

Review – Citizenship

Written by Rizal Buendia

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RIZAL BUENDIA, SEP 7 2021

Citizenship

By Dimitry Kochenov

Massachusetts Institute of Technology Press, 2019

Written from the perspective of an international lawyer, *Citizenship* eruditely presents a provocative thesis on the concept and practice of citizenship in the contemporary world. The book profoundly examines the essential parts of citizenship: status, rights, duties, and politics, as well as how the notion of citizenship evolves, its implications, and the role it has performed in the changing world. Global in approach, Kochenov adroitly scrutinises relevant issues, disputes, and challenges associated with citizenship in countries and islands across continents, tackling political, economic, and socio-cultural milieu.

The book is divided into six chapters, including a brief discussion of the key concepts of citizenship (Chapter 1), analysis of the vital elements of citizenship (Chapters 2-5), and an exploration of the emerging picture of citizenship in the near future (Chapter 6). At the end of the book, there is a table of legal cases on citizenship resolved by international courts, the United Nations, and Supreme and Federal Courts of selected countries, including Australia, Latvia, Switzerland, the UK, the US, and Aruba, Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba. Furthermore, Kochenov offers a concise but extensive survey of international, regional, and country-specific legal cases that challenge the fundamental view, traditional thought, and foundational knowledge on citizenship disseminated by basic texts on politics and governance. Through a factual presentation of events, both historical and contemporary, Kochenov uncovers the harsh realities affecting citizens of the world.

In investigating citizenship, he claims that the status of citizenship is regarded as abstract, impersonal, totalitarian, and unilateral in nature since its bestowal is neither based on “dialogue” nor built on “one’s wishes or choice” but on “unconditional legal subjugation” (p.39). Moreover, it is judged by the colour of one’s passport, hence it carries within itself deep-seated inequalities, sexism, racial subjugation, and humiliation. Stateless or passport-less individuals on the other hand, are dehumanized and have lesser rights. Considering that the status of citizenship is linked to a bundle of rights – the right to enter and remain in the country and to work there – these rights have failed to dissuade exclusion and ethnic discrimination. The “possession of the status (of citizenship) ... has never been indispensable for the enjoyment of the majority of the core rights” (p.154). In addition, he affirms that the “trend of decoupling citizenship and rights has prevailed worldwide” (p.156).

On citizenships’ duties, Kochenov maintains that these have traditionally been functioned towards the “uniformization of the citizenry, the reproduction of complacency, and the necessary uprooting of individuality and dissent” in both democratic and totalitarian regimes (p.175). The core conception of a citizen’s duty to be “loyal” and “good” to state and society does not only uphold and reinforce the status quo but also endorses active complacency which is the synonym of “good citizenship” as any “display of indifference ... often equals rebellion” (p.181). Aside from its identitarian aspect, the idea of a good citizen and citizenship, according to Kochenov, unfairly and unreasonably justifies the discrimination of minorities and women by disallowing them to perform state duties, especially in the Armed Forces. Citing the infamous decision of US Chief Justice Taney in *Dred Scott* (1857), Kochenov laments that the US Supreme Court decided that women are too weak to defend the country. Taney’s logic dictates that “women should not vote or benefit from other citizenship rights,” proclaiming that “where there are no duties, there are no

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rights” (p.186).

Apart from women, the US Supreme Court resolves that African-American US militia in the 19th century should only be composed of “white able-bodied men.” Still, a Japanese-American in the 1940s “could not be loyal – again, by law – no matter what he actually thinks and believes in” (p.186). In the contemporary world, a Muslim citizen in the Western World is a potential terrorist as Joppke (2010) has shown. The preservation and fortification of sex discrimination and racism thus have customarily been the primary functions of citizenship which are deemed tools of governability (Kooiman 2008). Unfortunately, there are a lot of other countries in the world where women, minorities, migrants, refugees, and other disadvantaged sectors continue to be discriminated against by their own state. Against this backdrop, Kochenov ponders that the account of citizenship is a tale of hypocrisy and domination. Kochenov counters the notion that citizens are created equal and democratically form their own government. He argues that citizenship is nothing more than a random status of personal obligation to a legal-state system granted by public authorities, with minimum participation of the bearer in the majority of cases. Citizenship’s key function, says Kochenov, is fundamentally the perpetuation and bolstering of global inequalities, as well as the distribution of liabilities to the majority of the world’s population, mostly former colonial subjects.

Peoples’ power, rights, and dignity are not only measured by one’s skin colour but by the color of one’s passport. [A]ll of us are judged by the color of our passport and nothing else in any international border” (p.118). Citizenship, contends Kochenov, has always been racist in essence both at the state level and interstate relations (p.96). The quality of one’s citizenship is based on the ability of citizens to travel without visas, settle and work abroad without threat of being deported, and we find economic opportunity correlates very neatly with the global distribution of wealth. While it becomes absolutely clear that while the majority of the most economically developed countries offer their people elite super citizenships, the biggest share of the population of the world lives with substandard citizenship status. This is the “most important vector of inequality reinforced by democracies and autocracies alike” (p. 48) declares Kochenov.

The politics of citizenship focusses on the power and influence wielded by state authorities and power holders in allocating status and rights of citizenship rather than the process of empowering citizens to democratically elect their leaders or state representatives. It refers to the power of the state to determine “who is a citizen?,” who is the “recipient of rights and who will be subjected to duties?” (p.197). In this context, the issues of naturalization, denaturalization, expatriations, intergenerational transfer of citizenship rules, enfranchisement and disenfranchisement of diverse classes of citizens within and outside of the country, and the recourse to the of duties of citizens as ingredients of the politics of citizenship are dealt with extensively in the book (pp.197-238). Given the historical and dynamic co-evolution of the key elements of citizenship across the globe, Kochenov predicts in his last chapter that “citizenship is bound to perish... [a] world order where punishing randomness and hypocrisy reign” (p.251).

The book makes a comprehensive analysis of citizenship in many countries in Europe, the Americas, Australasia, Asia, and Africa, and islands as well as territories (with an independent or dependent status situated in the Pacific Ocean, Caribbean Sea, Atlantic Ocean, Indian Ocean, and Arctic Ocean) of the world. However, cases of money laundering, tax evasion, and corruption through the granting of “investor citizenship” or issuance of “golden passports/visas” to wealthy foreigners in eight European countries (Spain, Portugal, Greece, Italy, Malta, Switzerland, Austria, Belgium), the Caribbean (St Kitts and Nevis, Antigua and Barbuda, and Grenada), the USA, and the Pacific island nation of Vanuatu were left unexamined. In these countries, citizenship has become a commodity and some affluent individuals need not necessarily establish their residency or show proof of a real link, especially cultural and familial, to the country. These routes towards citizenship lead moneyed people to travel to a number of countries without restraint, live and work across continents, and some are even allowed to vote in certain elections. Apparently, this type of freedom becomes a security risk if citizenship is afforded to the wrong class of people as they will be bestowed with guaranteed liberties but also a bundle of rights.

Likewise, the implications of India’s Citizenship Act are missing from the book. Enacted in 1955 and amended six times in 1986, 1992, 2003, 2005, 2015 and most recently in 2019, the Act has defined and re-defined Indian citizenship based on the political vicissitudes of the country. Sarker (2017, pp.55–67, 192–198) contends that since

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the 1950s until the 1990s, Indian governments, ruled by different political parties, have faced challenging issues with regard to citizenship due to the influx of refugees, asylum seekers, as well as pressures from economic and social concerns. Consequently, the Citizenship Act (with amendments) has delineated citizens from migrants and successively crafted laws on naturalization and provision of sanctuaries to persecuted individuals in neighbouring countries, among others. The 2003 amendment focused on the notion of an “illegal migrant” who could be deported or jailed. Further, it states that parents could not be an illegal immigrant. Apparently, the mutability of Indian citizenship has been determined by the varying conditions under which citizenship is to be granted or withdrawn. As citizenship carries with it the recognition of civil, political, and social rights and duties, the volatility and uncertainty of one’s citizenship conveys the person’s insecurity within the state; an issue that remains unresolved.

Post-publication of the book in 2019, the Citizenship Act was further amended. The revision provides a route to Indian citizenship to members of six persecuted religious minority communities, i.e., Hindus, Sikhs, Buddhists, Jains, Parsi and Christians from the neighbouring Muslim-majority countries of Bangladesh, Pakistan, and Afghanistan who entered India before December 2014. However, this does not apply to Muslims minorities, e.g., the Ahmadiyya from Pakistan; the Rohingya from Myanmar; and the Tamil from Sri Lanka. This prejudice created a national uproar and widespread protests in India in spite of the coronavirus pandemic. In this case, citizenship has become a tool of discrimination and injustice in India rather an instrument of inclusivity that provides equal access to opportunities and resources for the marginalized and minority groups and indigenous communities.

In spite of these limitations, Kochenov’s book is indeed provocative and it opens a nuanced debate on the concept and practice of citizenship in the world. I recommend this book to academics, theorists, historians, and others writing and advocating the cause of social justice and advancing the fulfilment of racial equality.

References

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