingrained in our understanding of society that any opportunity to restore their order is seized. That is why it is so important to challenge social norms and demand rights. This way the message can be sent that citizenship must mean the same rights for all people, regardless of gender, sexual orientation, appearance, or background.

Citizenship is by no means a straightforward concept. Sharing the same nationality on a passport does not equate to sharing the same lived reality. We negotiate our identities to navigate social structures that uphold heteronormativity and patriarchy as guiding principles for rights, access, and participation. As long as basic human rights have to be fought for and progress can be dismantled at the slightest chance, full citizenship is only granted to those who conform to these heteronormative ideals.

CONCLUSION

Citizenship shapes the basic framework of our daily lives and sets the parameters within which we navigate the many questions of our existence. The rights and privileges granted to individuals by their citizenship serve as a guide to the multitude of issues that will arise throughout their lives. Issues of freedom of (transnational) mobility, decisions about marriage, family planning options, educational opportunities, career paths, public displays of affection, or the extent to which one must conceal one's identity to achieve one's goals, all depend on individual citizenship. These considerations, which vary from person to person, underline the important role that citizenship plays in shaping the reality of our lives. For those who adhere to the traditional, nuclear family, access to all the benefits a nation offers its citizens tends to come with relatively few barriers. However, as we explore the complexities of citizenship beyond the confines of heteronormative norms, barriers increasingly emerge. These barriers are profound and prevent individuals from realising their authentic selves as conformity to societal expectations becomes a prerequisite for acceptance.

Due to space limitations and its scope, this article has only touched upon a fraction of the identities, lived realities, and aspects of citizenship. The discussion in this article is not exhaustive and this article alone cannot do justice to the subject. For example, no distinction has been made between physical and mental health and their impact on citizenship rights. Racism or classism have only been mentioned in the context of the multiple identities of individuals, although these forms of structural discrimination deserve a much fuller elaboration. The reality of the lives of displaced persons or refugees and their claim to citizenship was also barely addressed. Nevertheless, an attempt has been made to address and illuminate aspects that point to an answer to the question of who is entitled to citizenship from the perspective of gender, sexuality, and identity, and why. There is likely no completely correct answer to it. However, given the above discussion, from the perspective of this article, the only group with full citizenship rights are white, heterosexual men. The privilege of full citizenship gradually diminishes with each facet of a person's identity that deviates from this norm.

REFERENCES

B
I
B
L
I
O
G
R
A
P
H
Y

- Alexander, S. A. J. (2011). M/othering the Nation: Women's Bodies as Nationalist Trope in Edwidge Danticat's „Breath, Eyes, Memory“. *African American Review*, 44(3), 373–390. JSTOR.
- Beasley, C., & Bacchi, C. (2000). Citizen Bodies: Embodying citizens – a feminist analysis. *International Feminist Journal of Politics*, 2(3), 337–358. <https://doi.org/10.1080/14616740050201931>.
- Bebbington, A. J., Mitlin, D., Mogaladi, J., Scurrah, M., & Bielich, C. (2010). Decentring Poverty, Reworking Government: Social Movements and States in the Government of Poverty. *Journal of Development Studies*, 46(7), 1304–1326. <https://doi.org/10.1080/00220388.2010.487094>.
- Becker, M. (1999). Patriarchy and inequality: Towards a substantive feminism. *U. Chi. Legal F.*, 21.
- Bellamy, R. (2015). Citizenship, Historical Development of. *International Encyclopedia of the Social & Behavioral Sciences* (S. 643–649). Elsevier. <https://doi.org/10.1016/B978-0-08-097086-8.62078-0>.
- Bhattacharjya, M., Birchall, J., Caro, P., Kelleher, D., & Sahasranaman, V. (2013). Why gender matters in activism: Feminism and social justice movements. *Gender & Development*, 21(2), 277–293. <https://doi.org/10.1080/13552074.2013.802150>.
- Butler, J. (1988). *Performative Acts and Gender Constitution: An Essay in Phenomenology and Feminist Theory*. *Theatre Journal*, 40(4), 519. <https://doi.org/10.2307/3207893>.
- Chew, S. H., Li, K. K., Chark, R., & Zhong, S. (2008). Source preference and ambiguity aversion: Models and evidence from behavioral and neuroimaging experiments. *Advances in Health Economics and Health Services Research*, 20, 179–201.
- Council of Europe. (n. d.). *Citizenship and Participation. COMPASS. Manual for Human Rights Education with Young people*. Retrieved July 8, 2024, from <https://www.coe.int/en/web/compass/citizenship-and-participation#:~:text=The%20origin%20of%20citizenship%20can,resident%20foreigners%20were%20mere%20subjects>.
- CRR. (2024). *The World's Abortion Laws*. Center for Reproductive Rights. Retrieved July 8, 2024, from <https://reproductiverights.org/maps/worlds-abortion-laws/>.
- Davis, K. (Hrsg.). (1997). *Embodied practices: Feminist perspectives on the body*. Sage.
- EU. (2023). *Parental responsibility*. Your Europe. Retrieved July 8, 2024, from https://europa.eu/youreurope/citizens/family/children/parental-responsibility/index_en.htm

- Richardson, D. (1998). Sexuality and citizenship. *sociology*, 32(1), 83–100.
- Richardson, D. (2017). Rethinking Sexual Citizenship. *Sociology*, 51(2), 208–224. <https://doi.org/10.1177/0038038515609024>.
- Richardson, E. H., & Turner, B. S. (2001). Sexual, Intimate or Reproductive Citizenship? *Citizenship Studies*, 5(3), 329–338. <https://doi.org/10.1080/13621020120085289>.
- Russell, S. T. (2002). Queer in America: Citizenship for Sexual Minority Youth. *Applied Developmental Science*, 6(4), 258–263. https://doi.org/10.1207/S1532480XADS0604_13.
- Santini, V. (2016). Our right to choose: Challenging the state’s control over women’s bodies. *Socialist Lawyer*, 72. <https://doi.org/10.13169/socialistlawyer.72.0039>.
- Turner, B. S. (2008). Citizenship, reproduction and the state: International marriage and human rights. *Citizenship Studies*, 12(1), 45–54. <https://doi.org/10.1080/13621020701794166>.
- UN General Assembly (1984). Universal Declaration of Human Rights, 217 A (III). Retrieved July 8, 2024, from <<https://www.refworld.org/docid/3ae6b3712c.html>>.
- Volpp, L. (2017). Feminist, Sexual, and Queer Citizenship. In A. Shachar, R. Bauböck, I. Bloemraad, & M. Vink (Hrsg.), *The Oxford Handbook of Citizenship* (S. 152–177). Oxford University Press. <https://doi.org/10.1093/oxfordhb/9780198805854.013.7>.
- Watkins, L. H. (2024, March 28). A review of the status of same-sex relationships around the world [Law Firm]. Penningtons Manches Cooper. Retrieved August 12, 2024, from <<https://www.penningtonslaw.com/news-publications/latest-news/2024/the-tin-anniversary-a-review-of-the-status-of-same-sex-relationships-around-the-world>>.
- Whittle, H. (2023, July 13). Germany considers scrapping ‘tax breaks’ for married couples [Public, State-owned, International Broadcaster]. Deutsche Welle. Retrieved August 12, 2024, from <<https://www.dw.com/en/tax-equality-germany-considers-ending-couples-tax-breaks/a-66213992>>.
- Wolkomir, M. (2009). MAKING HETERONORMATIVE RECONCILIATIONS: The Story of Romantic Love, Sexuality, and Gender in Mixed-Orientation Marriages. *Gender and Society*, 23(4), 494–519. JSTOR.
- Yuval-Davis, N. (2006). Intersectionality and Feminist Politics. *European Journal of Women’s Studies*, 13(3), 193–209. <https://doi.org/10.1177/1350506806065752>.
- Yuval-Davis, N. (2011). *The Politics of Belonging: Intersectional Contestations*. SAGE Publications Ltd. <https://doi.org/10.4135/9781446251041>.

