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A Springboard to Revolutionize the Future

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A Springboard to Revolutionize the Future*

There are not many books that attempt to tackle citizenship from ancient Rome to the present. Frederick Cooper's book takes on this ambitious task with a view to framing citizenship ideas within the milieu of empires. In this short book, with three main substantive chapters, Cooper does surprisingly well at teasing out important ideas and concepts from multiple domains. Although the author comes from a scholarly background focusing on Francophone Africa, he brings a persuasive understanding of the way in which colonial subjects made claims in a variety of other contexts, ranging from antiquity to the 20th century, and almost all continents spanning the globe.

Given his horizons are so large, Cooper is able to create more nuance in the way we should think about citizenship more generally. He does not present a linear process in the development of citizenship, but rather one that has proven both elusive and elastic, dependent on the political context as well as the claims being made. For instance, the book draws timely attention to the innovativeness at the heart of European Union (EU) citizenship ideology, versus the practical reality of confronting the tensions between different ideas of citizenship and how they have played out. He draws distinctions between vertical personal relationships embedded in citizenship and horizontal membership through political entities. Alongside this he ploughs through some of the rich literature on citizenship and delineates a »minimalist« and »maximalist« definition of the concept. The minimalist end of the spectrum covers subjects' mediation with a polity. The maximalist idea, involving the rule of law, he regards as more normative, encompassing ideas such as equality, full protection and participation, all of which were potentially conceived by the French Declaration of the Rights of Man and of

the Citizen of 1789, or general developments in political thought in Western Europe.

Beginning with ancient Greece and Rome, Cooper charts a development in citizenship ideas within the Roman Republic and Empire that moved away from the insularity of the ancient Greeks. These concepts were devised as a means of diffusing social tensions that manifested in violent wars like the »social war« of 91–88 BC. The social war resulted from conflict between Rome and its neighbours across the Italian peninsula, who were deprived of full Roman citizenship after their subordination by Rome. By extending citizenship to all Italian males, despite the resistance of some purist Romans, Rome resolved much of this tension.

Citizenship remained a flexible concept, allowing for Italians to maintain their respective identities while still being citizens of Rome. It was also a formal concept employed in Roman censuses, demanding citizens register with information about their property, household, lineage and tribal membership. Such information gathering on its citizens could crucially be employed by Rome to designate eligibility for offices. In this way Roman citizenship was both inclusive but also a form of control for the imperial state in which status played an important role. Even when the Republic gave way to the reign of emperors, institutions created within the Republic still exerted influence. Cooper argues that even as Roman citizenship was status driven and horizontal Romanness was not uniform, and local laws eventually gave way to Roman law, citizens could still invoke their rights through a Roman court. Moreover, he contends that the flexibility with which Rome ruled the provinces meant that access to the Roman elite was not a bar for even those with mixed heritage born in the provinces.

* FREDERICK COOPER, *Citizenship, Inequality and Difference: Historical Perspectives*, Princeton: Princeton University Press 2018, 224 p., ISBN 978-0-691-17184-5

What Cooper describes as »lingering republican principles« mingled with oligarchy and autocracy even under the *Constitutio Antoniniana* or edict of Caracalla in 212, which granted full Roman citizenship to all free people, men and women within the Roman Empire. The social stratification apparent in earlier eras, continued to persist, and opportunity was afforded in very different terms depending on where a citizen lay on the social ladder. It would have been useful if Cooper had tied up this discussion with Aristotle's and other republican ideas of citizenship and its incompatibility with a monarchy, although he does reference Cicero and Tacitus. However, Cooper's emphasis here lies in the way in which citizenship ironed out a number of juridical processes in the administration of the empire. Notably, many scholars believe this assisted with levying taxes.

Caracalla's edict proved an important concept for how the French conceived citizenship across the French Empire, at least notionally. However, Cooper explores how the persistent hierarchical and oligarchical differences within the Roman Empire, irrespective of citizenship, sat at odds with French claims to *égalité* and democracy. With the vast social inequalities across the empire, attempting to extend an equal citizenship posed far more challenges to the French. Nevertheless, Cooper reasons that Caracalla's edict shaped the boundaries for how citizenship should be conceived across empire.

For Rome, the concept, conceptually and operationally, was one of the most important vertical levers of power, albeit also being the bearer of rights, however unequally circumscribed. Cooper suggests this language of citizenship, born within Roman imperial history, has surpassed the influence of the nation-state in the contemporary vocabulary and conceptualizations of citizenship. It also tends to broaden our enquiry to ask how far inequalities of wealth and power are compatible with the apparent cohesion evoked by the notion of citizenship. In his second chapter, examining the Spanish, British and French empires from the early modern to the twentieth century, Cooper maintains the relevance of imperial conceptualizations of citizenship versus the nation-state in the evolution and practice of contemporary citizenship.

Claim-making is embedded at the heart of the concept of citizenship for Cooper. For this reason, he sees mediation between a political entity and its members as inherent, even in the weakest forms of

citizenship. »Thick« and »thin« citizenship carry analytical value for Cooper, although he considers them as dynamic. As an antidote to static ideas of citizenship, throughout the book he emphasizes need for considering citizenship as multilevel and flexible, as opposed to the insular political reality in some parts of the world.

His third and final chapter introduces one of his most interesting analytical tools, the idea of »superposed nationality«. Focusing on the 20th century, Cooper draws our attention to how empire was reconceptualised, giving the examples of the USSR and Germany under the grip of the Nazis. His intent is to pull out the nuances of what he describes as the conventional narrative of »empire to nation-state«. Marshalling an impressive spectrum of regions and examples, Cooper examines different layers of citizenship, with multiple levels of inclusion. Using the British Commonwealth in 1948, the USSR in 1917, the Russian Federation in 1991, and the European Union in 1993, he discusses the idea of a supreme, or imperial level citizenship being »superposed« on national citizenships.

Cooper makes interesting connections between the British 1948 version of superposed nationality and the French constitution of 1946. By catering to the political interests of the newly formed nationalities and ex-colonies, yet attempting an overarching post-imperial identity that reflected the British Commonwealth and French Republic respectively, both former imperial powers created what Cooper perceives as juridically enforceable rights across their former empires. However, these were not comfortable superposed nationalities as Cooper illustrates with the distinction made between claims by former British dominions or white settler colonies, and India and other remaining colonies within Africa and the West Indies. These discrepancies were reflected in the erosion of the Nationality Act of 1948 as a crumbling empire gave way to British national prerogatives resulting in the Commonwealth Immigration Act of 1962, a closed-door policy towards former British subjects of ex-colonies. Using this and many other well-researched examples, Cooper expansively demonstrates the tension between the nation-state and citizenship as a flexible multi-layered concept. By turning back to antiquity, Cooper seeks to represent citizenship as a concept with roots and the potential for progressive evolution that surpasses those afforded by the nation-state. However, he

does not skimp on outlining its historical problems either, or the salient fact that citizenship does not per se provide equality. Instead, he sees this invitation to view citizenship's roots and evolution as a

springboard with the power to revolutionize the future. ■

Lorena Atzeri

Il mondo del diritto in Tacito*

La grandezza delle monumentali opere della letteratura di ogni tempo si valuta anche dall'influenza esercitata nei secoli sul pensiero dei più significativi intellettuali. Nel misurarsi in più occasioni con i grandi del pensiero filosofico moderno, come Montaigne, Pascal, Schopenhauer, di cui ha indagato – in varie monografie – la personale concezione del diritto e della giustizia, Jens Petersen (docente di Bürgerliches Recht, Deutsches und Internationales Wirtschaftsrecht presso l'Università di Potsdam) ha rilevato il grande debito che molti di quegli autori riconoscono nei confronti di Publio Cornelio Tacito. Si comprende come fosse giunto il momento, per Petersen (di seguito: P.), di dedicare una seria ricerca alla concezione del diritto e della giustizia proprio della fonte ispiratrice: Tacito.

Certo, non mancano gli studi su numerosi aspetti dell'opera e del pensiero tacitano, né Tacito è ignoto agli storici del diritto romano, che hanno attinto e attingono dai suoi scritti preziose informazioni; tuttavia, una »umfassend[e] Darstellung über das Recht bei Tacitus« (1) era effettivamente un *desideratum*, e l'opera di P. intende colmare ora questa lacuna.

Recht bei Tacitus è un viaggio all'interno delle esperienze di Tacito con il mondo del diritto, in particolare quello pubblico, al fine di ricostruire la sua personale visione. Come pochi storiografi, Tacito ha saputo guardare lucidamente nelle pieghe del potere, nei meccanismi arcani dell'impero e nella subdola opera di svuotamento delle istituzioni e degli organi »costituzionali« repubblicani. Il suo è uno sguardo *hintergründig*, profondo ed enigmatico al tempo stesso.

La monografia – che, come precisa lo stesso P., non vuole essere uno studio né di filosofia del diritto né di storia filosofica (83) (e neanche di storia del diritto in senso classico, potremmo aggiungere) – si compone di un'ampia introduzione (»Einleitung«, 1–98) e di tre »capitoli« (contrassegnati dal simbolo del *Paragraph*, così familiare ai giuristi) rispettivamente dedicati alle origini e al decadimento del diritto (§ 1. »Anfänge und Verfall des Rechts«, 99–287), ai temi dell'assenza di diritto, del potere e dell'arbitrio (§ 2. »Rechtlosigkeit, Macht und Willkür«, 289–399) e al rapporto tra diritto e retorica (§ 3. »Recht und Rhetorik«, 401–551). Chiudono la trattazione una sintesi conclusiva (§ 4. »Zusammenfassung«), un imponente indice bibliografico e un indice delle fonti, che di fatto consistono nelle sole opere di Tacito.

Nell'introduzione, P. espone in un flusso continuo, presentando le testimonianze sparse attinte dall'intero *corpus* tacitano, il rapporto tra Tacito e il diritto (in particolare quello pubblico): e dunque la sua visione delle leggi, delle magistrature, degli organismi assembleari, del senato, ma soprattutto del potere imperiale. L'opera tacitiana è qui considerata nel suo insieme non tanto per ricavarne informazioni puntuali sul diritto romano, pubblico e privato, ma piuttosto per ricostruire l'idea di diritto e giustizia che animava lo storiografo romano.

Tacito osserva lucidamente come il diritto si metta non di rado al servizio della politica e dei giochi di potere, ed è critico tanto verso alcune populistiche leggi repubblicane quanto verso la legislazione imperiale (in particolare quella matrimoniale augustea). Sui processi, poi, lo storiografo

* JENS PETERSEN, *Recht bei Tacitus*, Berlin/Boston: De Gruyter 2019, XX + 617 p., ISBN 978-3-11-057988-8