

CITIZENSHIP AS FOUNDATION OF RIGHTS

Citizenship as Foundation of Rights explores the nature and meaning of citizenship and the rights flowing from American citizenship in the context of current debates around politics including immigration. The book explains the sources of citizenship rights in the Constitution and focuses on three key citizenship rights - the right to vote, the right to employment, and the right to travel in the US. It explains why those rights are fundamental and how national identification systems and ID requirements to vote, work, and travel undermine the fundamental citizen rights. It also analyzes how protecting citizens' rights preserves them for future generations of citizens and aspiring citizens here. No other book offers such a clarification of fundamental citizen rights and explains how ID schemes contradict and undermine the constitutional rights of American citizenship.

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MEANING FOR AMERICA

Richard Sobel



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*For my grandparents and great grandparents
who came to America*

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FOREWORD

by Sidney Verba

This is a significant book, with a very apt title, for an understanding of the United States as a political and social system. The basic feature of a democracy is that the government is responsive to the needs and preferences of the citizenry. But what does it mean to be a citizen? Who has access to that situation? What rights are associated with it? And how have they evolved over time?

Few concepts – perhaps none – are more central to the functioning of the American political system than citizenship. Democracy depends on the relationship between the public and the government. In an authoritarian regime, governing rulers make policy without regard for the preferences of the citizens. In a democracy, the citizenry plays a major role. The dictionary tells us that “citizenship” is the status of being a citizen. If you have citizenship in a country, you have the right to live there, work, vote, and travel. Without consideration of the preferences of citizens, a polity is not democratic.

To understand citizenship, one needs to know its history. Its meaning was defined at the time of the formation of the Republic by the founders, and modified and redefined since then after the Civil War amendments with changes to the status of African Americans, women, and the poor and the rich. Citizenship is a legal, cultural, and social characteristic.

This book provides a close and careful analysis of Supreme Court and lower court cases of the legal issues and empowerment of citizenship as well as the civic obligations of citizens. It explores foundations of citizenship from the earliest days of the Republic to the current

debates about voter identification requirements and immigration. Debates over citizenship occur with the partisan and racial implications over regulation of access to the polling booth and policy – as well as other citizen rights.

This is what makes *Citizenship as Foundation of Rights: Meaning for America* a major contribution to our understanding of America and the role of citizenship in it. It is a broad and deeply informed discussion of the subject of citizenship and hence to our understanding of democracy. Sobel is a major author of books on important public and political issues. Add this to your reading list about the meaning of citizenship for America and Americans today.

PREFACE AND ACKNOWLEDGMENTS

Because citizenship issues are “in the air,” the fundamental nature of citizen rights needs to be founded “in bedrock” and articulated concretely. Though citizen rights go unrecognized in many debates around citizen responsibilities, immigration, and immigrant rights, the scholarship in this book highlights them in support of a critical perspective on citizenship, immigration, and national security issues, and the under-recognized perils of national identification systems. It serves as a cautionary tale about undervaluing citizenship rights and overlooking identification systems threats.

Writing books is sometimes a solitary project even when assisted by many others, and this book may have been the most challenging of eight. Fortunately, finishing it in a timely manner was a compelling goal and rewarding in itself because a full-length study of the nature of citizens’ rights and the threat of identification regimes had yet to be written.

I would like to thank Henry Bienen for inviting a prior article that formed part of the basis for the book. I also thank David Harris and Johanna Wald for commissioning the voter ID report that preceded the chapter on voting rights. I appreciate the assistance of Gerald Jenkins, Mark Lerner, Rebecca Weaver, and Shamama Moosvi, among others, for reading draft chapters on rights. As Sidney Verba believed in this project and my prospects to tell a new story, he thoughtfully provided an insightful Foreword to the study. John Fennel, Edward Hasbrouck, Barry Horwitz, Timothy Madden, Michael Ostrolenk, Jenna Malamud Smith, Robert Ellis Smith, Daniel Solove, and Shaun Spencer contributed to predecessor conceptions.

I would also like to thank a fine group of interns and research assistants for this book and earlier articles over more than a decade. They include Lesley Arca, Matt Beamer, Ryan Backman, Robert Boswell, Matt Cannon, Jenni Chang, Mackenzie Eisen, Anjan Choudhury, Jason Crowley, Anna Crane, Dawid Danek, Kelsey Dennis, Kevin Doran, Lucy Filipac, Kathryn Gainey, Patrick Grimaldi, Annalie Jiang, Brian Kezbekus, Natalie Kim, Michael Kranovsky, Tim Lamoureux, Shamama Moosvi, Catherine Nance, Wendy Netter, Darcy Paul, Emily Pollack, Ann Nunnerly, Nick Riley, Brad Smith, Ross Smith, Allison Trzop, Sarah Wald, Rebecca Wagner, and Michael Zhang. I especially appreciate the contributions of former interns and students Lesley Arca, John Fennel, Alexandria Gutierrez, and Ramon Torres, who became colleagues, consultants, coauthors or editors. I appreciate the insights of coauthors and other analysts on issues particularly around travel and privacy. Margaret Ormes, Mellissa Gallaher, David Harris, Johanna Wald, Ed Baskauskas, Randall Kennedy, Charles Ogletree, Skip Gates, Abby Wolf, and Abigail Rose Sobel provided comments and support.

Reference librarians at the Northwestern and Harvard Law Schools and Evanston and Wilmette Public Libraries often found obscure citations and data and provided interlibrary loans, thanks especially to Heidi Kuehl, Gallagher, Roxie Mack at Northwestern Law School and Evanston Public Library librarians, including Ben Rensen and Heather Norborg.

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Preface and Acknowledgments

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Mr. Schneider in his Shoe Shop and Hubert Wilson in his Princeton lectures provided inspiration for this book. Bob Gilmore's comments after the Immigration Reform and Control Act became law – that citizens have a bundle of rights – contributed to beginning this inquiry. A course on the Politics of Economics and Social Control at Princeton and Smith that included a burgeoning section on citizenship, immigration, and identification was the basis for moving from one week in a class to several journal articles and now a full-length book.

Citizenship as Foundation of Rights is dedicated to my grandparents and great grandparents for coming to America (or aspiring to) and becoming citizens here. Without their and my parents' – Betty Debs Sobel and Walter H. Sobel, FAIA – support and inspiration, this book would not have had the opportunity to air these contemporary controversies or see the light of day.

Richard Sobel
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