

Book Review

International Journal of Refugee Law

Rhoda Howard-Hassman and Margaret Walton-Roberts (eds), *The Human Right to Citizenship: A Slippery Concept* (University of Pennsylvania Press, 2015)

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Citizenship and its correlate, nationality, are fundamental to the capacity of individuals to enjoy rights. As Hannah Arendt poignantly suggested many decades ago, the right to belong to a community is nothing less than ‘a right to have rights’.¹ It is arguable that the theoretical importance of nationality has diminished in the United Nations era because of the wider recognition of human rights that attach to everyone by virtue of their essential humanity, rather than by reason of their status as nationals of a particular country. Yet common experience tells us that nationality—having the wrong one, or having none at all—is a major cause of inconvenience, disempowerment, exclusion and suffering.

By way of example, a recent survey of the most ‘powerful’ passports in the world ranked countries according to the freedom of travel enjoyed by their citizens.² Measured by the number of countries to which a citizen could travel visa-free, Germany topped the list (177 countries), while Afghanistan came last (25 countries). It is a simplistic and one-dimensional measure, but it reinforces an important political fact: all nationalities may be created equal, but some are more equal than others.³

However, the significance of nationality extends far beyond the capacity of individuals to enter another country as tourists without a visa. It impacts on the ability of a State to require a person to depart its territory and, relevantly to Arendt’s claim, it can be important in defining the human rights of migrants. This is because States have considerable latitude under international law in drawing distinctions between persons on the basis of their national status. This is readily apparent from the barriers that are lawfully erected by wealthy developed States when non-national residents seek to access health care, welfare, and other social goods.

In this context, the *Human Right to Citizenship* provides a passport for readers to tour the fascinating world of ‘citizenship’; a field whose practical importance is exemplified by the contrast drawn above between German and Afghani travellers. The book is the fruitful collaboration between two scholars from different disciplinary backgrounds: one (Howard-Hassman) in international human rights, the other (Walton-Roberts) in human geography. This editorial partnership has produced a volume of welcome disciplinary breadth. The phenomenon of international migration, and the status of nationality that underpins it, is one that should not be boxed in by the boundaries of a single field of

¹ Hannah Arendt, *The Origins of Totalitarianism* (Allen and Unwin, 2nd ed, 1958) 296.

² Henley & Partners, *Visa Restriction Index 2016*, <http://visaindex.com/> (15 March 2016).

³ With apologies to George Orwell, *Animal Farm* (Secker and Warburg, 1945).

research. Appropriately, the 17 other contributors add the disciplines of political science, sociology, international relations, migration studies, anthropology, and law to those of the editors. This allows readers to see the modern challenges of citizenship through different lenses, but also forces them to navigate those challenges using different terminology, concepts and values.

The fundamental contention of the editors is that citizenship is a slippery category. In a legal sense, a person either has, or does not have, citizenship. But in practice, the value of citizenship slides ineluctably from the top—‘the lucky holders of hard citizenship rights’ in wealthy democratic countries—to the bottom—stateless persons who ‘[enjoy] neither *de jure* nor *de facto* citizenship anywhere’ (p. 5). Along the way, the slipperiness of the slope is determined by a matrix of factors, including personal attributes (ethnicity, gender, sexual orientation); the number of nationalities one can claim; the wealth and power of the State of nationality; and knowledge of one’s legal status.

The contributed chapters are intended to test this proposition, and they do so in different ways. Many examine geographical case studies (Bangladesh, Brazil, Canada, Germany, Nigeria, Palestine, United States); some survey a specific group of vulnerable individuals (children, Roma, migrant workers, stateless persons), and others pursue more conceptual goals. The book loses some cohesion as a result (especially as these divisions do not correspond with the volume’s arrangement into five parts), but this does not detract from the intrinsic interest of individual chapters.

Part I discusses the legal context. Weissbrodt (Ch 1) argues that international human rights law formally protects non-citizens in ways that rarely differentiate them from citizens. Nevertheless, there ‘remains a disjuncture between those prescribed rights and the realities that noncitizens must face’, often by reason of xenophobia and racism (p. 27). Belton (Ch 2) examines the widespread phenomenon of statelessness and argues that not only is it a violation of the right to a nationality but it ‘leads to slippage in an individual’s ability to enjoy many of the other rights promulgated in the [Universal Declaration of Human Rights]’ (p. 40).

Part II considers three case studies of group statelessness; a small selection of the seemingly inexhaustible number of groups whose members are not recognised as the nationals of any State. Baer (Ch 3) paints a detailed historical portrait of the legal status of Palestinians, who are dispersed across the territory of Israel, the West Bank, Gaza, neighbouring Arab states, and the world beyond. Uddin (Ch 4) examines the plight of Rohingya refugees in Bangladesh, and their mass migration from Myanmar since the 1990s. Moulin (Ch 5) considers constitutional changes in Brazil in 1994 that, for a time, denied Brazilian citizenship to children of Brazilian parents born on foreign soil, thus spawning widespread statelessness among the offspring of a large Brazilian Diaspora. The eventual reversal of that policy in 2007 offers a valuable example of the way in which civil society organisations can pressure governments to avert the effects of ‘restrictive and slippery citizenship regimes’ (p. 90).

Part III is titled ‘Legislated Limbo’ and analyses the impact of legal frameworks in generating or perpetuating fissures in citizenship. Odinkalu (Ch 6) offers an eloquent

account of the failure of politics to establish any meaningful concept of ‘internal citizenship’ in postcolonial Nigeria. In that country, as elsewhere in Africa, the ‘arbitrary territorializations’ (p. 97) of colonial rule and subsequent independence have led to the tribalisation of citizenship over the ‘colonized native’ (p. 98). However, the author adopts a sociological conception of citizenship, namely, a ‘set of practices ... which define a person as a competent member of society’ (p. 2), rather than the legal conception that permeates much of the rest of the book.

Ramachandran (Ch 7) discusses the uncertain status of Bangladeshi resident in India, who have for lengthy periods been treated by India as citizens. The term ‘slippery citizenship’ is invoked here to capture ‘the ambiguities, unpredictability, and lack of consistency attached to the citizenship status’ (p. 118) of these Banglo-Indians, some of whom are now perceived to be non-citizens but yet hold official documents that can only be issued to citizens. The chapter includes welcome insights on the potential dangers of new biometric identification systems in constituting citizenship for these marginalised groups.

The remainder of Part III changes focus away from geographic case studies towards the circumstances of particular vulnerable groups—children and Roma. Bhabha and Matache’s passionate essay (Ch 8) argues that the child’s right to citizenship under international law is founded not on their right to civic participation in the polity of the State but on their need for protection *by the State*. In two areas, those needs are widely denied in practice—the constructive deportation of citizen children upon the removal of their non-citizen parents; and the denial of socio-economic rights (education, health care, shelter) to citizen children who are members of minority communities that face deeply embedded discrimination (e.g. Roma). They conclude that ‘citizenship will remain at best a slippery vehicle for the delivery of rights’ (p. 144) so long as statecraft is characterised by dishonest tactics and weak law enforcement.

The subject of Roma is reprised in O’Nions’ contribution (Ch 9). The disadvantage suffered by Roma in every society in which they live has been well-documented, but O’Nions claims that these problems are dwarfed by their systemic problems of statelessness. Denied citizenship after the dissolution of Czechoslovakia in 1993, many Roma remain locked out of European Union citizenship and its associated privileges. As a result, in her view, ‘The problem of Roma inequality ... is quite possibly Europe’s biggest human right challenge.’ (p. 157).

Part IV examines labour migrants in the United States and Canada. Hiemstra and Mountz (Ch 10) venture into the highly contested space of membership and migration in the United States. For this reviewer, the political polarisation is illustrated by contrasting the sonnet inscribed at the foot of the Statue of Liberty (‘Give me your tired, your poor, Your huddled masses yearning to breathe free’);⁴ with the rhetoric of the leading Republican candidate for the US presidency, Donald Trump, who advocates building a wall across

⁴ Emma Lazarus, ‘The New Colossus’ (1883).

the southern border with Mexico to keep out ‘illegal’ immigrants.⁵ Hiemstra and Mountz document how, in recent years, the architecture of US immigration law has intensified ‘the proliferation of slopes to illegality and partial citizenship’ (p. 174). This has culminated in attempts to repeal the constitutional guarantee of ‘birthright citizenship’ and thus eradicate the touted dangers of the ‘anchor baby’.

McLaughlin and Hennebry (Ch 11) turn to Canada and criticise temporary labour migration programs that allow the State to ‘benefit from cheap labour without confronting the ethical dilemmas of denying citizenship rights’ (p. 181). The criticism seems harsh when contrasted with similar seasonal agricultural worker programs in New Zealand and Australia, which have been hailed for facilitating ‘elusive triple wins’ for migrant workers, countries of origin, and countries of destination.⁶ It may well be correct to claim that temporary migrant workers in Canada are wrongfully denied rights on paper and in practice, and such a situation would clearly call for legal redress. However, a different type of rationale is needed to justify their entitlement to citizenship. Were it otherwise, every migrant in the labour force (approximately half of the 244 million migrants worldwide)⁷ could stake a moral claim to a new nationality. The degree to which a migrant should be absorbed into a receiving State to warrant the grant of nationality has long attracted the keen attention of jurists and scholars.

Part V concludes the book with four chapters on ‘Emerging Issues and Models’. Faist (Ch 12), using Germany as an example, argues that the ‘borders of ... citizenship as an instrument of social closure are gradually shifting’ (p. 194). This conceptual transformation reflects processes of expansion (by widening citizenship to include greater ethnic diversity); erosion (i.e. the declining participation of individuals in the civic life of the State); and extension (by separating population, territory and state authority). Rygiel and Walton-Roberts (Ch 13), using India and Canada as examples, interrogate the growing acceptance of multiple citizenship. Their intricate argument is that governments ‘strategically use different forms of citizenship to manage populations within the logics of neoliberalism and securitization’ (p 210).

Macklin (Ch 14) offers an interesting counterpoint to the other chapters. Whereas they are predominantly concerned with the acquisition of citizenship that is hard to get and easy to lose (hence ‘slippery’ in the metaphor of the book’s subtitle), her chapter focusses on situations in which states seek to *stick* citizenship on an unwilling recipient (‘sticky citizenship’). Thus, in refugee contexts, a refugee-receiving State may seek to impute the citizenship of another State to an asylum seeker, without regard to the assent of the individual or the other State. Macklin convincingly justifies her inquiry as more than a curiosity in a world ‘preoccupied with the predicament of those who seek citizenship’ (p. 223). Sticky citizenship highlights conceptual differences—between the function of

⁵ ‘Immigration Reform that Will Make America Great Again’, www.donaldjtrump.com/positions/immigration-reform (15 March 2016).

⁶ See e.g. S. Ramasamy, V. Krishnan, R. Bedford and C. Bedford, ‘The Recognised Seasonal Employer Policy: Seeking the Elusive Triple Wins for Development through International Migration’ (2008) 23(3) *Pacific Economic Bulletin* 171.

⁷ United Nations Population Division, ‘Trends in International Migration, 2015’ Fact Sheet No. 2015/4 (2015).

nationality for states and individuals; between citizenship as status versus consensual contract; and between the asymmetry of citizenship acquisition and loss.

It is apparent from the foregoing account that *The Human Right to Citizenship* offers a stimulating and highly varied account of a subject that is essential to a proper understanding of international migration. Citizenship and nationality—as legal, social, and political concepts—have never been more important nor more contested than at the present day. This volume brings many facets of the topic to our attention in a work that is handsomely presented, helpfully embellished with maps, thoroughly indexed, and substantially error-free.

However, two final points should be noted. In form, it is hard to justify the inconvenience of endnotes (pp. 255–93) over footnotes. Perhaps this reveals a lawyer’s penchant for sources, but it can no longer be said that the choice is dictated by the limits of technology. And in substance, if there were one topic that deserves greater attention, it is the increasingly tense interaction between citizenship and counter-terrorism. In many Western States, laws that strip citizenship from nationals who have gone abroad to fight with terrorist organisations have become another site of debate and disputation. In particular, the moral confusion between conduct that warrants exile from a community and conduct that warrants fair punishment by that community deserves further elucidation. But these are minor quibbles. This is a stimulating book that deserves wide readership across many disciplines.