

Book Reviews

Barbara von Rütte, *The Human Right to Citizenship – Situating the Right to Citizenship within International and Regional Human Rights Law*, Leiden/Boston: Brill Nijhoff 2023, ISBN 978-90-04-51752-3

The book “The Human Right to Citizenship – Situating the Right to Citizenship within International and Regional Human Rights Law” by von Rütte is based on her doctoral thesis. The subject of the book centres on the conflict arising from the acknowledgement of the right to nationality according to international human rights law, juxtaposed with the persistent assertion of state sovereignty in matters related to nationality. To overcome the limitations imposed by state sovereignty concerning nationality issues, von Rütte brings forward compelling arguments for the recognition of the right to citizenship. The author presents the right to citizenship, by exploring the intersection of international migration, human rights law, and the concept of belonging, based on one’s effective connections to a state according to the principle of *jus nexi*.

The underlying methodology of the book is theoretical, doctrinal legal research, whereby von Rütte undertakes a rights-based interpretation to define the right to citizenship. She takes a human rights perspective by identifying the boundaries of state sovereignty in relation to nationality issues, shedding light on the rights it confers upon individuals and the corresponding obligations it places on states.

The book mainly draws on the sources of international law as codified in Article 38(1) of the Statute of the International Court of Justice (ICJ), but also takes soft law instruments of the pertinent international organisations into consideration. The author recognises the diverse normative weight and geographic scope of the sources examined while emphasising that the selected sources embody progressive and protective standards for the rights of non-citizens regarding nationality, serving as a vital framework for a rights-based understanding of the right to nationality. Furthermore, due to the political nature of citizenship and its regulation, the author takes an interdisciplinary approach. While primarily a legal analysis, the study also incorporates related academic discussions to provide context for the regulation of citizenship in international law to advocate for the recognition of citizenship as a human right. The book unfolds this panorama over the course of seven chapters.

The first part of the book sets the stage for the analysis of a right to citizenship in international and regional human rights law. The introductory chapter lays the foundations by providing the theoretical framework to comprehend citizenship in the context of international law. Chapter two focuses on clarifying the terminology and theoretical framework surrounding the right to citizenship. At this point, the author explains the concepts of nationality and citizenship for the inquiry. Furthermore, she examines various theoretical perspectives on citizenship as a human right and thereby lays the groundwork for the subsequent legal analysis. After the theoretical groundwork of the second chapter, chapter three provides the international legal framework for the right to citizenship. By taking a public international law perspective, this chapter explores the historical development of nationality regulation in international law. It investigates the interconnectedness of statehood, sovereignty, and nationality, and challenges the traditional perception of nationality as being solely within a state's *domaine réservé*.

The second part of the book moves to the regulation of the right to nationality in international law. It conducts an extensive examination of the existing legal framework and how it has been interpreted by international and regional courts as well as treaty bodies. Chapter four addresses the international legal framework relating to the right to nationality. It begins by examining Article 15 of the Universal Declaration of Human Rights (UDHR) as the key provision recognising the right to nationality. The chapter reviews the relevant human rights instruments at both the universal and regional levels that codify the right to nationality. It also discusses the status of the right to nationality in customary international law. Chapter five draws together the nature, scope, and content of the right to nationality as protected by international law. It categorises the right to nationality as a civil and political right and discusses its application. The chapter identifies specific rights and corresponding state obligations associated with the right to nationality, such as the acquisition, loss, and enjoyment of nationality, as well as procedural standards and limitations to the right. By evaluating the current legal framework, von Rütte identifies gaps in protection and accountability that hinder the implementation of the right to citizenship.

The third part of the book addresses the identified gaps in the current legal framework for the protection of the right to nationality and outlines the consequences of adopting a jus nexi-based approach to the right to citizenship. The gaps that von Rütte identifies in chapter six lie primarily in the protection of individual rights, particularly concerning the acquisition of citizenship by persons who are not stateless or at risk of statelessness, since international human rights law is weak in this area. While states have the power to determine citizenship

and the criteria for its acquisition, they must ensure that such decisions are not discriminatory or arbitrary. To fill this gap in the current legal framework, von Rütte proposes a rights-based interpretation based on the principle of *jus nexi*. By applying the principle of *use nexi*, she brings a normative argument forward that closes the gaps of protection by recognising a right to citizenship based on a substantive connection to a particular state. This approach is also presented as a helpful tool to clarify the content of the right to citizenship for children, dual or multiple citizenship, the revocation of citizenship, and the balance between individual rights and legitimate state interests. Lastly, the book concludes with chapter seven, which provides a summary of the study's main questions and findings, followed by concluding remarks on the potential consequences of implementing a *jus nexi*-based right to citizenship.

Von Rütte's analysis of the right to citizenship is state of the art as she delves into a comprehensive and fresh perspective that extends beyond conventional discussions on statelessness, loss or multiple citizenships. Instead, she embraces a holistic approach that encompasses the acquisition, enjoyment, and loss of citizenship in the context of migration. One of the striking aspects of her book is the accurate portrayal of the evolution of the right to citizenship, tracing its journey from being a sovereign privilege to a fully enforceable human right. This transformation is skilfully portrayed, shedding light on the significant shift that has taken place in the understanding of citizenship. The author compellingly demonstrates how this right is firmly grounded in existing international and regional human rights instruments, and thus a legal entitlement. While the argument stands strong on its own, the author takes it a step further by positioning the right to citizenship within the realm of human rights categories. Drawing from legal sources and emphasising the nature of citizenship as a status, the author classifies the right to citizenship as a civil and political right. Consequently, the author argues that the right to citizenship primarily places negative obligations on the state or, in other words, mostly requires non-interference by the state. Yet, as the author rightly reminds us, human rights should be viewed as universal, indivisible, interdependent, and interrelated (UN General Assembly, Vienna Declaration and Programme of Action, A/CONF.157/23, 25 June 1993). With this in mind, moving beyond the categorisation of human rights could in fact greatly enhance human rights in general. To make an illustration, the full enjoyment of the right to citizenship not only requires non-interference by the state, but it also requires available procedures and services. Such positive state obligations can also infer from civil and political rights, which is also demonstrated in the book. While it is important for the strengthening of all human rights to move away from categorising human rights, the author's decision to classify the right to citizenship as a civil and political human

right is understandable. By doing so, the author aims to provide stronger normative support for the right to citizenship, as civil and political rights have traditionally been perceived as justiciable, in contrast to economic, social, and cultural rights, which is however an outdated distinction and should be viewed as a legal fiction.

Nevertheless, the most noteworthy contribution lies in the author's examination of the omission in the current legal framework of a right to citizenship to a particular state, meaning a given citizenship. For individuals to find a way out of this legal void, she proposes to reinterpret the right to citizenship with the principle of *jus nexi*. This argument holds immense significance, particularly in the current global climate marked by a resurgence of nationalism and the unsettling trend of erecting barriers and symbolic divisions to define who belongs and who does not. The author's timely exploration sheds light on the pressing need to confront these challenges and find inclusive ways to navigate the complex landscape of citizenship.

In summary, von Rütte's book not only contributes significantly to the scholarship on citizenship but also invites readers to contemplate the profound implications of this right in our contemporary world. Her meticulous research and persuasive arguments make this book a valuable addition to the discourse surrounding human rights and citizenship for academics and practitioners alike.

Monika Plozza

PhD Candidate and Research Associate, Faculty of Law,

University of Lucerne, Lucerne, Switzerland

monika.plozza@unilu.ch