Toward a New Sociology of Rights: A Genealogy of "Buried Bodies" of Citizenship and Human Rights

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Abstract

Although a thriving social science literature in citizenship has emerged in the past two decades, to date there exists neither a sociology of rights nor a sociology of human rights. Theoretical obstacles include the association of rights with the philosophical discourse of normativity, the abstraction of universalism, and the individualism attributed to rights-bearers. Parallel historical obstacles dating from the Universal Declaration of Human Rights (UDHR) in 1948 include American exceptionalism and racism, cultural relativism, the institutional primacy of sovereignty, and the privileging of civil rights over socioeconomic rights. Except in the United States, today human rights discourse is the lingua franca of global struggles; building a sociology of rights as a collective project is now imperative. This article unearths and reconstructs 60 years of political clashes, intellectual debates, and struggles for inclusion and recognition surrounding human rights and citizenship—much of which has been hidden from history (especially African American human rights movements). We introduce a nascent but uncoordinated social science attention to rights and develop criteria for a new sociology of rights. At the nexus of human rights and citizenship rights we identify the public good of a "right to have rights," which expresses the institutional, social, and moral preconditions for human recognition and inclusion. The concept offers a promising avenue of social science inquiry.

*Erratum

*This PDF amended on (22 June. 2008): See explanation at http://arjournals.annualreviews.org/errata/lawsocsci

Supplemental Material

> [L]egal doctrine is like a rough draft of social theory, comprising concepts, categories, rules and procedures for managing the vast array of human conduct in an orderly and systematic way . . . . The historical struggles become visible by reverse engineering the legal categories. Legal doctrine shows in its abrupt changes where the bodies are buried and where the battles were fought. In addition, legal theory can be a rough draft of social theory precisely because it grows out of these struggles.
>
> Kim Scheppele 1994, 2002

> Those who seek to bestow legitimacy must themselves embody it; those who invoke international law must themselves submit to it.
>
> Kofi Annan

An annual review essay on citizenship and rights presents a difficult conundrum, for while a thriving social science citizenship literature has emerged in the past several decades, the same cannot be said for a sociology of rights.[1] Whereas anthropology, political science, and even history have all developed disciplinary subfields of human rights, the authoritative new *International Encyclopedia of the Social and Behavioral Sciences* (Smelser & Baltes 2001) has no entry for either a "Sociology of Rights" or a "Sociology of Human Rights" (see also Darity 2007). Today's leading textbook in Law and Society does not include "rights" or "human rights" in its index (Vago 2003).[2] The American Sociological Association (ASA) does not have a section on rights or human rights (as of 2008, there is a section in formation on human rights, but it does not yet have the right to organize any panels). And a thorough search of ASA documents over the past six decades does not turn up the first official statement in support of human rights until 2005. It would be hard not to conclude that "the concept of 'rights' sits uneasily with most sociologists" (Connell 1995, p. 25). And, because "the theoretical and empirical import of human rights is one that, with rare exceptions, has been skirted by sociologists" (Sjoberg et al. 2001, p. 12), there exists a "deafening silence about rights in sociology" (Turner 1993, p. 163; for similar assertions, see An-Na'im 2001; Connell 1995; Hajjar 2005; Levy & Sznaider 2006; Morris 2006; Turner 1993, 1995, 2006; Woodiwiss 2003, 2005).

Clearly, there are obstacles blocking a sociology of rights, human or otherwise. These are hidden in plain sight. For one, most sociologists, with more or less consciousness, have followed classical social science's distancing from (and sometimes hilarious ridicule of [e.g., Bentham 1843]) the inherently value-laden (Weber), illusory (Marx), and philosophically speculative (Durkheim) nature of rights as moral entities.[3] By contrast, citizenship is a social institution and lends itself to empirical and positivist research methods (e.g., Marshall 1992 [1950]). Even more problematic is philosophy's need to identify the normative foundations of rights, a quest that sends social scientists running for cover. Although we may seek explanations for how rights-driven social movements constitute themselves, only philosophers worry about the normative justification of those rights.

Second, citizenship's institutional and collective character gives it a social science affinity that conflicts with the perceived individualism of rights and the necessary autonomy of rights-bearers.[4] To clarify the contrast in the starkest

[1] For notable exceptions see Sjoberg et al. (2001), Woodiwiss (2003, 2005), Morris (2006), Turner (1993, 1995, 2006), and several others we discuss below. While a sociology of rights still cannot be said to exist, many of the ideas and elements necessary for one have begun to appear.

[2] But see Deflem (2008) for a new sociology of law that is sure to be an influential corrective to this neglect. Also, see the **Supplemental Material** for a bibliography of texts we could not include here owing to space constraints (follow the **Supplemental Material link** from the Annual Reviews home page at **http://www.annualreviews.org**).

[3] Notwithstanding what they considered their scientific views on rights, the classical social scientists, in contrast to those of the more recent U.S. normal science sociology, were unabashedly morally driven in their personal political commitments.

[4] In this respect, sociology's attitude toward rights is a symptom of its neglect of Hobbes, Locke, Mill, and liberal political theory more generally.

of (ideal-typical) terms: Citizenship is a social artifact of law, politics, and the public sphere. Its hallmarks are membership; legal doctrines of exclusion; attachment to the nation-state; particularistic, limited freedoms; and territoriality. Rights (in the abstract) are theorized to be found in a notional state of nature alleged to protect against coercive state power and political tyranny. Their hallmarks are universality; equal inclusion; freedom as autonomy; and presocial, antipolitical placelessness. Rights take the form of claims and in this sense are made intrapsychic (we use the language of rights consciousness, but rarely that of citizenship consciousness), so in this sense rights are less substantive and less a natural target for sociological analysis, although social movements to secure rights have long been studied. In this zero-sum and mutually exclusive opposition, it is easy to see why social scientists have favored citizenship's institutionalism over the naturalism of rights: "Given th[e] skepticism towards the idea of human and natural rights in classical sociology, a sociology of citizenship has functioned as a substitute for a sociology of rights. Skeptical and relativist sociologists have felt intellectually more comfortable with the idea of citizenship because it does not appear to raise problems about universal ontology . . . morality or evaluation" (Turner 1993, p. 176).

Contained within this natural rights/citizenship split can also be found the longstanding hierarchical privileging of civil rights over socioeconomic rights. In liberal political theory, natural rights are equated with the civil, legal, and property rights of "freedom from" the intrusion of the state (Berlin 1969); they are historically seen as the foundation of political liberty and human rights. Socioeconomic rights, by contrast, are equated with Berlin's (1969) "freedom to" exercise those rights, which T.H. Marshall (1992 [1950]) canonically dubbed as the rights of social citizenship and Franklin Roosevelt (1941) described in his famous "Four Freedoms" speech as "freedom from want." Roosevelt asserted these freedoms to be the indispensable human rights of humanity, without which social life would not be possible. Socioeconomic rights include the collective social entitlements and cultural aspirations (education, health care, and substantive social equality) that require both intervention by the state into the (ideologically) free market and enforcement by the policies and institutions of law, legislation, and nation-states. In the classical natural rights paradigm, freedom from state coercion is etched with epistemic and political privilege into the sacred heart of liberal democratic political culture. Conversely, because they challenge directly the hegemony of absolute freedom from the state, socioeconomic rights are treated with suspicion at best in classical liberalism, and more commonly as fundamental threats to the individual liberties and property rights at the foundation of liberal thought.

If we view "pure" laissez-faire capitalism and mixed economy social democracies as opposite poles of a continuum, civil rights qua property rights would be lodged firmly under the rubric of laissez-faire, the primacy of property rights, and unregulated markets. At the other end, socioeconomic rights (in addition to civil and political rights) would be aligned with the "housebreaking" agenda of social democracies' "managed capitalism" (Kuttner 2007). Although the United States has never come close to instituting the full social rights of Europe's social democratic societies, it did institute a weak social citizenship regime from the New Deal in the 1930s through Johnson's Great Society of the 1960s and early 1970s. This would have located it somewhere in the middle of the continuum—no longer a pure laissez-faire regime but still considerably short of a full social democracy such as that of Britain's welfare state or of the Scandinavian countries. Even so, from Roosevelt's first attempts at initiation, the New Deal was subject to virulent attacks from the conservative business community. In the early 1940s, Friedrich Hayek (1944) emerged as the anti–New Deal's most influential ideologue, and in *The Road to Serfdom* he attacked Roosevelt's policies of freedom from want as the first step down the slippery slope of "serfdom," unfreedom,

coercion, and totalitarianism. Although relatively marginalized throughout the 1950s and 1960s, the Thatcherite and Reaganite market fundamentalist movement in Britain and the United States rose from the ashes in the 1970s and 1980s, and Hayek was rediscovered as a leading theorist for justifying the dismantling of even the United States's weak welfare state programs (social citizenship rights). With the end of the Cold War and the fall of communism in 1989/1991, conservatives and market fundamentalists argued that the "end of history" had arrived, and they had won: Capitalism as absolute freedom of property and contract, without any recognition of socioeconomic rights, was the only viable way to organize all the world's societies.[5]

Today, neoliberalism and market fundamentalism are achieving a status of near-global ideology and certainly dominate America's domestic economic policy. With this trend and with the United States's ongoing refusal to ratify the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1975), the idea and ideals of social citizenship and social rights are increasingly demeaned and diluted in the United States. Ironically, as the reign of market fundamentalism has been coupled with the global war on terror, the larger meaning of civil rights as "freedom from" state coercion (e.g., habeas corpus, freedom from search and seizure, freedom from torture) has weakened dramatically.

This tension between (*a*) the philosophically abstract and universalistic negative freedoms of natural (civil) rights and (*b*) the sociologically delimited, state-dependent freedoms of positive socioeconomic rights clearly plagues any serious engagement between social science and human rights. A sociology of rights would be charged with integrating what appear to be mutually exclusive but equally necessary rights (Blau & Moncada 2005; King & Waldron 1988; Pogge 2002, 2007; Sen 1999; Sunstein 2004; Woodiwiss 2003).

A final obstacle is the discursive problem of what is a right. To refer primarily to rights without any qualifying adjective produces a troublesome ambiguity: Is there such a thing as an unqualified (plain/bare) right without a preceding adjective, as in human right, political right, or citizenship right? Without a qualifier, we could be referring to natural rights or human rights, but (bare) rights could just as well refer to positive and codified law. When we speak of a sociology of rights, do we mean a sociology of human rights or citizenship-based civil, political, social rights? Using rights without a qualifier could evoke either eighteenth-century natural law or the post–World War II politico-juridical human rights discourse. Or it may suggest a specious capaciousness, when in fact only a particular right is being adduced, thus creating nominalist problems of false universality.

There is, moreover, an evident slippage between natural rights and human rights. Do scholars today view the two conceptions of rights as equivalent? Do objections to natural rights apply equally to the modern conception of human rights? Most social scientists are uncomfortable with the idea of anything social being called natural or universal. This is in part a problem of specification; talking about rights is especially difficult because rights exist at multiple registers—that of normative moral aspiration, that of codification and doctrine, and that of the mechanisms and institutions of enforcement. These are all ideal types—no type of right operates at just one register—but parsing these different registers should make it easier, for example, not to conflate ideal understandings of rights with legally existing rights.

These obstacles to achieving a sociology of rights thread their way through the past six decades of history. In this review, we take a genealogical approach to these obstacles in order to present our argument for both the moral and intellectual necessity of overcoming them, as

[5]One of the great tragedies of the Cold War, as discussed below, is how American anticommunists contaminated the concept of human rights by accusing the Soviets of using human rights (socioeconomic) as a fig leaf to obscure their abuse of real human rights (civil and political). Today, the U.S. government still refuses to apply the language of human rights domestically.

well as our preliminary thoughts on how to do so. We take our inspiration from Scheppele's (1994) felicitous insight that "law is the rough draft of social theory," and we focus especially on those moments in law and social theory that will help to "find where the bodies are buried and where the battles were fought" (2002). Our point of departure is the 1948 Universal Declaration of Human Rights (UDHR) and the attempt by its signatories to reframe international relations in a human rights paradigm. Our end point is the current post-9/11 world in which international efforts to put human rights at the center of law and social understanding have dovetailed with burgeoning theoretical innovations. The link between the UDHR and today's evolving political and intellectual human rights culture seems like a logical and continuous progression. In fact, it has been anything but.

In the post-UDHR years, human rights have swung a broad arc, ducking and dodging the theoretical challenges, political struggles, and historical obstacles—above all, entrenched institutionalized American racism, exceptionalism, and the Cold War—that continuously dogged and impeded their legitimization, especially in the United States. Even the Helsinki Accords in the mid-1970s, which made possible a limited human rights discourse, restricted the identification of human rights violations to those in the communist world and beyond. And while we recognize that the human rights trope was never completely abandoned—it emerged from time to time in struggles over race and the death penalty, living wages, welfare eligibility, and similar issues—in the United States the language of rights has been safely confined to civil and political rights and that of human rights completely silent on domestic rights abuses (Ignatieff 2005).

To disinter the buried political and intellectual bodies that impair a sociology of rights, our story begins with four spokes of resistance to the UDHR: American exceptionalism/American racism, anthropology and cultural relativism, the political primacy of citizenship over human rights, and the constitutive centrality of social inclusion and socioeconomic rights. These form distinct lines of opposition extending, like spokes on a wheel, from the UN's Charter and its decision to respond to the Holocaust through the human rights paradigm. Our genealogy chronicles these currents of resistance over the past 60 years as they wind their way through three consequential legal moments—the making of the UDHR (1945–1950), the rise and fall of the Civil Rights Era (1950–1989), and the fall of communism to the present (1989/1991–2008). Not meant to slice history into discrete epochs, we intend that each of these moments should register a porous time period and operate on multiple chronological planes. They are organizing moments condensed into law. Because each modality of resistance (or response) in its own way promised (or threatened) to impose a new frame for managing social relations by creating and/or limiting rights holders through new categories of inclusion and exclusion, the spokes of resistance often resurfaced in various guises during those 60 years. We trace them as they transect the historical faultlines, and we close when they conjoin at the other end of the historical arc in an apparent covenant that has been tentatively forged today between the social sciences and human rights. Our premise is that, seemingly far removed from the high-stakes world of international political bargaining, there is a story of the relationship between the UDHR and the social sciences that is yet to be told.

But first, some definitions, justifications, and scholarly aspirations. As a practical matter, throughout this discussion we treat the concept of natural rights, like its twin in natural law, as alleged to be morally justified by higher laws of God and nature and possessed universally by all individuals (Dershowitz 2004, Edmundson 2004; for more on defining human rights, see also Goodale 2007 and the annotations to this work in the **Supplemental Material**). These are the Rights of Man upon which the French and American Revolutions are built. The concept of human rights, like natural rights, eschews positive grounds to justify their existence; unlike natural rights philosophy, however, which finds its source in God or

Supplemental Material

nature, human rights discourse founds itself on humanity: We have human rights simply because we are human. The ideal analytic view of human rights is that they are equal ("one either is or is not a human being"), inalienable ("one cannot stop being human"), and universal ("all members of the species *Homo sapiens* [are] 'human beings,' and thus holders of human rights") (Donnelly 2003, p. 10). Human rights discourse, moreover, in contrast to that of natural rights, embodies the full range of rights articulated in the UDHR, including not only civil and political rights but also cultural, citizenship, and socioeconomic rights and more (Blau & Moncada 2005). The distinction is thus chronological, substantial, and institutional, and we deploy it contextually using one or more of the three different (but possibly simultaneous) registers of normative ideal, legal doctrine, and institutional reality.

WHY A SOCIOLOGY OF RIGHTS?

Whereas sociology's absence from the study of human rights may have once been relatively unproblematic (as the field has ample international lawyers, legal scholars, philosophers, political theorists), today global, national, and local exigencies now make it morally and intellectually indefensible. Catalyzed by reoccurring genocides, the EU's well-publicized human rights judicial commitments, and an explosion in human rights–oriented nongovernmental organizations (NGOs), secular human rights have now become the lingua franca of global politics (Ignatieff 1999). And not just at the level of high diplomacy; human rights discourse has become "one of the most influential of our time [to which] many poor and oppressed people appeal . . . in their quest for justice" (Freeman 2002, p. 51). The new South African Constitution is seen as an enduring testimony to this (Klare 1997, Seidman 1994; but see Pieterse 2007), just as MacKinnon's (2006) dogged determination to make "women human" has mobilized women globally to challenge the false universalism of human rights; gender violence and rape are now classed as crimes against humanity (Merry 2006a).[6] Schaffer & Smith (2004) cite a stunning array of testimonies of unspeakable violations and emancipatory ideals alike, all increasingly narrated in the aspirational language of human rights.

If these developments were taking place exclusively "somewhere else" (code for outside the United States), the politics of American exceptionalism and the predominantly American-centric social sciences would most likely sigh loudly and continue on their course. But efforts have also focused world attention on U.S. human rights violations. For example, Amnesty International and Human Rights Watch have been relentlessly boring-in on U.S. human rights violations in recent decades (especially in the prison system). More notably, a renewed African American effort to create a human rights movement can be seen in the work of leading intellectuals and activists in response to the 2005 Hurricane Katrina catastrophe in New Orleans. It encompasses not only the limited (American-centric) language of civil rights but also the "conviction that every person in this country is entitled to enjoy certain basic [international] human rights [to food, housing, clothing, health, and freedom from want], as articulated in the Universal Declaration of Human Rights" (Daniels 2007). In these echoes of Malcolm X's famous cry in 1964 for the civil rights community to reorient itself as an international human rights movement, linking Alabama to Africa and beyond (Malcolm X & Haley 1965, Spellman 1964), we hear a wake-up call. Both sociology and law and social science have long sought to understand the positions of minorities and the underclass. To do so today requires breaking free from the professional worries of engaging in a normative project and directing attention to the mobilizing force of human rights. As part of the enterprise of law and social science, we need

[6]See, for example, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, and the Declaration on the Elimination of Violence against Women.

to pick up where intractable political and historical obstacles prompted a turn away from the UDHR 60 years ago.

What Would a Sociology of Rights Entail?

By a sociology of rights we do not refer to a specific disciplinary niche. Rather, we use sociology in broad terms to represent the social and relational conceptual tools necessary to construct a social theory of rights, which "refuses to separate rights from social life as a whole and issues of power in particular" (Woodiwiss 2003, p. 7). Nor is our aim to impose a particular research project; we are not reporting on an existing sociology of rights, after all, but participating in a collective project to create one. One of our aims is to hypothesize the basic elements and broad parameters of an embryonic sociology of rights. Above all, we think that a sociology of rights must be able to transcend and/or negotiate and deconstruct the obstacles that have so long obstructed the project. Thus, social science's resistance to foundationalism and normativity must be addressed; so must the conflict between universality and absolute inclusion (human rights) on the one side, and a world constructed of socially and institutionally bounded entities (citizenship) on the other; so must a solution be found for the hierarchical privileging of civil/political rights over the freedom from want embodied in socioeconomic rights, without which there can be no sociology of rights; and, finally, there is that testy little problem of defining what a right is.

THE UDHR AND THE SPOKES OF OPPOSITION

1948 was a watershed moment in the history of human rights. In response to the barbaric acts of Nazi genocide, the United Nations, to some extent building from the Atlantic Charter of 1941, orchestrated the signing of the first Universal Declaration of Human Rights (UDHR) (UN Gen. Assem. 1948), today recognized as perhaps the "fundamental source of inspiration for international efforts to promote and protect human rights and fundamental freedoms, and . . . the canonical reference for all other human rights instruments" (Blau & Moncada 2005, p. 33). Composed in the shadow of the Holocaust, the UDHR is the manifesto of modern human rights as it debuted the rhetoric of human rather than natural rights. Whereas natural rights philosophy justified itself by God and nature, the Preamble of the UDHR turned simply to humanity as justification enough: "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. . . . " Similarly, Article 1 declares that "[a]ll human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." Article 2 declares the universality of these ontological premises, and Articles 3–12 articulate various aspects of these universal rights in the relatively familiar language of natural rights [Article 3 addresses the right to life, liberty, and security (Blau & Moncada 2005, p. 34)]. Where the UDHR really breaks from the past is in the remaining 18 articles, many of which assert "positive [human] rights." These rights include a right to membership/citizenship in a nation-state (Article 15), rights to protection against racial and cultural discrimination (Article 16, Article 27), social and economic rights (Articles 22–26), and perhaps the most unnatural of traditional rights, rights to a "social and international order in which the rights and freedoms set forth in this Declaration can be fully realized" (Article 28) (UN Gen. Assem. 1948).

Although we now take for granted that this document was signed into life on the heels of the Holocaust, at the time there were serious reservations about organizing the postwar international order around human rights. For one, there was no precedent. From the French Revolution until World War II, only an international treaty to abolish the slave trade in 1890 and the establishment of the International Labor

Organization (ILO) in 1919 disturbed the otherwise perfect international silence on the subject of human rights (Donnelly 1989, p. 210; Freeman 2002, pp. 31–33; Thornberry 1991, pp. 38–54). The completion of the UDHR is also remarkable given the philosophical struggles over how to justify universal human rights (especially socioeconomic rights) (Glendon 2001; Morsink 1999; Waltz 2001, 2002, 2004). In the end, pragmatism won out over any attempts to agree on a single foundation for human rights: The signatories accepted that human rights "travel better if separated from some of its underlying justifications" (Taylor 1999, cited in Bauer & Bell 1999). One aspect of the pragmatic resolution concerned the instruments of enforcement. John Humphrey, the Canadian lawyer charged with the task of drawing up the original draft of the UDHR, reflected at the outset that agreeing upon a set of principles—no matter how contradictory—would be relatively easy compared with seeing them actually implemented (Humphrey 1984). In what must be one of the great compromises of history, the drafters sidestepped issues of enforcement by deciding the declaration would not be a legally binding document. Although this approach may appear incapacitating, the declaration's signatories were able to reach consensus on issues that probably would never even have been put on the agenda, let alone incorporated into the final document, were the Declaration drafted as a legally binding instrument (see Lauren 1998). In short, given the potential inroads the UDHR made on national sovereignty, it is not surprising that it—along with the Atlantic Charter, the United Nations Charter, the Genocide Convention, and the UDHR Covenant[7]—prompted not only cautions but also even opposition and resistance, and perhaps even the opportunistic decision to make the UDHR a toothless document. As the next 50 years of neglect and resistance show, this initial consensus came at the expense of implementation.

While the diplomatic struggles that took place in the public arena of the United Nations are relatively well known, the intellectual ones that took shape on the periphery have never been collectively explored. Against the universality of human rights were arrayed a number of critical epistemologies, each expressed by different skeptical collectivities. It seems curious that each spoke of resistance appears already to be accommodated by one of the UDHR's articles on racial and cultural discrimination, nationality, socioeconomic rights, and so on. Our view is that the critics understood that all these positive and institutionally dependent rights were stacked incompatibly upon a gossamer, nonbinding, philosophical foundation that they viewed to be as flimsy and specious as had been the Rights of Man during World War II.

American Exceptionalism/ American Racism

The United States, and Eleanor Roosevelt in particular, is often credited with endowing legitimacy and heft to the UDHR (Borgwardt 2005, Glendon 2001; but for the contributions of smaller states, see Waltz 2001, 2002, 2004). In fact, no source of hindrance to the international success of human rights would prove so intractable and so influential as American exceptionalism. Multiple factors motivated, but none had the force of America's unique history of chattel slavery and its aftermath of legal apartheid. From first talk of a human rights declaration in 1945, the United States was determined to deflect attention away from its own legally sanctioned system of apartheid—a system that included the government's passive acceptance of free-ranging terrorism exercised against black Americans in the segregated South, as well as its active support for the informal rules of Northern institutional

[7]The proposed Covenant to the UDHR later became two covenants: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), adopted by the General Assembly in 1965 and ratified in 1975. Here, we refer to it in the singular.

racism.[8] To be sure, the United States did become a signatory to the Declaration, but not before wringing out enough critical concessions to protect its caste system against international exposure, an inevitability should human rights law successfully be extended past its sovereign shores. Their success in defanging international agreements first manifested itself well before the UDHR, when in 1945 the U.S. State Department forced a domestic jurisdiction clause into the UN Charter: "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state" (Anderson 2003, pp. 48–50). With this escape clause, which remains in place today, the State Department effectively nullified future threats to U.S. state sovereignty from foreign dogmas. By 1947–1948, the ascent of Cold War politics further exacerbated American resistance to exposing its own racial discrimination to the criteria of universalistic international human rights. Soviet reproach of Southern lynchings and Jim Crow laws served to harden the State Department and Eleanor Roosevelt's hostility toward the inclusion of an article on racial discrimination (Anderson 2003, p. 132). The Soviets, as part of their ideological attack on U.S. capitalism, deployed a robust conception of human rights (including socioeconomic rights and prohibitions against racial discrimination) to lay bare the hypocrisy of America's insistence that the communist countries were the true abusers of human rights. As the United States in turn hastened to make alliances against the Soviets with a host of racist partners, including South Africa and Rhodesia (Anderson 2003), they skillfully linked any advocacy for black legal equality to Soviet propaganda. As early as 1947, even Eleanor Roosevelt's original commitment to break the barriers of racial exclusion dissolved in the face of anticommunism.

Over the same period, African American political organizations moved in tandem with the U.S. government's political behavior, ever prodding the State Department and the United Nations to take up their cause of inserting a clear condemnation of racial discrimination into the human rights documents. Even before the creation of the United Nations—in part thanks to Franklin Roosevelt's famous Four Freedoms speech (1941), which specifically addressed the right to freedom from want as part of human rights for all (see Borgwardt 2005)—African American leaders grasped the potential of human rights discourse to be a universally inclusive, higher law that would provide an opportunity to leapfrog over the legal authority of domestic institutions. At the 1945 UN Conference on International Organization (UNCIO) in San Francisco, which concluded with the signing of the UN Charter, W.E.B. DuBois and the NAACP seized the opportunity to take part in global reorganization and institution-building with the hope of attaining racial equality at home. Although granted consultative status, the NAACP suffered harshly from being unable to prevent the domestic jurisdiction clause (see above) from being inserted into the Charter, an initial defeat that would repeat itself many times over the next decade. Their defeat was not, however, entirely obvious at first, and the NAACP still had reason to believe they could turn to Eleanor Roosevelt (who sat on its board) as a stalwart ally in their struggle for recognition of African American human rights. Thus, when she came to chair the UN Commission charged with drafting the UDHR, the NAACP attempted to submit its 1947 report, *An Appeal to the World: A Statement on the Denial of Human Rights to Minorities in the Case of Citizens of Negro Descent in the United States of America and an Appeal to the United Nations for Redress*. Their path was immediately blocked by the State Department, and black activists discovered once again that their allies prioritized Cold War prerogatives, Southern political power, and domestic politics (see Dudziak 2000). "Appealing to the world" was clearly unacceptable, and so too was the "anti-American

[8] Whatever interest the State Department may have had in supporting human rights was severely limited by the influence of Southern Democrats, who controlled the Senate (but see Dudziak 2000).

propaganda" the petition would allegedly supply to the Soviet Union. Even Roosevelt made it clear that the NAACP's human rights strategy had crossed the line when she tried to resign from the board of directors. The price the NAACP paid to keep her from actually resigning was their agreement no longer to expose the United States to embarrassment by using the international forum on human rights as a political tool for racial equality.[9]

As the Cold War heated up and turned toward McCarthyism, and as concern for human rights was increasingly used as evidence of one's communist sympathy, the act of taking up the moral cause against racism threatened potential ruin and imprisonment (see Anderson 2003, Lauren 1998). Caught in a vortex of geopolitics, a rising climate of red baiting, and Southern political power, the NAACP buried its international and domestic human rights aspirations, and the short-lived story of what later became the civil rights movement's struggle to become a human rights movement disappeared from history.

Anthropology and Cultural Relativism

In 1947, UNESCO sought out Melville Herskovits, a prominent representative of the American Anthropological Association (AAA), to solicit his endorsement of an early draft of the UDHR, which was then called, in a direct echo of Enlightenment natural rights theory, a "Declaration on the Rights of Man" (Goodale 2006a). Interpreted later as a source of some "shame and embarrassment" (Engle 2001; but see also Merry 2003), the executive board of the AAA refused to endorse the draft. Sensitized to the perilous history of Western cultural imperialism, the anthropologists read it as "a statement of rights conceived only in terms of the values prevalent in the countries of Western Europe and America," and denied that the "proposed Declaration [was] applicable to all human beings" (AAA 1947, p. 539). The problem was not that the draft acknowledged no cultural differences between what we today call "the West and the Rest." It did recognize differences, and this was precisely the problem: It was deafeningly silent on how Western powers had converted those differences into ascribed cultural inferiority and primitive mentalities, which they in turn used as a summons to action to colonize at will under the banner of the white man's burden. And these Western imperial projects throughout the world caused widespread "demoralization of human personality," the "disintegration of human rights," and the "extermination of whole populations . . . over whom hegemony had been established" (AAA 1947, pp. 540–41). The AAA's defense of cultural pluralism was not a critique of human rights per se—after all, the anthropologists too spoke of the disintegration of human rights—but of the false claims to universality inherent in Western normative and legal definitions of those rights (p. 541).

Arendt: Political Citizenship versus Human Rights

If the anthropologists challenged the UDHR from a cultural perspective, Hannah Arendt (1949; see also Arendt 1979 [1951]) threw down the political gauntlet just a few months after it was adopted. Her critique exposed the inherent powerlessness of human rights discourse in the absence of individual citizenship. Herself stateless for 15 years after escaping Hitler's Germany and a French internment camp, Arendt wrote "The Decline of the Nation-State and the End of the Rights of Man" even as the United Nations was in the throes of establishing human rights doctrine as the means to prevent future genocides (Arendt 1979 [1951]). Dismissing the idea that an international human rights declaration could have prevented the Holocaust, Arendt emphatically blamed the fecklessness of "The Rights of Man" for its utter impotence in, indeed its irrelevance to, stopping the tragedy

[9]John Humphrey (1983), who penned the initial draft of the UDHR, would later refer to the Commission on Human Rights's protocol for receiving petitions and human rights complaints (yet not acting on them) "the most elaborate waste paper basket ever invented" (p. 403).

of the Nazis first stripping millions of German and Central European Jews of their citizenship, and then rounding them up as unprotected stateless people and sending them to death and slavery—with their natural rights fully intact. In her stinging reflections on the supposed sacred nature of natural rights, Arendt states dryly that "the world found nothing sacred" in bare humanity. Here is the republican foundation of rightlessness: "[A] man who is nothing but a man has lost the very qualities which make it possible for other people to treat him as a fellow man" (Arendt 1979 [1951], p. 300).

Standing natural rights discourse on its head, Arendt suggests that rights emerge not from humanity, but through inclusion in a political community—"a place in the world which makes opinions significant and actions effective" (p. 296). When one is expelled from the polity, she is expelled from humanity; and thus without citizenship rights there can be no realization of human rights (pp. 299–300). Shorn of political membership, a person becomes what Arendt calls "nothing but human" and the Italian political philosopher Giorgio Agamben (1998) calls "homo sacer," the condition of "bare life," in which a person is legally and politically dead while biologically still alive. Arendt describes statelessness as losing "the right to have rights," a phrase she coins to assert that human rights are specious delusions without first having the right to recognition, which requires membership in a political community. Only the political and legal powers entailed in the inviolable right of citizenship allow even the possibility of exercising the second set of rights, which we might well name as human or any other basic civil-juridical rights (see also Arendt 1949; Balibar 2004a, 2007; Benhabib 2004; Menke 2007; Somers 2006, 2008).

Sociology: The Right to Social Equality through Social Inclusion

Only months after the UDHR was signed, the British sociologist T.H. Marshall gave a series of lectures, published in 1950 under the title *Citizenship and Social Class* (Marshall & Bottomore 1992 [1950]), in which he outlined the historical emergence of citizenship rights—civil, political, and social. A public intellectual who later became director of UNESCO's Social Sciences Department, Marshall had experienced the war and knew all too well about the abuse of human rights. Independently of Arendt, he, too, attaches rights of recognition to citizenship and its institutions, but he begins from the argument that because modern capitalism needed to build upon an infrastructure of property (civil) rights, the causal arrow goes from the institutions of citizenship to the kinds of rights represented by the UDHR.

By framing citizenship formation as an enduring conflict of warring principles between class inequality and inclusive social equality, Marshall denies the possibility of inherent rights. As a sociologist, Marshall defined rights-bearers as social beings who live not only under the threat of abuse of state power, but under equally fearsome market forces. For the vast majority, exposure to unmediated markets creates a level of social inequality that amounts to more than mere poverty; it leads to exclusion from civil society. In addition to legal and political membership as per Arendt, then, Marshall understood that, absent social inclusion, even the state-based rights conveyed by law would become meaningless. Meaningful political rights depend upon social rights, which Marshall defines not in terms of income transfers or welfare assistance, but as "the right to share to the full in the social heritage and to live the life of a civilized being according to the standards prevailing in the society . . . which in turn means a claim to be accepted as full members of the society, that is, as citizens" (Marshall 1992 [1950], pp. 6, 8). Marshall here recognizes social exclusion as an ontological violation. Without the institutions of social citizenship, social inequalities will outpace formal legal equalities. Without relative equality, large swaths of humanity are deprived of the right to recognition and cannot live the lives of civilized beings. If full citizenship requires not just political but also social inclusion, then the right to livelihood is constitutive of that primary right to membership.

Absent political and social inclusion, victims of inequality will suffer the social exclusion of nonrecognition (Somers 2006, 2008).

Social Sciences and Rights

These counter-movements to human rights destabilize the self-evident inevitability of responding to the Holocaust through the UDHR. And while it certainly jars that anthropology, political theory, and sociology all turned their backs on what is now recognized by many as one of the greatest achievements of the twentieth century, it really should not be surprising: The conflict between natural rights and the social sciences comes with a long pedigree. Although it was not until the postwar era that social science took on the modern mantle of scientism, from its positivist inception nothing provided more bait for social science ridicule than an ontology that justified itself as natural and God-given and that located its origins outside of society in a place called the state of nature. To be sure, anthropology's cultural relativism can be traced to nineteenth-century German romanticism; its rejection of the Enlightenment's claim to a universal standard of reason and morality in the name of culture set the stage for the AAA's rebuff to the UDHR in 1947. But in its early twentieth-century Boazian incarnation, cultural relativism quickly morphed into the science of culture.

Disdain for natural rights can also be traced to the cultural-historicism of Edmund Burke who, in response to the American and French Revolutions, railed against the abstraction of putative natural rights of man: "I've never met *Man*," he thundered, "only English, French, Italian men" (cited in Arendt 1979 [1951], p. 299).[10] The conservative Joseph de Maistre similarly claimed, "I have met in my life French, Italians, Russians, etc.; I even know, thanks to Montesquieu, that one can be Persian; but nowhere have I met in my life the *man*; if he does exist, this is without my knowing" (de Maistre 1988 [1797], p. 87, cited in Cassese 1999). It is, however, only with Jeremy Bentham's deviously nimble rhetoric that the positivist antipathy to natural rights is fully expressed. His quip that natural rights are "nonsense on stilts" is well known. Less familiar are the fulminations with which he continues, and by which he marks the distinction that to this day divides social science and legal positivism from philosophy and legal theory:

> Right, the substantive right, is the child of law: from real laws come real rights; but from imaginary laws, from laws of nature, fancied and invented by poets, rhetoricians, and dealers in moral and intellectual poisons, come imaginary rights, a bastard brood of monsters, 'gorgons and chimaeras dire.' And thus it is that from legal rights, the offspring of law, and friends of peace, come antilegal rights, the mortal enemies of law, the subverters of government, and the assassins of security (Bentham 1843, lns. 731–36).

As the progenitor of modern legal positivism (Hart 1997 [1961], Constable 2005), Bentham's epistemic prejudices influenced Marx, Durkheim, and Weber, who dismissed natural rights as either illusory, normative, individualistic, unscientific, and/or epiphenomenal. Durkheim and Weber, in particular, repressed their personally strong political commitments to liberalism in their methodological rejection of natural rights as an appropriate subject of investigation. Arguably, however, it was Karl Marx who left us with the most enduring multifaceted sociological critique of rights. For Marx, rights are but specious legalisms that operate as pure rhetoric on the surface of social life; what really matters are relations of production. Moreover, anticipating modern feminist and race theory, Marx argues that the rights-bearing man of reason and individuality exhibits a specious and false universalism. For Marx, "man" is no more than bourgeois and egoistic man and a particular product

[10] Burke by no means rejected rights altogether. On the contrary, he took up the cause of laissez-faire bolstered by the conservative Blackstonian reading of rights as property.

of capitalist society. And finally, himself a would-be scientist, Marx rejects the "gray mist" of the "state of nature" where the ethereally laden Rights of Man reside, in favor of that which is empirically real (Marx 1978).[11] Just as the founders' spirited engagements with law and jurisprudence have been lost to much of social theory (Scheppele 1994, 2002), rights as an object of social science study also got buried beneath a disgraced naturalism and moralization. And as academic fashion follows history, after anthropology's brief intervention in rejecting the UDHR, human rights all but disappeared from most social science disciplines.

THE RISE AND FALL OF THE CIVIL RIGHTS ERA: 1950–1989

Civil Rights and American Exceptionalism

With the sharp demise of human rights discourse among black organizations in the very early 1950s, a strong civil rights orientation soon became the foundation of the domestic struggle for racial equality. Despite a remarkable legal victory in the 1954 *Brown v. Board of Education* decision, social and political opposition to integration continued to thrive on the basis of Southern states' rights—the dark side of democratic federalism. Escalating Southern violence and racial terror in support of entrenched apartheid only served to galvanize a determined civil rights movement. By combining the moral strength and demonstrative support of Southern blacks, Northern white activists, and national leaders, the movement quickly became a large-scale phenomenon with the limited aim of achieving civil and political equality. The triumphs of the 1964 Civil Rights Act and the 1965 Voting Rights Act and the birth of affirmative action policies made the civil rights movement the model template for future law and social change discourse.

By the end of the 1960s, the King and Kennedy assassinations, the urban riots and the burning of Northern cities, and the rise of black separatism conspired to debilitate and essentially evacuate the civil rights movement. Through the 1970s, there developed increasing awareness of the enduring structural barriers that prevented the new civil rights laws from delivering the substantive social equality that civil rights activists had hoped for. Many began to question relying on a legal and political system that was beholden to entrenched exclusionary cultural precepts (see Smith 1997). Concentrated urban poverty, de facto discrimination, police brutality, and the failure of the Civil Rights and Voting Rights Acts to mitigate unequal economic opportunities were all terrible evidence that the color line in the United States was as deep as ever (Lempert & Sanders 1986, chapter 11). The 1978 *Bakke* decision—ruling against affirmative action quotas—came to represent the beginning of a long assault against continuing equal rights and the retrenchment of many of the gains of the civil rights movement (Bell 1993; also see Karst 2004). Its subsequent demise notwithstanding, the decade of success (mid-1950s to mid-1960s) inspired social scientists to use the civil rights movement as the prism through which to engage what became known as the rights debates (a parallel series of debates took place in philosophy, legal, and political theory during this period; see the **Supplemental Reading List** for a sampling). Over the next 30 years, the central question in these debates revolved around whether rights and law were an effective means for achieving substantive social change (Lempert & Sanders 1986).

Supplemental Material

Whereas the civil rights movement prompted law and social science scholars to engage the significance of civil rights, the groundbreaking East European and Soviet revolutionary movements two decades later that culminated in what is now known simply as the 1989 Fall of the Wall reserved no similar place for human rights on American soil. To be

[11] For excellent discussions of Marx's, Weber's, and Durkheim's approach to the sociological study of rights, see texts listed in the **Supplemental Reading List**.

sure, the earlier Helsinki Accords of the mid-1970s made human rights a focal point of the international public sphere, especially during the presidency of Jimmy Carter (1977–1981). Helsinki suggested that despite decades of empty promises and Security Council vetoes, publicity surrounding human rights violations primarily in the communist world possessed a rhetorical power that transnational and samizdat social movement actors grasped to such effect that they helped seal the fate of the Cold War (Thomas 2001). This was a human rights discourse, however, that did not threaten to cross the Atlantic into U.S. consciousness.

The importance of human rights was not completely lost on American politicians and activists. Organizations such as Amnesty International and Human Rights Watch (formerly the U.S. Helsinki Watch Committee), as well as the Carter and Reagan Administrations, were all actively involved in the politics of human rights in the 1970s and 1980s (Dezalay & Garth 2006). For each of these participants, though, it was a given that human rights represented a foreign policy concern rather than a resource for American citizens at home. Although this story of American human rights exceptionalism is by now very familiar (Goldsmith & Posner 2005, Henkin 1995, Ignatieff 2005, Koh 2003, Sunstein 2004), the similar track that scholarship has run is an important aspect of the present genealogy.

Part of this story is that in the 1970s and 1980s a new "area studies" approach to human rights began to fill the vacuum left by the no-show social sciences. It was a field of scholarship, however, that mostly mirrored America's foreign policy orientation to human rights. The first several issues of the journal *Universal Human Rights* (which in 1981 became the flagship *Human Rights Quarterly*), for instance, contained separate articles concerning human rights in West Germany, the Islamic world, Third World countries, Nigeria, Cyprus, Japan, Brazil, Malaysia, Communist Europe, Nicaragua, and the Soviet Union. The only references to human rights concerns in America were in a symposium on U.S. foreign policy (see *Universal Human Rights*, Vol. 1, Nos. 1–4, 1979). The global public sphere changed dramatically with respect to human rights in the years preceding the fall of the Berlin Wall; America's indifference toward internal human rights issues, however, continued to stand strong.

Debate on (Civil) Rights and Social Change

Both the early successes and later failures of the civil rights movement launched a scholarly discussion of the centrality of civil rights and a heated debate over the effectiveness of the law and (civil) rights to achieve meaningful social change. Scheingold's (2005 [1974]) canonical text set the terms of the debate as it captured both the power and failings of rights practices. He invokes the "myth of rights" as a pervasive yet naive belief in the power of rights to achieve social reform in an apolitical, formalistic legal setting. Scheingold argues that political struggle generally follows controversial judicial decisions, rather than embodying real social change. Rights are just another resource in the continuing struggle, and litigation is only one potential avenue to social change. Scheingold's empirical and theoretical contributions were capacious and became resources for all sides of the rights debate. Galanter (1974) demystified any assumed positive effects of rights, demonstrating that the "have nots" have less access to and are less likely to rely on rights, and they are less successful (than the "haves") when they do. Critical Legal Studies (CLS) augmented the "myth of rights" critique by exposing the more pernicious indeterminancy of rights and the legal system more generally (Tushnet 1984), especially their deradicalizing effect on labor law (Klare 1978), social policy, and the discourses of equality and liberty (Abraham 1996; see also Brown 2002, Kennedy 1981, Unger 1986). Yet while CLS's central goal was to force transformations in the "existing system of social hierarchy including its class, racial and gender dimensions . . ." (D Kennedy 2002, p. 178), it never addressed human rights (although

CLS scholars are not social scientists, we include CLS for its wide influence beyond legal theory).

Another new movement, communitarianism, saw the power of rights as all too real. In contrast to CLS, which strove to expose the myth of rights, communitarians decried the culture of rights for its excessive fixation on individualism and the privileging of rights over mutual obligations because "rights when claimed and recognized create conflict and adversarial relations . . . where there otherwise would be community and shared interests" (Minow 1987, p. 1870). And not only did an excess of rights claims stifle social solidarity and civility, but communitarians also argued that it actually reduced people's ability to effectively claim rights that were worthy of being asserted (Bellah et al. 1985; Etzioni 1996; Glendon 1992; MacIntyre 1981; Sandel 1984, 1998; Taylor 1989). Glendon (1992), in particular, advocated the primacy of responsibility rather than rights in what we owe each other as members of a common society. She thus defended a duty-oriented communitarianism against the excess of rights talk. She spoke for a broad swath of conservative commentators in her worry that too many entitlements make people parasitic and dependent on the state. Arguably, conservative communitarianism contributed mightily to the development of the "personal responsibility crusade" (Hacker 2006) against the perversity of the rights-driven, despised culture of dependency and the 1996 welfare reform bill (Gilens 1999, Somers & Block 2005; for counter-critiques of this position, see Minow 1987; Somers 2008, chapter 6; Walker 1998).

Not all scholars and commentators saw rights as insubstantial or iniquitous. Williams (1991) draws on her African American personal narrative to vigorously defend rights as essential to inclusive conceptions of privacy and property: "For the historically disempowered, the conferring of rights is symbolic of all the denied aspects of their humanity: rights imply a respect that places one in the referential range of self and others, that elevated one's status from human body to social being" (Williams 1991, p. 153). For Williams and other critical race theory scholars (see generally Crenshaw et al. 1995), rights are markers of citizenship and recognition by others and thus hold out the potential to facilitate change from social exclusion to inclusion (see also Fraser & Honneth 2003, Somers 2008, Taylor & Gutmann 1992). Martha Minow (1987) also inaugurated an influential defense of rights, one that she directed against the rights critics of the CLS left, the communitarian middle, and the conservative right. Questioning the critique of rights "just when they have become available to people who had previously lacked access to them," Minow argues that "rights can be understood as a kind of communal discourse that reconfirms the difficult commitment to live together even while engaging in conflicts and struggles" (pp. 1910–11).

The civil rights movement also had an enormous impact on sociology and political science, and civil rights–oriented social movement studies became firmly entrenched at the center of the discipline for decades—for example, studies of insurgency groups (McAdam 1982), of civil rights (Andrews 1997; Goodwin & Pfaff 2001; McAdam 1982, 1996; Morris 1984; Polletta 2000), and of labor rights (Amenta & Zylan 1991, Griffin et al. 1986, Kimeldorf 1988, Tomlins 1985). Paradoxically, perhaps, it would still be hard to identify the literature of the 1970s and 1980s with a sociology of rights as such, for although rights enter into social movement research on goals, resources, and frames of mobilization, they were rarely treated as objects of analysis in their own right (for an important exception, see Pedriana & Stryker 1997 on civil rights discourse).

Socioeconomic Rights and Welfare State Studies

The focus on poverty as a domestic issue in the United States in the 1960s (Harrington 1962) incited the first serious domestic interest in social and economic problems since the UDHR. The rapid rise and fall of the subsequent War on Poverty in the United States soon gave way in

the late 1960s and 1970s to debate over theories of the state among left-oriented social scientists: What balance between accumulation and legitimation did successful capitalist states have to manage to survive (Block 1987, Bowles & Gintis 1963, O'Connor 1973)? In addition to democratic proceduralism, welfare rights and policies were seen as mechanisms to legitimize and soften the impact of unmediated capitalism (Habermas 1975, Offe 1984, Wolfe 1979). Under the rubric of Marshall's social citizenship, social scientists produced extensive comparative work on the relative social generosity of different nation-states (Esping-Andersen 1990, Korpi 1989, Orloff 2005, Rueschemeyer et al. 1992, Smeeding et al. 2001).

This era of welfare state studies, however, should not be mistaken for the resurfacing of a sociology of citizenship *tout court*. Nor should it be confused with meaningful attentions to rights as such. Startling as it may be in our contemporary nostalgia for the comparative generosity of New Deal and Great Society policies, in this pre-Reagan era social scientists often viewed welfare less as positive protection against the untrammeled market and more as an instrument of social control (Piven & Cloward 1993 [1972]). Only when the full impact of neoliberalism took hold in the late 1980s did this first generation of welfare state scholars turn to an embrace of social citizenship and join it to a wider concern over the entire spectrum of diminishing citizenship rights (Block 1996, Block et al. 1987, Piven & Cloward 1982).

Without knowing it, however, this episode in the genealogy of socioeconomic rights reproduced much of the development of the post-UDHR narrative. Just as these welfare state studies limited their work on rights exclusively to social citizenship, so too on the world stage did the privileged status of first generation civil and political rights eventually lead to a complete split of "negative . . . freedom from" rights from the demeaned "positive . . . freedom from want" socioeconomic rights. The split was formally realized in 1976 when two separate (and unequal) covenants came into force—the privileged and U.S.-supported International Covenant on Civil and Political Rights (ICCPR), and the U.S.-reviled International Covenant on Economic, Social and Cultural Rights (ICESCR) (Blau & Moncada 2005).[12]

THE REDISCOVERY OF DEMOCRACY AND THE TRIUMPH OF NEOLIBERALISM: 1989 AND THE POST-9/11 WORLD

American Exceptionalism Today

Although human rights discourse has proliferated at an astonishing pace over the past two decades, the U.S. government's dogged rejection of human rights in the domestic context persists today. It carries out a strict practice of compartmentalization, which reserves human rights concerns for other places. A well-known example of this simultaneous foreign embrace and domestic disregard is the State Department's annual reports on human rights. Respected sources of information about human rights practices around the world, they contain one notable absence: the United States. Recent Supreme Court cases have resulted in strident criticisms against even referencing international human rights law in decisions (e.g., *Lawrence v. Texas* 2003, *Roper v. Simmons* 2005). Clearly, "the US Supreme Court has not found the positive citation of foreign cases or foreign models particularly enticing" (Scheppele 2003, p. 313).

The United States's failure to ratify important international human rights treaties is also well known (Blau & Moncada 2005, Henkin 1995). Of the nine international human rights treaties deemed core by the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United States has

[12] American exceptionalism was already alive and well when Eleanor Roosevelt argued that the fundamental differences between the rights in the UDHR "warrant the separation of the present provisions of the Covenant into two covenants." Separate covenants were thus made a condition of U.S. support (see Roosevelt 1995 [1951]).

ratified only three.[13] Moreover, just because it ratified a treaty does not mean the United States has accepted it in full; states may ratify with reservations, essentially amending or nullifying entire parts of the text. The United States ratified the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), for example, with the stipulation that it does not apply to the United States. Similarly, one of the United States's reservations to the ICCPR, which concerned the treaty's ban on the death penalty for anyone below 18 years of age, included the following text: "[T]he United States reserves the right, subject to its Constitutional constraints, to impose capital punishment on any person (other than a pregnant woman) duly convicted under existing or future laws permitting the imposition of capital punishment, including such punishment for crimes committed by persons below eighteen years of age" (Congr. Rec. 1992; but see *Roper v. Simmons* 2005, in which the Supreme Court outlawed the death penalty for crimes that were committed while under 18). This type of exceptionalism (see Steiker 2005) has real effects on the racial disparities in criminal sentencing (U.S. Dep. Justice 2000), on whether youths are subject to the adult criminal justice system (Snyder & Sickmund 2006, p. 238), and on the application of the death penalty (Bonczar & Snell 2004).

Neoliberalism and American exceptionalism. The triumph of capitalism in 1989 bestowed neoliberal policies with a new triumphalism that valorized property rights on the one hand and denigrated socioeconomic rights on the other. International Monetary Fund (IMF) and World Bank loan practices and foreign aid reflected this higher level of commitment to free market ideology and market fundamentalism, and in return for support the developing world was literally compelled toward austerity, structural readjustment, and the end of social safety nets. A historic rise in global poverty and social inequality has followed (McMichael 2007; Sachs 2005, 2008). Moreover, with neoliberalism's increasing global hegemony, the ICESCR has had to fight continuously for recognition, while the ICCPR is especially celebrated in capitalist democracies for its support of individual and property rights (Bell & Coicaud 2007, Hertel & Minkler 2007, Kurasawa 2007, Pogge 2007, Woodiwiss 2005). Market fundamentalism's harmful effects on human well-being have spurred a strong response from researchers and advocacy groups championing the cause of international human rights (Farmer 2005; Pogge 2007; Sachs 2008; Sen 1999, 2004). But while the push for global equality has been presented at the highest levels in human rights terms (e.g., United Nations 2000), the U.S. government has yet to recognize or adopt such a frame for its own social inequality.

American exceptionalism and human rights revived. If U.S. crime rates and incarceration statistics were not enough, most recently Hurricane Katrina has provided evidence of the confluence of the United States's most enduring forms of American exceptionalism: racial exclusion and the rejection of socioeconomic rights (Sunstein 2005; Somers 2008, chapter 2). Perhaps because the government's nonresponse to the Katrina tragedy so clearly inflicted widespread human rights violations on full American citizens, it seems also to have stimulated African American intellectuals and social justice advocates to revive long-repressed struggles over internationally recognized human rights and to adopt a new language of human rights to address this

[13] The United States has ratified the first three of these nine core treaties: the ICCPR; the CERD; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the ICESCR; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities. See **http://www2.ohchr.org/english/law** for the text of these treaties and **http://www.unhchr.ch/tbs/doc.nsf/Statusfrset?OpenFrameSet** for which country is signatory to which treaty.

ongoing post–Hurricane Katrina New Orleans narrative of abandonment, poverty, and social exclusion. Clearly, a profound change is in the works when Ron Daniels, president of the Institute of the Black World 21st Century, declares that the guiding principle for the Martin Luther King–Malcolm X Community Revitalization Initiative is the "conviction that every person in this country is entitled to enjoy certain basic human rights, as *articulated in the Universal Declaration of Human Rights*" (Daniels 2007). Daniels mobilized this international human rights vision in a call for Black America to revive the concept of a Domestic Marshall Plan to "reverse the deterioration of the nation's dark ghettos—most immediately, to restore New Orleans' exiled population." Daniels is not abandoning the struggle against "racism, poverty and inequality as dramatically exposed by Katrina." Rather, he is re-narrating these familiar social problems under the unfamiliar (to Americans) rubric of international human rights, and especially with reference to the UDHR, which has until now served almost exclusively as the rallying cry for "elsewhere." The crush of neoliberal social policies appears to have finally prompted the once-dedicated civil rights community to adopt a new American human rights agenda to push back against poverty and socioeconomic inequality.

The Rediscovery of Citizenship and the New Citizenship Studies

To the extent that the normative study of human rights has become a focus of sociological attention, it is through the (unconscious) use of the citizenship concept as an institutional proxy.[14] Forty-five years after its initial appearance (and after being out of print for decades), Marshall's *Citizenship and Social Class* (Marshall & Bottomore 1992 [1950]) not only reappeared but achieved canonical status, bringing with it a virtual explosion of interest in a newly dubbed field of citizenship studies (Beiner 1995; Isin & Turner 2002; Kymlicka & Norman 1995; Shafir 1998; Somers 2008, chapter 4). Citizenship's rediscovery was aided by the reawakening of political theory in the 1960s and 1970s with liberalism's critique of utilitarianism and legal positivism (Dworkin 1978, Rawls 1971), as well as republican, Hegelian, and communitarian critiques of liberalism (Arendt 1979 [1951]; Cohen 1982; Cohen & Arato 1992; MacIntyre 1981; Oldfield 1990; Pocock 1975; Sandel 1984, 1998; Taylor 1989; Walzer 1983, 1988, 2005). The resurgence of republicanism in particular led to a rediscovery of political identities and practices based not on the isolated self but in the context of political membership and citizenship (see especially Walzer 1970, Wolin 1960).

Since nothing focuses the mind as much as a sense of loss, credit is due also to neoliberalism's success in the 1980s and 1990s in waging a "personal responsibility crusade" (Hacker 2006). Its successful attacks on welfare's "perverse incentives" (Mead 1997, Murray 1984, Olasky 1992) led not just the left but also some mainstream thinkers to revalorize social citizenship rights too long taken for granted (Crouch 2001; Crouch et al. 2001; Esping-Andersen et al. 2002; Freedland 2001; Huber & Stephens 2001; Leibfried & Pierson 1995; Pierson 1994, 2001; Procacci 2001; Somers & Block 2005). Renewed attention to citizenship rights can also be attributed to the radical transformation of the federal judiciary over the past quarter century and its role in denying rights that many had thought were firmly established or implied by rights already recognized. In light of the privileged status of the rights of property and a commercially oriented interpretation of freedom of speech, the liberal left began to see the Supreme Court as responsible for a demoralizing assault against many of the civil and political rights that Marshall saw as foundational to

[14] "Given this skepticism toward the idea of human and natural rights in classical sociology, a sociology of citizenship has functioned as a substitute for a sociology of rights. Skeptical and relativist sociologists have felt intellectually more comfortable with the idea of citizenship because it does not appear to raise problems about universal ontology . . . morality or evaluation" (Turner 1993 p. 176).

democratic citizenship rights. Furthermore, the expansion of conservative legal doctrine reliably drowns out or limits the assertion of rights that ordinary citizens were thought to have possessed (Sunstein 2003).[15]

Citizenship and civil society. Arguably, however, it was the Eastern European democratic movements of the 1980s (Solidarity in Poland, Charter 77 in Czechoslovakia, the revolutions of 1989–1991, the fall of the Berlin Wall, and the collapse of the Soviet state) that catalyzed the (re)turn to citizenship studies. The rediscovered civil society concept served as both normative ideal and practical site for democratic rights claims. As a third sphere, not reducible to the ruthless individualism of unregulated capitalism or the tyranny of the communist state, it was a novel political and social terrain, a springboard for rights-claiming popular mobilizations. The civil society concept was also an attempt to define and make available for future rights claimers an empirical explanation for the success of the revolutions that overturned communism and valorized democratic rights throughout the world. Moreover, in this context, far from being oppositional, the concerns within sociology and political science accorded with U.S. policies and foundations' interests. In seeking to understand the demise of communism and the requisites of state building, civil society theorists pointed to the significance of social organization and associational life—both formal (e.g., civic clubs) and informal (underground communities of shared resistance) (Olivo 2001). Civil society, in short, was the heart of a reinvigorated citizenship rights ideal (Alexander 1993, 2006; Beiner 1995; Calhoun 1993; Cohen & Arato 1992; Habermas 1989 [1962]; Janoski 1998; MD Kennedy 1991, 1992, 2002; Putnam 2000; Putnam et al. 1993; Seligman 1992; Somers 1995a,b 1999, 2001; Taylor 1990; Walzer 1995; Wolfe 1989).

Multicultural realities and questions of exclusion. Porous national boundaries and global labor movements of immigrants from poor to rich countries, and from postcolonial societies to metropolises, have made most advanced Western societies multicultural; they are thus subject to citizenship pressures (Balibar 2004b; Benhabib 2002, 2004, 2007; Benhabib et al. 2007; Bosniak 2006; Carens 2002; Hollinger 1995; Joppke & Lukes 1999; Karst 2005; Smith 2003). Long overdue recognition has come to indigenous peoples, national minorities, and the socially excluded who, despite the formal status of citizenship, have long been excluded from most of its rights and privileges (Benhabib 2004; Joppke 1998; Kymlicka 1995, 1997; Kymlicka & Norman 1995; Walzer 2003). Their frequent claims to unfulfilled rights and constitutional obligations are immediately recognizable as the inclusionary claims of citizenship. More contested are the implications of social exclusion. Claims to redistribution have refocused attention on Marshall's arguments regarding the foundational nature of social and economic citizenship rights, now theorized as interdependent and in constant tension with civil and political rights (Fraser & Gordon 1997; Kessler-Harris 2001; Twine 1994; Woodiwiss 1992, 2003, 2005).[16] In recent discussions over Marshall's warring principles—property rights and class inequality versus the egalitarian ideals of full citizenship—social scientists are participating again in the genealogical conflict between the so-called first generation of human rights, civil and political rights, versus the second generation of rights, social and economic rights, that emerged in the wake of the UDHR (King & Waldron 1988, Somers & Block 2005, Twine 1994).

[15] For example, the megamall has in many areas replaced downtowns as centers of retail commerce and public congregation. By interpreting the property rights of mall owners broadly, courts not only effectively limit the freedom of speech of citizens who once spoke in town squares, but also prevent unions from picketing directly in front of businesses they wish to organize.

[16] At the same time, because Marshall's history generated far more skepticism, there has developed a rich new historical sociology of citizenship formation (Habermas 1989, Mann 1986, Orloff 2005, Skocpol 1979, Somers 1994, Tilly 1998).

Citizenship and recognition/identity politics. Living in a multicultural world challenges traditional understandings of the rights and obligations of citizenship (Benhabib 2004, Joppke & Lukes 1999, Kymlicka 1995). Whereas social inclusion has traditionally been a rights claim made under the principle of redistribution, the right to recognition—the right to be acknowledged by others as moral equals—mobilized many excluded groups in the 1980s–1990s (Benhabib 2002, Fraser & Gordon 1997, Fraser & Honneth 2003, Taylor & Gutmann 1992, Taylor 1989). Recognition movements pierced the illusory veil of universality to reveal not Marx's economic foundations but the deep fissures of race, gender, sexuality, and ethnicity that comprise the fault lines of contemporary advanced political cultures. Identity politics thus push the limits of political/juridical citizenship by advocating group rights, diversity rights, environmental rights, and rights of disability, race, gender, and sexual difference (Benhabib 1996, 2002; Fraser 1997; Fraser & Honneth 2003; Isin & Wood 1999; Kymlicka 1995, 1997; Lister 1997; Nussbaum 2000; Okin et al. 1999; Shachar 2001; Siebers 2008; Smith 1997, 2003; Turner 2001; Voet 1998; Young 1990, 2000). Intense attention to recent Supreme Court decisions concerning sexuality and racial diversity demonstrates the challenge these rights claims pose for existing definitions of citizenship. Critics of identity politics (from both the left and the right) are alarmed by difference and identity rights claims, believing they threaten to tear asunder the modern democratic citizenship principles of universality and equality under law. That primordial attachments could trump the primacy of nation-state identity is felt by some to threaten a neonationalism in which "questions of identity eclipse those of citizenship and democracy" (Morley & Robins 1995, p. 186). Others famously have worried that support for multiculturalism entails the "twilight of common dreams" (Gitlin 1995) and the "disuniting of America" (Schlesinger 1992). Feminists with otherwise shared commitments have debated this issue of "redistribution or recognition" (Fraser & Honneth 2003, see also Benhabib 1995, Fraser 1997, Young 2000). The relationship between citizenship and identity, if not an irresolvable conflict, is clearly complex (Fraser & Honneth 2003; Isin 1992, 2000; Isin & Wood 1999; Mouffe 1995; Preuss 1995; Procacci 2001; Rajchman 1995; Trend 1996).

Postnational citizenship. Citizenship studies have been roiled by theories of postnationalism (Bosniak 2006; Cohen 1999; Jacobson 1996; Sassen 1996, 2003; Soysal 1994; Weiler & Wind 2003). Iterations of the idea reflect modern transformational dilemmas. Are there new implications of the legal status of European Union citizenship (Balibar 2004b, Bellamy & Warleigh 2005, Bellamy et al. 2006)? If so, what is the impact on the dual citizenship of the holder who maintains her original national status? Now that European citizenship trumps the laws, rights, and obligations of individual nation-states, what is left of the European system (traceable to the 1648 Treaty of Westphalia) that defined nation-states by their sovereign territorial boundaries and laws? Globalization has also raised postnational citizenship questions, as many believe it has shifted power away from nation-states toward the decentered global marketplace, where business and finance capital operate in a zone outside the reach of any global polity or international political/legal entity (Brysk 2002; Brysk & Shafir 2004; Habermas 1998; Ong 1999, 2006; Sassen 2003, 2006). Turner (1990), for example, writes that "the problem with Marshall's theory is that it is no longer relevant to a period of disorganized capitalism since it assumed nation-state autonomy in which governments were relatively immune from pressures within the world-system of capitalist nations" (p. 195). New literature has thus theorized about "cosmopolitan citizenship" (Benhabib 2006, 2007; Nussbaum & Cohen 1996), a "postnational constellation" (Habermas 1998), and "denationalized" citizenship (Bosniak 2006). (For further discussion, see references in the **Supplemental Reading List**.) In this cornucopia of recent studies,

citizenship's relationship with human rights has rarely made an appearance (see Shafir 2004; Somers 2008, chapter 4; Soysal 1994 for exceptions).

Anthropology Reemerges

Half a century after the AAA declined to endorse the original draft of the UDHR, their anxieties have proved to be both prescient and shortsighted. Their prescience applies primarily to the U.S. government, which has admonished their political antagonists to respect human rights while in practice committing or colluding with some of the worst atrocities of the last half century (Guatemala, Pinochet's Chile, Iraq, etc.), including its current dismissal of the Geneva Convention rules against torture and the attempt to repeal habeas corpus for many foreigners and some U.S. citizens. That all this has been concurrent with unqualified support for the Egyptian, Saudi Arabian, and Pakistani regimes (and their appalling human rights records) reveals a level of hypocrisy that has turned many against the very principles of human rights and so-called humanitarian interventions. Whether the United States has behaved thus in the name of democratization or of stopping genocide, for many critics U.S. actions are often perceived as nothing short of neocolonial, neoliberal forms of global exploitation (e.g., Brown 2004, Kennedy 2004, Zizek 2004). At the same time, the AAA's comparisons of the UDHR with nineteenth- and twentieth-century European colonialism seem shortsighted when one considers the West's woeful record of enforcement of the UDHR and its abject deference to national sovereignty.

All the more striking, then, is the degree to which anthropologists have taken a radical turn and reemerged as major interlocutors and scholarly advocates for global human rights scholarship. Much of the credit for this must go to Richard Wilson (2006), who has not hesitated to chastise his fellow anthropologists for being quick to criticize the instruments of human rights commissions and courts but "slow to provide the kind of guidance necessary to transform the research and investigation procedures of human rights institutions." And although recent anthropological work acknowledges some of the same global/local dilemmas that prompted early anthropologists to dismiss human rights, pioneering scholars such as Merry (2003, 2006a,b) and Cowan et al. (2001), influenced by Geertz (1984), suggest that a more nuanced, dynamic, and complex conception of culture may sidestep the longstanding relativist debates that have pitted culture against human rights. While approaches to human rights that emphasize autonomy, individualism, and bodily integrity are sometimes perceived as incompatible with local cultures, it does not necessarily follow that indigenous peoples will reject a more robust and relational conception of human rights when tailored to the local context. Merry describes a process of "vernacularization," through which cultural translators appropriate global norms and apply them within an appropriate cultural form at the local level (p. 44). As Goodale (2006a,b) suggests, anthropology's well-developed ethnographic approach makes the discipline particularly well suited for examining how rights concepts, discourse, and practice actually operate in their particular environments (also see Starr & Goodale 2002). In some contexts, then, human rights have emerged as local knowledge, and prime among these rights is the right to preserve the indigenous cultures in which local rights reside (Wilson 2006). Local knowledge has also been put to use in the interest of civic repair through truth and reconciliation commissions with the hope of vindicating human rights without the social disruptions that would accompany serious sanctions for violations (Elster 2004, Minow 1998, Wilson 2001).

Constitutional ethnography is a new approach to analyzing legal rights as forms of governance, by exploring constitutional expressions in the political, historical, social, and economic contexts in which they act (Scheppele 2003, 2004). The rationale is to "better understand how constitutional systems operate

by identifying the mechanisms through which governance is accomplished and the strategies through which governance is attempted, experienced, resisted and revised, taken in historical depth and cultural context" (Scheppele 2003, pp. 390–91). Constitutional ethnography represents both a methodological and an empirical commitment to provide "lived details" of a constitutional rights regime (p. 395). (See also Sanders 2004 more generally for related empirical work on constitutions.)

Examining constitutions for the incorporation of ideas and/or doctrine from external sources is an important aspect of this approach. Rather than just analyzing the positive elements that are incorporated into new constitutions, Scheppele (2003) argues, researchers must also consider the negative models that are rejected. She shows that during the Cold War, for example, constitutional law pertaining to civil rights was a way for the United States to distance itself from the Soviet Union with talk of freedom and equal rights (along with the outright rejection of socioeconomic rights). The United States—the preeminent example of a state with little cross-constitutional inspiration—clearly has been "quite massively influenced" by external factors in this negative or "aversive" sense (p. 324).

TOWARD A NEW SOCIOLOGY OF RIGHTS

If history is the force behind law, and, as Scheppele (2002) suggests, law is the rough draft of social theory, it appears that social scientists are finally overcoming their writer's block. Just as the Eastern European revolutions brought new attention to the issues of citizenship and political rights, so too do increasing levels of global poverty, stateless refugees, genocidal civil wars, and human rights abuses justified by the war on terror appear to be reuniting the arc of the human rights story with the plodding linearity of the social sciences. As if waking up from a long sleep, a far-flung assortment of social science scholars are beginning to train their focus on a new human rights agenda. With few exceptions, however, these disparate sociological endeavors operate in isolation. One of our goals in this review is to call attention to these unrelated contributions and bring them together to write a rough draft for what has the potential to become a viable if embryonic sociology of rights.[17]

Following our opening salvo: What must a sociology of rights entail if it is to bring added value to the field? We believe that at minimum it must deliver a self-conscious commitment to challenge, negotiate, and transcend the obstacles, dichotomies, ambiguities, and intractabilities that have so long impeded a sociology of rights project. A sociology of rights must navigate between normative, philosophical foundationalism and empirical, explanatory positivism; between universal, purportedly natural/human rights and the particularistic institutionalism of citizenship, culture, and exclusivity of membership; between the privileging of civil/legal/political rights and the devalued, often demonized socioeconomic rights; and between the confusing polysemic language of (bare) rights and the apparent—yet still unclear—specificity of natural rights, human rights, and citizenship/civil rights.

The Normative versus the Empirical: Legal Consciousness and Postliberal Rights

As discussed above, eighteenth- and nineteenth-century social science rejected natural rights theory (Hunt 1996, 2007; Wasserstrom et al. 2000; Zaret 2000; Zuckert 2000). Recall that from Bentham onward, the social science agenda hitched its identity to the natural sciences, putting it at odds with the philosophical normativity of rights. Some sociological work therefore addresses rights

[17] We would be remiss if we did not single out for honor the indefatigable Judith Blau, whose intellectual and organizational talents have done so much to galvanize a sociology of human rights (Blau & Moncada 2005, 2006, 2007), as well as Burawoy (2004), who has linked his own intellectual capital in public sociology to bring attention to human rights.

through epistemological or methodological lenses that filter out normative and moral features. Tilly (1998) looks at the formation of citizenship rights and argues that they were won through political struggle and bargaining over the means of war and the creation of mass national armies in Europe: "[R]ights exist when one party can effectively insist that another deliver goods, services or protections and third parties will act to reinforce (or at least not to hinder) their delivery" (Tilly 1998, p. 56). While Tilly's insights capture an integral component of the social and political processes surrounding rights formation, his theory of "where rights come from" is based in a framework akin to legal positivism. The same can be said for Coleman's (1990) "exchange model" of rights, which posits that most in-depth analyses of rights have been normative works by moral philosophers that are not amenable to economic-style analyses in which rights are "exchanged, dispersed, bundled and allocated." For Coleman, rights are a type of social exchange outside of the economic system that either restricts or allows action and depends on the weighted interests of actors favoring or opposing the content of the right in question.

New social science writings are unashamedly challenging this disciplinary policing by recognizing that rights are, willy nilly, both normative and empirical (Alexander 2006, Balibar 2004a, Benhabib 2004, Dershowitz 2004, Fraser & Honneth 2003, McCann 1996, Turner 2006). Some rights are of course settled positive law, but they remain no less normative *desiderata*, and these moral qualities have causal powers (Alexander 2006, Somers & Block 2005): "[T]he symbolic manifestations of law, as both a source of moral right and threat of potential outside intervention, invest rights discourse with its most fundamental social power" (McCann 2006, p. 30). Nuanced conceptions of law and rights now focus on the work rights do and the constraints on that work (Kymlicka 1997, Sarat & Kearns 1995, Scheingold 2005 [1974]). Major innovations in socio-legal work on rights consciousness enables epistemic access to how rights work at the level of subjectivity. This demonstrates that rights narratives, myths, ideational regimes, and cultural codes—all of which capture the polysemic normativity of rights discourse—are independent variables no less than the more traditional causal suspects of the economy, the state, class structure, and so on (Ewick & Silbey 1998, McCann 1994). Aspirational rights claims are constitutive and have the potential power to alter institutions, to constitute social actors, and to shape reality itself (Engel & Munger 2003; Ewick & Silbey 1998; McCann 1994, 2006; Merry 1990; Scheingold 2005 [1974]). In their pioneering work, Ewick & Silbey (1998, 2003; Silbey 2005) specifically introduced "legal consciousness" to examine what legality means in the daily lives of Americans—how people use the law, think about the law, interpret the law, conceive of their lives in legally inflected terms, and invoke legal concepts and rights. Merry (1990) asks why legal consciousness induces people to bring their problems to the courts and finds that they link their identities to being rights-bearing members of this society—a society that guarantees the right to protection of property and person. Legal consciousness, in short, is not a psychological state but an outcome of social processes through which meanings and identities are collectively constructed (Merry 1990, p. 247).

In recent years, splinters of social movement scholarship—particularly within socio-legal studies—are focusing on how in liberal democracies the rule of law and its rights apparatus are the critical institutional mechanisms that social movement actors must target to combat social exclusions (McCann 2006). Engel & Munger (2003) explore how, as mutually constitutive, rights claims not only construct identities but also alter them. They challenge the liberal notion that rights and identities are formed prior to political struggles in the public sphere. This postliberal approach treats rights not as empirical entities that are found in presocial nature, but as political and social creations with the causal powers to constitute personhood and identity

(Sarat & Kearns 1995, 1996; see also Calhoun 1992, 1994; Somers & Gibson 1994). Whether the 1960s Civil Rights Acts were consequential for progressive social change continues to be a source of controversy. Thus, Scheingold's multivalent influence appeared again in the influential work of both Rosenberg (1991) and McCann (1992, 1994), whose respective skepticism and optimism about social movements, law, and rights have produced a rich literature of epistemic debate (McCann 1996, 2006; Rosenberg 1996). Social movement studies have also turned to the affective aspects of mobilizing against social, political, or economic exclusions, and these studies have produced work rich with normative potential (e.g., see Goodwin et al. 2001). Most recently, in a remarkably generous tribute to his own critics, Scheingold (2005 [1974]) has also theorized the powers of rights to constitute personal identities and legal consciousness, progressive mobilizations for social change, and (often forgotten) conservative mobilizations to reverse progressive social change (see Sarat & Scheingold 2006).

A new sociological foundationalism? The hallmark of philosophical foundationalism is its a priori quality. A foundation is a stipulation that by definition cannot be shown to be empirically caused or confirmed. The problem of foundationalism is a vexing one for sociology and socio-legal studies. On the one hand, as a political project committed to defeating rationalism and privileging positivism, the social sciences had to openly reject the search for foundations of human nature. Indeed, as the philosophy of the social sciences makes clear, the empirical tradition explicitly rejects attention to ontology *tout court*. Absent positive evidential access to the essence of things, epistemology and method at all times trump metaphysics. The search for foundations may represent the most intractable divide of all between philosophy and the social sciences: As Woodiwiss (2003) puts it, the job of philosophers is to justify human rights, but the job of sociologists is to be able to explain them.

We believe, however, that sociologists must come to terms with the foundational aspects of rights because by now it is self-evident that even the most empiricist statements are based on presuppositional ontological assumptions about the nature of the social world. The virtue of openly addressing the issue of foundations within a social science discourse is that it brings to the surface for inspection and demystification that which inevitably, but covertly, influences theoretical argument.[18] Moreover, as Freeman (2002) argues persuasively, without foundations we do not have a justification for arguing for rights, and without justification we do not have an argument.

In the effort to construct a sociology of rights, Bryan Turner (1993, 2006) is the first sociologist to take on the challenge of what he calls a minimally foundationalist ontology based on four fundamental philosophical assumptions: the vulnerability of human beings as embodied agents, the dependency of humans, the general reciprocity or interconnectedness of social life, and the precariousness of social institutions (Turner 2006, p. 23). Turner begins from the sociological observation that all humans, regardless of culture or nationality, are "biologically frail," making it clear that vulnerability refers not only to our physical capacity for pain but also to the human ability to suffer psychologically, morally, and spiritually (Turner 2006, p. 28). Introducing the sociological trump card, Turner argues that these vulnerabilities, in turn, make social institutions (political, familial, cultural, legal) necessary to provide for collective security. These are the very same institutions, however, that throughout history have demonstrated just how precarious they are, and how they often inflict harm on the very subjects they are intended to protect.

Because social institutions are inherently precarious, socially vulnerable humans need a system of socially driven protective rights

[18]The risk of doing so, of course, is that it makes sociologists vulnerable to energetic criticism based on disciplinary principles.

(Turner 1993, 1995, 2006). Turner merges this with a social constructionism whereby rights, in order to protect vulnerable bodies, "are constructed in a contingent and variable way according to the specific characteristics of the societies in which they are developed and as a particular outcome of political struggles over interest" (Turner 1997, p. 566). These societies, however multiple, share the commonality of suffering inexorable afflictions and uncertainties, which makes for societal patterns of dependency and connectedness, and "in psychological terms, this shared world of risk and uncertainty results in sympathy, empathy, and trust, without which society would not be possible" (Turner 2006, p. 26). His starting point in the universal vulnerability of the body thus not only establishes a human ontology; it also is the basis of moral considerations for empirically accountable social conduct, human relations, and state behavior.[19]

Practice-based approaches as a way of balancing the normative and empirical. Alan Dershowitz (2004) has recently adopted a philosophical social science (or a social scientific philosophy) to argue for a morally driven rights theory based on the necessary interdependence of the normative and empirical, the philosophical and descriptive. Through an engaged dialogue with Durkheim, he firmly rejects the viability of any and all philosophical foundationalism. By contrast, he argues that normative conceptions of rights must be defined by the empirical "experience" of rights violations: "[R]ights come from wrongs.... [They] are those fundamental preferences that experience and history—especially of great injustices—have taught are so essential that the citizenry should be persuaded to entrench them and not make them subject to easy change by shifting majorities" (p. 81). Morris (2006), too, argues that the study of rights has often been caught between a foundationalism that searches for nonempirical, philosophical origins of rights and a strict legal positivist perspective in which rights are merely "entitlements recognized in law." Sociologists should be concerned not with the validity of a particular rights claim, but with the social practices through which claims are fought for and institutionalized (Morris 2006, p. 242; also see Primus 1999). Similarly, Hajjar (2005) views rights as "practices that are required, prohibited, or otherwise regulated within the context of *relations governed by law*," which in turn serve as "referential frame[s] of value and judgment" (p. 207). Goodale & Merry (2007) traverse the globe and report that human rights above all entail variable practice, a Bourdieuian concept Kurasawa (2007) also uses to denote "a pattern of materially and symbolically oriented social action that agents undertake within organized political, cultural and socio-economic fields" (p. 11). Human rights practices exist, he argues, when people struggle against global injustices to construct and enact certain ethico-political social repertoires. Less threatened by disciplinary policing than in the heyday of unreflective positivism, social scientists of all stripes are increasingly adducing an unapologetic normativity, in tandem with their empirical work, to address the exigencies of our time, e.g., immigration, globalization, poverty, and inequality (Benhabib 2001, 2002, 2004; Blau & Moncada 2005, 2006, 2007; Cohen 2004; Habermas 1996; Kurasawa 2007; Pogge 2002, 2007; Sassen 1996, 2006; Sen 2004; Soysal 1994).

Naturalistic Universality versus Institutionalized Membership

Recall the second fault line that splits the universality of human rights from the exclusionary rights of culture and citizenship. Most brilliantly expressed in Arendt's (1979 [1951]) rebuke of liberalism's Rights of Man for its illusory philosophy of natural rights, this conflict is as old as Aristotle and as contemporary as today's global refugees and *sans-papiers*

[19]Malcolm Waters's (1995) traditional realist empirical critique to Turner: Rights are simply positive strategic instruments that states use in struggles for power (Finnemore & Sikkink 2001, Keck & Sikkink 1998, Waltz 1979, Wendt 1999).

(Berezin & Schain 2003, Bodemann & Yurdakul 2006, Bosniak 2006, Brysk & Shafir 2004, Ticktin 2006). Anthropology serves as a role model in its renegotiation of universalism versus cultural relativism; they now recognize that peoples throughout the world have appropriated human rights norms and made them part of their culture, not its antagonist (Cowan et al. 2001, Engle 2001, Goodale & Merry 2007, Merry 2003, Wilson 2006; also see the debate between Donnelly 2007, 2008 and Goodhart 2008).

The question of the nation-state. Much of what we see as coalescing under a new sociology of rights project is linked to the now-familiar proposition that the nation-state can no longer serve as the presumptive unit of analysis (e.g., Benhabib 2001, 2004; Levy & Sznaider 2006; Sassen 1996, 2003; Soysal 1994; Wallerstein 1974, 2004) and that a kind of postnational citizenship is emerging. Soysal's (1994) path-breaking work analyzes how the rights of universal personhood sourced to an international regime penetrated the exclusionary boundaries of the nation-state, where they were appropriated to advantage by resident denizens (Hammar 1990). Others have followed Soysal's destabilizing of the universality/membership dichotomy by elaborating, modifying, challenging, and engaging her theorization of the postnational (Bosniak 2006, Brysk & Shafir 2004, Cohen 2004, Hajjar 2005, Jacobson 1996). Postnational scholarship works with the inevitable uncertainties that are generated by globally driven empirical evidence. Under these conditions, customary categories (e.g., citizenship, the nation-state, culture, and rights) take on new meanings and relationships (Benhabib 2007; Sassen 1996, 1998, 2006; but see Kymlicka 2001).[20]

Mutability of boundaries. World society scholars have long blurred the boundaries between global and nation-state-based structures and practices (Boli 1987, Meyer et al. 1997, Ramirez et al. 1997, Strang 1991). They demonstrate how global models and norms (rights, legal norms, social structures) diffuse throughout world society. Over time they develop transnational legitimacy, which in turn influences nation-states, and domestic policies start to conform to these global norms (Hafner-Burton & Tsutsui 2005, p. 1382). Why states join international human rights agreements without a current substantial belief in the treaties' principles (see Hafner-Burton et al. 2008, Hathaway 2002, Simmons 2000, Tsutsui & Wotipka 2008) becomes clearer from this perspective, but large-scale global diffusion studies sometimes have difficulty explaining the precise mechanism(s) that bring about change (Finnemore & Sikkink 2001, p. 395).

Nonstate organizations wield enormous power. New social science studies of rights foreground the power wielded by nonstate-level organizational and institutional structures (Benhabib 2007, Brysk & Shafir 2004, Sjoberg et al. 2001). The WTO, World Bank, IMF, United Nations, transnational corporations, and multiple NGOs all participate in negotiating and administrating human rights. Highlighting how these ameliorate or exacerbate human suffering, Pogge (2002) asserts that human rights claims should first be directed against coercive institutions and only thereafter against individuals. Sjoberg et al. (2001) also seek to establish a human rights framework that addresses nonstate "organized social power."

Local/global differences. Woodiwiss (2003) uses a global lens to ask how human rights can be embedded "within the social structures of nonliberalistic societies" (p. 15). Imposing universal human rights frameworks at the expense

[20] Postnational citizenship has long dominated the world of global corporations. Because corporations are legally artificial persons, they are parasitic on the rights claims of actual citizens. Furthermore, because (unlike people) corporations can be present simultaneously in many locales, it has been relatively easy for them to claim many allegiances and the rights pertaining to them (see, e.g., Sassen 1996).

of local non-Western cultures is unacceptable. Geertz (1983) provides a model for translating nonuniversal (legal) categories from one site to radically different ones. Goodale & Merry (2007) and their collaborators explore how organizations mobilize human rights language in numerous local settings. Finding practices that resemble in only ambiguous ways formal human rights law, they radically decenter international law and treat rights as "one among several consequential transnational discourses." Social practices that vary by cultural, ethical, and legal systems inevitably become "constitutive of the idea of human rights itself"—with "far-reaching implications" for how human rights scholarship mediates between global discourses and local situations (Goodale & Merry 2007, pp. 8–9; also see Kurasawa 2007, Weinstock 2007, Wilson & Mitchell 2003).

Social Inclusion/Exclusion: Civil/Political versus Socioeconomic Rights

Work on global poverty has swelled the new sociology of human rights and led to a body of work that is avowedly action-oriented (Bell & Coicaud 2007; Farmer 2005; Nickel 2005; Pogge 2002, 2007; Sachs 2005). Prioritizing social exclusion retriggers the mid-century debate over the relative status of socioeconomic rights and once again confronts criticism from those who privilege only the justiciable (i.e., actionable) core civil rights, such as those prohibiting genocide and torture, the right to habeas corpus, bodily integrity, and freedom of expression over socioeconomic rights, which must wait their turn (An-Na'im 2001; Morris 1994; Sjoberg et al. 2001; Turner 2006; Woodiwiss 1992, 2003). Mary Robinson, former UN High Commissioner for Human Rights, insists that the human rights regime risks losing its legitimacy unless social and economic rights are given the urgency they deserve (Robinson 2004). Nickel's (2005) conception of human rights occupies a middle ground between minimalist "subsistence" notions of social and economic rights on the one hand, and idealistic conceptions of the good life on the other. His list of necessary rights includes the rights to subsistence, to basic health care, and to basic education. Championing a pragmatic approach, he argues that taking a minimalist approach to economic and social rights makes them more attainable. Human rights are for guaranteeing minimal conditions, not ideals: "Human rights offer a morality of the depths, not of the heights" (Nickel 2005, p. 392). Blau & Moncada (2005) most boldly and convincingly theorize the indivisibility of the rights of labor, the rights of migrants, the rights of citizens, the rights of refugees, and socioeconomic rights (see also Gutmann 2001).

THOUGHTS TOWARD A SOCIOLOGY OF RIGHTS

There is majesty, morality, and privilege in the classical liberalism that founds natural rights theory. The majesty stems from the remarkable powers ascribed to natural rights. The morality comes from the high-minded normative superiority associated with the universalism of rights and their autonomy from social and political artifice, in contrast to particularistic and exclusionary "man-made" citizenship rights. Natural rights are privileged in their ascribed right to trump Westphalian claims to sovereignty and to freely penetrate national boundaries in the interest of preventing human rights abuses. The greatest privilege of natural rights philosophy, however, is epistemic. Its truth is rooted in a thought experiment into the directives of God and nature, both detached and protected from the merely arbitrary laws of an actual polity: "Natural law doctrines have in common the idea that universally valid legal and moral principles can be inferred from nature" (Schwarz 2001). The experiment stipulates that to discover the ontological truth of humanity, a person must be stripped metaphorically of all political and social attachments and be considered in the perfect freedom of the state of nature. There liberalism finds that as a "bare human" (Agamben 1998), and "nothing but a human" (Arendt 1979 [1951]), this stateless person is a

rights-bearer, which above all endows the right to freedom from the tyranny of the political. Such is the power of the thought experiment on which natural rights theory rests its claims. It lives in an epistemological world where moral compasses are refined and protected, not one in which they are tested.

Human rights and the human rights regime today are both theoretically and institutionally different creatures from the natural rights theory so dismissed by everyone from Bentham to Arendt. Whereas natural rights philosophy lent itself to supporting the idea of natural differences among humans as a justification for distributing rights selectively, human rights today aspires, in theory at least, to apply to people without regard to race, religion, nationality, property, gender, ethnicity, and sexual orientation (Blau & Moncada 2005, Edmundson 2004). Natural rights, moreover, with its ontological foundations in nature, positioned itself in opposition to positive and institutionalized law. Human rights today, by contrast, is inseparable from the body of international human rights legal doctrine that began with the UDHR and continues to serve as both a positive resource and normative aspiration to human rights activists and scholars throughout the world (for a more philosophical approach to the distinction between natural and human rights, see Edmundson 2004, pp. 185–92). Natural and human rights should not be used interchangeably, although it is reasonable to question whether the latter's doctrinal and moral improvements have actually been demonstrated by a post-UDHR reduction in human rights abuses. No one knows better than the human rights community that it will take real institutions of enforcement, the truly global rule of law, and the end of domestic escape clauses to enforce rights (see especially Hagan 2003, Hagan et al. 2006, Kutnjak & Hagan 2006).

What Is a Right?

This is not the place to elaborate an alternative theory of rights. Suffice it to say that our survey of history and scholarship has revealed rights to be an essentially contested concept. The language of rights and questions as to what a right entails are distinctly slippery, polysemic, and promiscuous. In the literature, rights talk spans the spectrum from constitutive myths to practices, with sites of contestation, relationships, mobilizing discourses, mechanisms of domination, indeterminacy, and destruction of community in between. They can be revered by some, as are property rights, or reviled in turn, as are redistributive rights. Above all, precision mandates that they be definitionally parsed, taking special care not to conflate moral ideals with actual legal doctrine and policy.

Citizenship at heart is membership in a political community, which is soft on the inside, i.e., internally universal, and hard on the outside, i.e., externally exclusionary (Bosniak 2006). Citizenship rights ideals are relational and socially inclusive, yet their claims to universality are only partial and internal and have purchase only in the context of a particular political and/or social body—usually, although not necessarily, conceived as a nation-state—postnational theories notwithstanding. True social inclusion among legal citizens of all races and classes nonetheless seems ever to recede as a goal and possibility. Social inclusion requires the mutual right to recognition among citizens as moral equals treated by the same standards and values and due the same level of respect and dignity as all others—a right that requires socioeconomic freedom from want.[21]

Finally, there are bare/plain rights. Although we are suspicious of bare rights—there is always an implicit qualifier—we do believe in a general concept of rights that covers all of the specific kinds of rights we have delineated. When rights are referred to without qualification, then, it signals a meta-rubric of general rights; only the rhetorical context can reveal what kind or what level of rights are at stake. A sociology of rights

[21]The origins of "recognition ethics" are in Hegel's famous discourse on the master-slave relationship in his *Philosophy of Right* (Hegel & Knox 1949). See also Fraser & Honneth (2003).

must encompass both specific and meta-level rights.

Like Iris Young (1990), we reject the idea that rights are something we possess or have: "Rights are not fruitfully conceived as possessions" (p. 25). Rights can instead be seen as subject positions; a right is a necessary place in a complex configuration of relationships and institutional arrangements. Rights—whether human or citizenship rights or other kinds—are the label we use to characterize certain kinds of social arrangements. To move the focus of rights away from what the individual possesses to the individual's position in a fluid network of social relations is to begin to construct the social foundations of rights. A sociology of rights thus foregrounds the relationality of rights. More than 80 years ago, Hobhouse (1922), one of the earliest sociologists to theorize rights, recognized rights as constitutive of social relationships: "[I]ndividual man is an element in a social whole, and in general his rights impose obligations on other men. Thus, the rights of man involve social relations" (p. 37). In her critique of traditional distributive justice, Young (1990) argues much later that rights are relational: "Rights are relationships, not things; they are institutionally defined rules specifying what people can do in relation to one another. Rights refer to doing more than having, to social relationships that enable or constrain action" (p. 25). In fact, certain classes of rights, such as what Lefort (1986, p. 8) terms "freedoms of relationship"—e.g., free speech, petition, and assembly—are fundamentally associational rights. Rights as relationships brings a distinct added value to current thinking and underscores the sociological critique of traditional rights theory:

> Individualist interpretations of rights are bound to go wrong precisely because they must ignore the relational nature of life. For example, race and gender are social constructs, depending for their coherence on the existence of oppositions between blacks and whites, men and women. If these concepts are coherent only because each is accompanied by its opposition, an individualist understanding of rights cannot get very far (Rosenberg 1991, p. 410).

The Right to Have Rights

Ultimately, we take our inspiration from an odd mixture of Arendt (1979 [1951]), Marshall (1992 [1950]), and Karl Polanyi (2001 [1944]) and see a sociology of rights as the right to have rights (Arendt 1979). Balibar (2004a), Bellamy & Warleigh (2001), Benhabib (2004), Cohen (1996), Michelman (1996), and Somers (2008) all expand on Arendt to challenge the dichotomy between human and citizenship rights. Benhabib revisits the crisis of European refugees, and Somers analyzes the racial apartheid of Hurricane Katrina to parse this Delphic phrase into two kinds of rights—the first, the right of membership and inclusion; the second, a civic-juridical schedule of more familiar rights. The first is an existentially foundational right, without which the second set of rights has no meaning. It entails the de jure right to membership in a political community—the scale of which can vary from local to national to global (Arendt herself was at once deeply skeptical and melancholic about the nation-state, even while she was reluctantly resigned to it). Unlike Arendt, however, and more in line with Polanyi (2001 [1944]) and Marshall (1992 [1950]), that first right of political membership depends equally on the de facto right to social equality and full social inclusion in civil society. The second bundle of rights comprises the more familiar civil-juridical ones, often summed up in Marshallian terms as civil, political, and social rights and recently expanded to include such rights as cultural, economic, indigenous, and same-sex rights. But it also includes human rights, because they too require the recognition that only membership and social inclusion can ensure.

The plight of statelessness demonstrates that without membership, humans are not recognized by others as fellow human rights-bearers; they become what Arendt called "scum of the earth." Benhabib (2004, 2007; see also

Habermas 1996) advocates the Kantian norm of global hospitality, whereas Somers (2008) demonstrates how social recognition depends not only on political membership but also on inclusion in civil society. Both find the right to recognition as moral equals necessary for any rights at all. With political and social membership as the precondition for human recognition, human rights and citizenship rights are not in opposition but are both rooted in that which endows us with our humanity: the recognition that comes only from attachments and inclusion. Etienne Balibar (2004b, p. 35) writes "Man [*sic*] does not make citizenship; citizenship makes the man." In the end, our view is that rights are necessary public goods and social relationships rooted in an alliance of public power, political membership, and social practices of equal moral recognition.

Concluding Thoughts

Attention to rights poses both a challenge to and an opportunity for the social sciences. Perhaps more than any other area, fully understanding the character, prevalence, institutionalization, and impact of rights requires attention to both the positive and the normative, to the global and the local. Conceptual underbrush still must be cleared, and the mechanisms by which rights are constituted and have their effects must be further elucidated. The coercive power of states must be reconceptualized in light of the power of ideology and philosophy, and the situations in which the latter can most matter must be understood. Because important matters are at stake, this should tempt social scientists to shed their mantles as disengaged, objective scholars; they may have to do so to secure the understanding they seek.

Thus, law appears to be a rough draft not only of existing social theory, but also of theory that has yet to be written. Subaltern social and political struggles are only partially recorded in law, if they ever make it to the legal system in the first instance. After 1948, the brief exuberance for human rights quickly sputtered in the United States with the realization that the discourse of civil rights was the only viable means for political struggles to become written into law. Sixty years later, events such as Hurricane Katrina provide dramatic evidence to the contrary; here, the language of citizenship rights proves to be sorrowfully inadequate. Ron Daniels seized an opportunity (and a longing) by deploying the language and the institutions of human rights to confront the overwhelming rightlessness of Katrina victims. In the United States—a stronghold of legal resistance toward recognizing human rights as a domestic concern—the effect of this strategy remains to be seen. Perhaps social reality has outpaced existing law's capacity and/or will to recognize new rights claims to recognition and inclusion. What is clear is that social scientists can no longer avoid the challenges of theorizing human rights, now the dominant mode of expressing human suffering and social injustice throughout the world (Goodale & Merry 2007). With a robust body of scholarship to draw upon and a genealogy now brought to light, the law and social science community can finally take part in writing what may yet be a revised draft of human rights law. The moment is ripe to seize; there are so many more buried bodies that await the telling of their stories.

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LITERATURE CITED

Abraham D. 1996. Liberty without equality: the property-rights connection in a "negative citizenship" regime. *Law Soc. Inq.* 21:1–65

Agamben G. 1998. *Homo Sacer: Sovereign Power and Bare Life*. Stanford, CA: Stanford Univ. Press

Alexander JC. 1993. The return to civil society. *Contemp. Sociol.* 22:797–803

Alexander JC. 2006. *The Civil Sphere*. New York: Oxford Univ. Press

Amenta E, Zylan Y. 1991. It happened here: political opportunity, the new institutionalism, and the Townsend movement. *Am. Sociol. Rev.* 56:250–65

American Anthropological Association (AAA). 1947. Statement on human rights. *Am. Anthropol.* 49:539–43

Anderson C. 2003. *Eyes Off the Prize: The United Nations and the African American Struggle for Human Rights, 1944–1955*. New York: Cambridge Univ. Press

Andrews KT. 1997. The impacts of social movements on the political process: the civil rights movement and black electoral politics in Mississippi. *Am. Sociol. Rev.* 62:800–19

An-Na'im AA. 2001. Human rights. In *The Blackwell Companion to Sociology*, ed. JR Blau, pp. 86–99. Malden, MA: Blackwell

Arendt H. 1949. "The rights of man": What are they? *Modern Rev.* 3:24–37

Arendt H. 1979 (1951). *The Origins of Totalitarianism*. New York: Harcourt Brace Jovanovich

Balibar E. 2004a. Is a philosophy of human civic rights possible? New reflections on equaliberty. *South Atl. Q.* 103:311–22

Balibar E. 2004b. *We, the People of Europe?: Reflections on Transnational Citizenship*. Princeton, NJ: Princeton Univ. Press

Balibar E. 2007. (De)constructing the human as human institution: a reflection on the coherence of Hannah Arendt's practical philosophy. *Soc. Res.* 74:727–38

Bauer JR, Bell D, eds. 1999. *The East Asian Challenge for Human Rights*. Cambridge, UK/New York: Cambridge Univ. Press

Beiner R. 1995. *Theorizing Citizenship*. Albany: SUNY Press

Bell DA. 1993. Remembrance of racism past: the civil rights decline. In *Race in America: The Struggle for Equality*, ed. H Hill, JE Jones, pp. 73–82. Madison: Univ. Wis. Press

Bell DA, Coicaud J-M, eds. 2007. *Ethics in Action: The Ethical Challenges of International Human Rights Nongovernmental Organizations*. Cambridge, UK: Cambridge Univ. Press

Bellah RN, Madsen R, Sullivan WM, Swidler A, Tipton SM. 1985. *Habits of the Heart: Individualism and Commitment in American Life*. Berkeley: Univ. Calif. Press

Bellamy R, Castiglione D, Shaw J, eds. 2006. *Making European Citizens: Civic Inclusion in a Transnational Context*. Basingstoke: Palgrave

Bellamy R, Warleigh A, eds. 2001. *Citizenship and Governance in the European Union*. London/New York: Continuum

Bellamy R, Warleigh A, eds. 2005. *Citizenship and Governance in the European Union*. London/New York: Continuum. 2nd ed.

Benhabib S. 1995. *Feminist Contentions: A Philosophical Exchange*. New York: Routledge

Benhabib S. 1996. *Democracy and Difference: Contesting the Boundaries of the Political*. Princeton, NJ: Princeton Univ. Press

Benhabib S. 2001. *Transformations of Citizenship: Dilemmas of the Nation State in the Era of Globalization (Spinoza Lectures)*. Assen: Van Gorcum
Benhabib S. 2002. Political geographies in a global world: Arendtian reflections. *Soc. Res.* 69:539
Benhabib S. 2004. *The Rights of Others: Aliens, Residents, and Citizens*. Cambridge, UK: Cambridge Univ. Press
Benhabib S. 2006. *Another Cosmopolitanism*. New York: Oxford Univ. Press
Benhabib S. 2007. Twilight of sovereignty or the emergence of cosmopolitan norms? Rethinking citizenship in volatile times. *Citizensh. Stud.* 11:19–36
Benhabib S, Shapiro I, Petranovich D, eds. 2007. *Identities, Affiliations, and Allegiances*. Cambridge, UK: Cambridge Univ. Press
Bentham J. 1843. Anarchical fallacies: being an examination of the Declarations of Rights issued during the French Revolution. In *The Works of Jeremy Bentham*, ed. J Bowring, 2:489–534. Edinburg: W. Tait
Berezin M, Schain M, eds. 2003. *Europe without Borders: Remapping Territory, Citizenship, and Identity in a Transnational Age*. Baltimore, MD: Johns Hopkins Univ. Press
Berlin I. 1969. Two concepts of liberty. In *Four Essays on Liberty*, ed. I Berlin. London: Oxford Univ. Press
Blau JR, Moncada A. 2005. *Human Rights: Beyond the Liberal Vision*. Lanham, MD: Rowman & Littlefield
Blau JR, Moncada A. 2006. *Justice in the U.S.: Human Rights and the U.S. Constitution*. Lanham, MD: Rowman & Littlefield
Blau JR, Moncada A. 2007. *Freedoms and Solidarities: In Pursuit of Human Rights*. Lanham, MD: Rowman & Littlefield
Block F. 1987. *Revising State Theory: Essays in Politics and Postindustrialism*. Philadelphia, PA: Temple Univ. Press
Block F. 1996. *The Vampire State and Other Myths and Fallacies about the U.S. Economy*. New York: New Press
Block FL, Cloward R, Ehrenreich B, Piven FF. 1987. *The Mean Season: The Attack on the Welfare State*. New York: Pantheon Books
Bodemann YM, Yurdakul G, eds. 2006. *Migration, Citizenship, Ethnos*. New York: Palgrave Macmillan
Boli J. 1987. Human rights or state expansion? Cross-national definitions of constitutional rights, 1870–1970. In *Institutional Structure: Constituting State, Society and the Individual*, ed. G Thomas, J Meyer, F Ramirez, J Boli, pp. 133–49. Newbury Park, CA: Sage
Bonczar T, Snell T. 2004. *Capital Punishment, 2003*. Washington, DC: Bur. Justice Stat.
Borgwardt E. 2005. *A New Deal for the World: America's Vision for Human Rights*. Cambridge, MA: Harvard Univ. Press
Bosniak L. 2006. *The Citizen and the Alien: Dilemmas of Contemporary Membership*. Princeton, NJ: Princeton Univ. Press
Bowles S, Gintis H. 1963. *Democracy and Capitalism*. New York: Basic Books
Brown W. 2002. Suffering the paradoxes of rights. In *Left Legalism/Left Critique*, ed. W Brown, JE Halley, pp. 420–34. Durham, NC: Duke Univ. Press
Brown W. 2004. 'The most we can hope for. . .': human rights and the politics of fatalism. *South Atl. Q.* 103:451–63
Brysk A. 2002. *Globalization and Human Rights*. Berkeley: Univ. Calif. Press
Brysk A, Shafir G, eds. 2004. *People Out of Place: Globalization, Human Rights, and the Citizenship Gap*. New York: Routledge
Burawoy M. 2004. Public sociologies: contradictions, dilemmas, and possibilities. *Soc. Forces* 8:1603–18
Calhoun CJ. 1992. *Habermas and the Public Sphere*. Cambridge, MA: MIT Press
Calhoun CJ. 1993. Civil society and the public sphere. *Public Cult.* 5:267–80
Calhoun CJ. 1994. *Social Theory and the Politics of Identity*. Oxford, UK/Cambridge, MA: Blackwell
Carens J. 2002. Citizenship and civil society: What rights for residents? In *Reinventing Citizenship: Dual Citizenship, Social Rights, and Federal Citizenship in Europe and the US*, ed. R Hansen, P Weil, pp. 100–20. Oxford: Berghahn Books
Cassese A. 1999. Are human rights truly universal? In *The Politics of Human Rights*, ed. O Savic, pp. 149–65. New York: Verso
Cohen JL. 1982. *Class and Civil Society: The Limits of Marxian Critical Theory*. Amherst: Univ. Mass. Press
Cohen JL. 1996. Rights, citizenship, and the modern form of the social: dilemmas of Arendtian republicanism. *Constellations* 3:164–89

Cohen JL. 1999. Changing paradigms of citizenship and the exclusiveness of the demos. *Int. Sociol.* 14:245–68
Cohen JL. 2004. Whose sovereignty? Empire versus international law. *Ethics Int. Aff.* 18:1–24
Cohen JL, Arato A. 1992. *Civil Society and Political Theory*. Cambridge, MA: MIT Press
Coleman JS. 1990. *Foundations of Social Theory*. Cambridge, MA: Harvard Univ. Press
Congr. Rec. 1992. U.S. reservations, declarations, and understandings, international covenant on civil and political rights. *Congr. Rec., S4781–01, Daily Ed.* 138, Apr. 2
Connell RW. 1995. Symposium: human rights and the sociological project (introduction). *Aust. N. Z. J. Sociol.* 31:1–44
Constable M. 2005. *Just Silences: The Limits and Possibilities of Modern Law*. Princeton, NJ: Princeton Univ. Press
Cowan JK, Dembour M-B, Wilson R, eds. 2001. *Culture and Rights: Anthropological Perspectives*. Cambridge, UK/New York: Cambridge Univ. Press
Crenshaw K, Gotanda N, Peller G, Thomas K, eds. 1995. *Critical Race Theory: The Key Writings that Formed the Movement*. New York: New Press
Crouch C. 2001. Citizenship and markets in recent British education policy. See Crouch et al. 2001, pp. 111–33
Crouch C, Eder K, Tambini D, eds. 2001. *Citizenship, Markets and the State*. London: Oxford Univ. Press
Daniels R. 2007. A domestic Marshall Plan to transform America's "dark ghettos." *Black Agenda Rep.* Feb. 21. Accessed June 18, 2008. **http://www.blackagendareport.com/index.php?option=com_content&task=view&id=83&Itemid=33**
Darity WA Jr, ed. 2007. *International Encyclopedia of the Social Sciences*. Farmington Hills, MI: Macmillan Ref. USA. 2nd ed.
Deflem M. 2008. *Sociology of Law: Visions of a Scholarly Tradition*. Cambridge, UK: Cambridge Univ. Press
de Maistre J. 1988 (1797). *Considerations sur la France*. Paris: Editions Complexe
Dershowitz AM. 2004. *Rights from Wrongs*. New York: Basic Books
Dezalay Y, Garth B. 2006. From the Cold War to Kosovo: the rise and renewal of the field of international human rights. *Annu. Rev. Law Soc. Sci* 2:231–55
Donnelly J. 1989. *Universal Human Rights in Theory and Practice*. Ithaca, NY: Cornell Univ. Press
Donnelly J. 2003. *Universal Human Rights in Theory and Practice*. Ithaca, NY: Cornell Univ. Press. 2nd ed.
Donnelly J. 2007. The relative universality of human rights. *Hum. Rights Q.* 29:281
Donnelly J. 2008. Human rights: both universal and relative (a reply to Michael Goodhart). *Hum. Rights Q.* 30:194–204
Dudziak ML. 2000. *Cold War Civil Rights: Race and the Image of American Democracy*. Princeton, NJ: Princeton Univ. Press
Dworkin RM. 1978. *Taking Rights Seriously*. Cambridge, MA: Harvard Univ. Press
Edmundson WA. 2004. *An Introduction to Rights*. New York: Cambridge Univ. Press
Elster J. 2004. *Closing the Books: Transitional Justice in Historical Perspective*. Cambridge, UK: Cambridge Univ. Press
Engel DM, Munger FW. 2003. *Rights of Inclusion: Law and Identity in the Life Stories of Americans with Disabilities*. Chicago: Univ. Chicago Press
Engle K. 2001. From skepticism to embrace: human rights and the American Anthropological Association. *Hum. Rights Q.* 23:536–60
Esping-Andersen G. 1990. *The Three Worlds of Welfare Capitalism*. Cambridge, UK: Polity
Esping-Andersen G, Gallie D, Hemerijk A, Myers J, eds. 2002. *Why We Need a New Welfare State*. New York: Oxford Univ. Press
Etzioni A. 1996. *The New Golden Rule: Community and Morality in a Democratic Society*. New York: Basic Books
Ewick P, Silbey SS, eds. 1998. *The Common Place of Law: Stories from Everyday Life*. Chicago: Univ. Chicago Press
Ewick P, Silbey SS. 2003. Narrating social structure: stories of resistance to legal authority. *Am. J. Sociol.* 108:1328–72
Farmer P. 2005. *Pathologies of Power: Health, Human Rights, and the New War on the Poor*. Berkeley: Univ. Calif. Press

Finnemore M, Sikkink K. 2001. Taking stock: the constructivist research program in international relations and comparative politics. *Annu. Rev. Polit. Sci.* 4:391–416

Fraser N. 1997. *Justice Interruptus: Critical Reflections on the "Postsocialist" Condition*. New York: Routledge

Fraser N, Gordon L. 1997. A genealogy of 'dependency': tracing a keyword of the US welfare state. See Fraser 1997, pp. 121–50

Fraser N, Honneth A. 2003. *Redistribution or Recognition?: A Political-Philosophical Exchange*. London/New York: Verso

Freedland M. 2001. The marketization of public services. See Crouch et al. 2001, pp. 91–110

Freeman M. 2002. *Human Rights: An Interdisciplinary Approach*. Cambridge, UK: Polity

Galanter M. 1974. Why the 'haves' come out ahead: speculations on the limits of legal change. *Law Soc. Rev.* 9:95–160

Geertz C. 1983. *Local Knowledge: Further Essays in Interpretive Anthropology*. New York: Basic Books

Geertz C. 1984. Distinguished lecture: anti anti-relativism. *Am. Anthropol.* 86:263–78

Gilens M. 1999. *Why Americans Hate Welfare: Race Media, and the Politics of Antipoverty Policy*. Chicago: Univ Chicago Press

Gitlin T. 1995. *The Twilight of Common Dreams: Why America Is Wracked by Culture Wars*. New York: Metropolitan Books

Glendon M. 1992. Rights talk. *J. State Gov.* 65:20

Glendon MA. 2001. *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*. New York: Random House

Goldsmith J, Posner E. 2005. *The Limits of International Law*. New York: Oxford Univ. Press

Goodale M. 2006a. Ethical theory as social practice. *Am. Anthropol.* 108:25–37

Goodale M. 2006b. Introduction to 'anthropology and human rights in a new key.' *Am. Anthropol.* 108:1–8

Goodale M. 2007. Locating rights, envisioning law between the global and the local (introduction). See Goodale & Merry 2007, pp. 1–38

Goodale M, Merry SE, eds. 2007. *The Practice of Human Rights: Tracking Law Between the Global and the Local*. Cambridge, UK: Cambridge Univ. Press

Goodhart M. 2008. Neither relative nor universal: a response to Donnelly. *Hum. Rights Q.* 30:183–93

Goodwin J, Jasper J, Polletta F, eds. 2001. *Passionate Politics: Emotions and Social Movements*. Chicago: Univ. Chicago Press

Goodwin J, Pfaff S. 2001. Emotion work in high-risk social movements: managing fear in the U.S. and East German civil rights movements. See Goodwin et al. 2001, pp. 282–302

Griffin LJ, Wallace ME, Rubin BA. 1986. Capitalist resistance to the organization of labor before the new deal: Why? How? Success? *Am. Sociol. Rev.* 51:147–67

Gutmann A. 2001. Introduction. In *Human Rights as Politics and Idolatry*, ed. M Ignatieff, pp. vii–xxviii. Princeton, NJ: Princeton Univ. Press

Habermas J. 1975. *Legitimation Crisis*. Boston, MA: Beacon

Habermas J. 1989 (1962). *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*. Cambridge, MA: MIT Press

Habermas J. 1996. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge, MA: MIT Press

Habermas J. 1998. Remarks on legitimation through human rights. *Philos. Soc. Crit.* 24:157–71

Hacker JS. 2006. *The Great Risk Shift: The Assault on American Jobs, Families, Health Care and Retirement and How You Can Fight Back*. New York: Oxford Univ. Press

Hafner-Burton E, Tsutsui K. 2005. Human rights in a globalizing world: the paradox of empty promises. *Am. J. Sociol.* 110:1373–411

Hafner-Burton EM, Tsutsui K, Meyer JW. 2008. International human rights law and the politics of legitimation: repressive states and human rights treaties. *Int. Sociol.* 23:115–41

Hagan J. 2003. *Justice in the Balkans: Prosecuting War Crimes in the Hague Tribunal*. Chicago: Univ. Chicago Press

Hagan J, Schoenfeld H, Palloni A. 2006. The science of human rights, war crimes, and humanitarian emergencies. *Annu. Rev. Sociol.* 32:329–49

Hajjar L. 2005. Toward a sociology of human rights: critical globalization studies, international law, and the future of war. In *Critical Globalization Studies*, ed. RP Appelbaum, WI Robinson, pp. 207–16. New York: Routledge
Hammar T. 1990. *Democracy and the Nation State: Aliens, Denizens, and Citizens in a World of International Migration*. Brookfield, VT: Avebury
Harrington M. 1962. *The Other America: Poverty in the United States*. New York: Macmillan
Hart HLA. 1997 (1961). *The Concept of Law*. Oxford: Clarendon
Hathaway OA. 2002. Do human rights treaties make a difference? *Yale Law J.* 111:1935–2041
Hayek FA. 1944. *The Road to Serfdom*. Chicago: Univ. Chicago Press
Hegel GWF, Knox TM. 1949. *Hegel's Philosophy of Right*. Oxford: Clarendon
Henkin L. 1995. US ratification of human rights conventions: the ghost of Senator Bricker. *Am. J. Int. Law* 89:341–50
Hertel S, Minkler L, eds. 2007. *Economic Rights: Conceptual, Measurement and Policy Issues*. New York: Cambridge Univ. Press
Hobhouse LT. 1922. *The Elements of Social Justice*. London: G. Allen & Unwin
Hollinger DA. 1995. *Postethnic America: Beyond Multiculturalism*. New York: Basic Books
Huber E, Stephens JD. 2001. *Development and Crisis of the Welfare State: Parties and Policies in Global Markets*. Chicago: Univ. Chicago Press
Humphrey JP. 1983. The memoirs of John P. Humphrey, the first director of the United Nations division of human rights. *Hum. Rights Q.* 5:387–439
Humphrey JP. 1984. *Human Rights and the United Nations: A Great Adventure*. New York: Transnational
Hunt LA. 1996. *The French Revolution and Human Rights: A Brief Documentary History*. Boston, MA: Bedford St. Martin's
Hunt LA. 2007. *Inventing Human Rights: A History*. New York: W.W. Norton
Ignatieff M. 1999. Human rights: the midlife crisis. *New York Rev. Books* 46(9), May 20. **http://www.nybooks.com/articles/article-preview?article_id=477**
Ignatieff M, ed. 2005. *American Exceptionalism and Human Rights*. Princeton, NJ: Princeton Univ. Press
Isin EF. 1992. *Cities Without Citizens*. Montreal: Black Rose Books
Isin EF. 2000. *Democracy, Citizenship, and the Global City*. New York: Routledge
Isin EF, Turner BS, eds. 2002. *Handbook of Citizenship Studies*. London: Sage
Isin EF, Wood PK. 1999. *Citizenship and Identity*. Thousand Oaks, CA: Sage
Jacobson D. 1996. *Rights Across Borders: Immigration and the Decline of Citizenship*. Baltimore, MD: Johns Hopkins Univ. Press
Janoski T. 1998. *Citizenship and Civil Society: A Framework of Rights and Obligations in Liberal, Traditional, and Social Democratic Regimes*. New York: Cambridge Univ. Press
Joppke C. 1998. *Challenge to the Nation-State: Immigration in Western Europe and the United States*. Oxford/New York: Oxford Univ. Press
Joppke C, Lukes S, eds. 1999. *Multicultural Questions*. Oxford/New York: Oxford Univ. Press
Karst K. 2004. The revival of forward-looking affirmative action. *Columbia Law Rev.* 104:60–74
Karst K. 2005. Equal citizenship at ground level: the consequences of nonstate action. *Duke Law J.* 54 1591–622
Keck ME, Sikkink K. 1998. *Activists Beyond Borders: Advocacy Networks in International Politics*. Ithaca, NY: Cornell Univ. Press
Kennedy D. 1981. Critical labor law theory: a comment. *Ind. Relat. Law J.* 4:503–6
Kennedy D. 2002. The critique of rights in critical legal studies. In *Left Legalism/Left Critique*, ed. W Brown, JE Halley, pp. 178–228. Durham, NC: Duke Univ. Press
Kennedy D. 2004. *The Dark Sides of Virtue: Reassessing International Humanitarianism*. Princeton, NJ: Princeton Univ. Press
Kennedy MD. 1991. *Professionals, Power, and Solidarity in Poland: A Critical Sociology of Soviet-Type Society*. Cambridge/New York: Cambridge Univ. Press
Kennedy MD. 1992. The intelligentsia in the constitution of civil societies and postcommunist regimes in Hungary and Poland. *Theory Soc.* 21:29–76
Kennedy MD. 2002. *Cultural Formations of Postcommunism: Emancipation, Transition, Nation, and War*. Minneapolis: Univ. Minn. Press

Kessler-Harris A. 2001. *In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in 20th-Century America*. Oxford/New York: Oxford Univ. Press
Kimeldorf H. 1988. *Reds or Rackets? The Making of Radical and Conservative Unions on the Waterfront*. Berkeley: Univ. Calif. Press
King DS, Waldron J. 1988. Citizenship, social citizenship and the defense of welfare provision. *Br. J. Polit. Sci.* 18:415–43
Klare K. 1978. Judicial deradicalization of the Wagner Act and the origins of modern legal consciousness, 1937–1941. *Minn. Law Rev.* 62:265–339
Klare K. 1997. The future of South African labour law: some questions from the past and from afar. *Ind. Law J.* 18:588
Koh HH. 2003. Foreword—on American exceptionalism. *Stanford Law Rev.* 55:1479–527
Korpi W. 1989. Power, politics, and state autonomy in the development of social citizenship: social rights during sickness in eighteen OECD countries since 1930. *Am. Sociol. Rev.* 54:309–28
Kurasawa F. 2007. *The Work of Global Justice: Human Rights as Practices*. Cambridge, UK: Cambridge Univ. Press
Kutnjak S, Hagan J. 2006. The politics of punishment and the siege of Sarajevo: toward a conflict theory of perceived criminal injustice. *Law Soc. Rev.* 40:369–410
Kuttner R. 2007. *The Squandering of America: How the Failure of Our Politics Undermines Our Prosperity*. New York: Knopf
Kymlicka W. 1995. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Oxford: Oxford Univ. Press
Kymlicka W. 1997. Identities, politics, and rights. *Can. J. Polit. Sci./Rev. Can. Sci. Polit.* 30:182–83
Kymlicka W. 2001. *Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship*. Oxford/New York: Oxford Univ. Press
Kymlicka W, Norman W. 1995. Return of the citizen: a survey of recent work on citizenship theory. See Beiner 1995, pp. 283–322
Lauren PG. 1998. *The Evolution of International Human Rights: Visions Seen*. Philadelphia: Univ. Penn. Press
Lefort C. 1986. Politics and human rights. In *The Political Forms of Modern Society: Bureaucracy, Democracy, Totalitarianism*, ed. JB Thompson, pp. 239–72. Cambridge, MA: MIT Press
Leibfried S, Pierson P. 1995. *European Social Policy: Between Fragmentation and Integration*. Washington, DC: Brookings Inst.
Lempert R, Sanders J. 1986. *An Invitation to Law and Social Science*. Philadelphia: Univ. Penn. Press
Levy D, Sznaider N. 2006. Sovereignty transformed: a sociology of human rights. *Br. J. Sociol.* 57:657–76
Lister R. 1997. *Citizenship: Feminist Perspectives*. New York: N. Y. Univ. Press
MacIntyre AC. 1981. *After Virtue: A Study in Moral Theory*. Notre Dame: Univ. Notre Dame Press
MacKinnon CA. 2006. *Are Women Human?: And Other International Dialogues*. Cambridge, MA: Harvard Univ. Press
Malcolm X, Haley A. 1965. *The Autobiography of Malcolm X*. New York: Random House
Mann M. 1986. *The Sources of Social Power*. Cambridge, UK: Cambridge Univ. Press
Marshall TH. 1992 (1950). Citizenship and social class. In Marshall & Bottomore 1992 (1950), pp. 3–51
Marshall TH, Bottomore T. 1992 (1950). *Citizenship and Social Class*. London: Pluto Perspectives
Marx K. 1978. On the Jewish question. In *The Marx-Engels Reader*, ed. R Tucker, pp. 26–52. New York: Norton
McAdam D. 1982. *Political Process and the Development of Black Insurgency, 1930–1970*. Chicago: Univ. Chicago Press
McAdam D. 1996. The framing function of movement tactics: strategic dramaturgy in the American civil rights movement. In *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures and Cultural Framings*, ed. D McAdam, J McCarthy, M Zald, pp. 338–56. Cambridge, UK: Cambridge Univ. Press
McCann MW. 1992. Reform litigation on trial. *Law Soc. Inq.* 17:715–43
McCann MW. 1994. *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization*. Chicago: Univ. Chicago Press
McCann MW. 1996. Causal versus constitutive explanations. reply to Rosenberg review. *Law Soc. Inq.* 21:457–82

McCann MW. 2006. Law and social movements: contemporary perspectives. *Annu. Rev. Law Soc. Sci.* 2:1–22
McMichael PD. 2007. *Development and Social Change: A Global Perspective*. Thousand Oaks, CA: Pine Forge/Sage
Mead LM. 1997. Citizenship and social policy: T.H. Marshall and poverty. *Soc. Philos. Policy* 14:197–223
Menke C. 2007. The "aporias of human rights" and the "one human right": regarding the coherence of Hannah Arendt's argument. *Soc. Res.* 74:739–62
Merry SE. 1990. *Getting Justice and Getting Even: Legal Consciousness among Working-Class Americans*. Chicago: Univ. Chicago Press
Merry SE. 2003. Human rights law and the demonization of culture (and anthropology along the way). *POLAR: Polit. Legal Anthropol. Rev.* 26:55–77
Merry SE. 2006a. *Human Rights and Gender Violence: Translating International Law into Local Justice*. Chicago: Univ. Chicago Press
Merry SE. 2006b. Transnational human rights and local activism: mapping the middle. *Am. Anthropol.* 108:38–51
Meyer JW, Boli J, Thomas GM, Ramirez FO. 1997. World society and the nation-state. *Am. J. Sociol.* 103:144–81
Michelman F. 1996. Parsing 'a right to have rights'. *Constellations* 3:200–9
Minow M. 1987. Interpreting rights: an essay for Robert Cover. *Yale Law J.* 96:1860–915
Minow M. 1998. *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence*. Boston, MA: Beacon
Morley D, Robins K. 1995. *Spaces of Identity: Global Media, Electronic Landscapes and Cultural Boundaries*. London/New York: Routledge
Morris A. 1984. *The Origins of the Civil Rights Movement*. New York: Free Press
Morris L. 1994. *Dangerous Classes: The Underclass and Social Citizenship*. London/New York: Routledge
Morris L, ed. 2006. *Rights: Sociological Perspectives*. London/New York: Routledge
Morsink J. 1999. *The Universal Declaration of Human Rights: Origins, Drafting, and Intent*. Philadelphia: Univ. Penn. Press
Mouffe C. 1995. Democratic politics and the question of identity. In *The Identity in Question*, ed. J Rajchman, pp. 33–46. New York: Routledge
Murray CA. 1984. *Losing Ground: American Social Policy, 1950–1980*. New York: Basic Books
Nickel JW. 2005. Poverty and rights. *Philos. Q.* 55:385–402
Nussbaum MC. 2000. *Women and Human Development: The Capabilities Approach*. New York: Cambridge Univ. Press
Nussbaum MC, Cohen J. 1996. *For Love of Country: Debating the Limits of Patriotism*. Boston, MA: Beacon
O'Connor J. 1973. *Fiscal Crisis of the State*. New York: St. Martin's
Offe C. 1984. *Contradictions of the Welfare State*. Cambridge, MA: MIT Press
Okin SM, Cohen J, Howard M, Nussbaum MC. 1999. *Is Multiculturalism Bad for Women?* Princeton, NJ: Princeton Univ. Press
Olasky MN. 1992. *The Tragedy of American Compassion*. Washington, DC/Lanham, MD: Regnery Gateway/Natl. Book Netw.
Oldfield A. 1990. *Citizenship and Community: Civic Republicanism and the Modern World*. London/New York: Routledge
Olivo C. 2001. *Creating a Democratic Civil Society in Eastern Germany: The Case of the Citizen Movements and Alliance 90*. New York: Palgrave
Ong A. 1999. *Flexible Citizenship: The Cultural Logics of Transnationality*. Durham, NC: Duke Univ. Press
Ong A. 2006. *Neoliberalism as Exception: Mutations in Citizenship and Sovereignty*. Durham, NC: Duke Univ. Press
Orloff A. 2005. Social provision and regulation: theories of states, social policies, and modernity. In *Remaking Modernity: Politics, History, and Sociology*, ed. J Adams, E Clemens, A Orloff, pp. 190–224. Durham, NC: Duke Univ. Press
Pedriana N, Stryker R. 1997. Political culture wars 1960s style: equal employment opportunity-affirmative action law and the Philadelphia Plan. *Am. J. Sociol.* 103:633–91

Pierson P. 1994. *Dismantling the Welfare State? Reagan, Thatcher, and the Politics of Retrenchment*. Cambridge, UK/New York: Cambridge Univ. Press
Pierson P. 2001. *The New Politics of the Welfare State*. Oxford/New York: Oxford Univ. Press
Pieterse M. 2007. Eating socioeconomic rights: the usefulness of rights talk in alleviating social hardship revisited. *Hum. Rights Q.* 29:796–82
Piven FF, Cloward RA. 1982. *The New Class War: Reagan's Attack on the Welfare State and Its Consequences*. New York: Pantheon Books
Piven FF, Cloward RA. 1993 (1972). *Regulating the Poor: The Functions of Public Welfare*. New York: Vintage Books
Pocock JGA. 1975. *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*. Princeton, NJ: Princeton Univ. Press
Pogge T. 2002. *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms*. Oxford: Polity
Pogge T, ed. 2007. *Freedom from Poverty as a Human Right: Who Owes What to the Very Poor*. Oxford: Oxford Univ. Press
Polanyi K. 2001 (1944). *The Great Transformation*. Boston, MA: Beacon
Polletta F. 2000. The structural context of novel rights claims: southern civil rights organizing, 1961–1966. *Law Soc. Rev.* 34:367–406
Preuss UK. 1995. Citizenship and identity: aspects of a theory of citizenship. In *Democracy and Constitutional Culture in the Union of Europe*, ed. R Bellamy, V Bufacchi, D Castiglione, p. 107. London: Lothian Found. Press
Primus RA. 1999. *The American Language of Rights*. Cambridge, UK: Cambridge Univ. Press
Procacci G. 2001. Poor citizens. In *Citizenship, Markets, and the State*, ed. D Tambini, pp. 49–68. Oxford: Oxford Univ. Press
Putnam RD. 2000. *Bowling Alone: The Collapse and Revival of American Community*. New York: Simon & Schuster
Putnam RD, Leonardi R, Nanetti R. 1993. *Making Democracy Work: Civic Traditions in Modern Italy*. Princeton, NJ: Princeton Univ. Press
Rajchman J. 1995. *The Identity in Question*. New York: Routledge
Ramirez FO, Soysal Y, Shanahan S. 1997. The changing logic of political citizenship: cross-national acquisition of women's suffrage rights, 1890 to 1990. *Am. Sociol. Rev.* 62:735–45
Rawls J. 1971. *A Theory of Justice*. Cambridge, MA: Belknap Press Harvard Univ. Press
Robinson M. 2004. *Public sociologies and human rights: finding common ground*. Presented at Am. Sociol. Assoc., 99th Annu. Meet., San Francisco
Roosevelt E. 1995 (1951). Statement on draft covenant on human rights. In *What I Hope to Leave Behind: The Essential Essays of Eleanor Roosevelt*, ed. A Black, pp. 585–90. New York: Carlson
Roosevelt FDR. 1941. "The Four Freedoms" speech. Annual Message to Congress, Jan. 6. *Congr. Rec.* 87 (Pt. I):44–47
Rosenberg G. 1991. *The Hollow Hope: Can Courts Bring about Social Change?* Chicago: Univ. Chicago Press
Rosenberg G. 1996. Positivism, interpretivism, and the study of law. *Law Soc. Inq.* 21:435–56
Rueschemeyer D, Stephens EH, Stephens JD. 1992. *Capitalist Development and Democracy*. Chicago: Univ. Chicago Press
Sachs J. 2005. *The End of Poverty: Economic Possibilities for Our Time*. New York: Penguin
Sachs J. 2008. *Common Wealth: Economics for a Crowded Planet*. New York: Penguin
Sandel MJ. 1984. *Liberalism and Its Critics*. Oxford: Blackwell
Sandel MJ. 1998. *Liberalism and the Limits of Justice*. Cambridge, UK/New York: Cambridge Univ. Press
Sanders J, ed. 2004. From the Commission Editor. *Law Soc. Rev.* 38(3):v–vi
Sarat A, Kearns TR, eds. 1995. *Identities, Politics, and Rights*. Ann Arbor: Univ. Mich. Press
Sarat A, Kearns TR, eds. 1996. *Legal Rights: Historical and Philosophical Perspectives*. Ann Arbor: Univ. Mich. Press
Sarat A, Scheingold SA, eds. 2006. *Cause Lawyers and Social Movements*. Stanford, CA: Stanford Law Polit.
Sassen S. 1996. *Losing Control?: Sovereignty in an Age of Globalization*. New York: Columbia Univ. Press
Sassen S. 1998. The global age: state and society beyond modernity. *Am. J. Sociol.* 103:1412–14
Sassen S. 2003. Globalization or denationalization? *Rev. Int. Polit. Econ.* 10:1–22

Sassen S. 2006. *Territory, Authority, Rights: From Medieval to Global Assemblages*. Princeton, NJ: Princeton Univ. Press
Schaffer K, Smith S. 2004. *Human Rights and Narrated Lives: The Ethics of Recognition*. New York: Palgrave Macmillan
Scheingold SA. 2005 (1974). *The Politics of Rights: Lawyers, Public Policy, and Political Change*. Ann Arbor: Univ. Mich. Press
Scheppele KL. 1994. Legal theory and social theory. *Annu. Rev. Sociol.* 20:383–406
Scheppele KL. 2002. Sociology of law in the public square of sociology. *Amici* 9:7–9
Scheppele KL. 2003. Aspirational and aversive constitutionalism: the case for studying cross national influence through negative models. *Int. J. Const. Law* 1:296–324
Scheppele KL. 2004. Constitutional ethnography: an introduction. *Law Soc. Rev.* 38:389–406
Schlesinger AM. 1992. *The Disuniting of America*. New York/London: Norton
Schwarz RD. 2001. Natural law. In *International Encyclopedia of the Social & Behavioral Sciences*, ed. NJ Smelser, PB Baltes, pp. 10388–92. Oxford: Elsevier Sci.
Seidman G. 1994. *Manufacturing Militance: Workers' Movements in Brazil and South Africa, 1970–1985*. Berkeley: Univ. Calif. Press
Seligman A. 1992. *The Idea of Civil Society*. New York: Maxwell Macmillan
Sen A. 1999. *Development as Freedom*. New York: Knopf
Sen A. 2004. Elements of a theory of human rights. *Philos. Public Aff.* 32:315–56
Shachar A. 2001. *Multicultural Jurisdictions: Cultural Differences and Women's Rights*. Cambridge, UK: Cambridge Univ. Press
Shafir G. 1998. *The Citizenship Debates: A Reader*. Minneapolis: Univ. Minn. Press
Shafir G. 2004. Citizenship and human rights in an era of globalization. See Brysk & Safir 2004, pp. 11–28
Siebers T. 2008. *Disability Theory*. Ann Arbor: Univ. Mich. Press
Silbey SS. 2005. After legal consciousness. *Annu. Rev. Law Soc. Sci.* 1:323–68
Simmons BA. 2000. International law and state behavior: commitment and compliance in international monetary affairs. *Am. Polit. Sci. Rev.* 94:819–35
Sjoberg G, Gill EA, Williams N. 2001. A sociology of human rights. *Soc. Probl.* 48:11–47
Skocpol T. 1979. *States and Social Revolutions: A Comparative Analysis of France, Russia, and China*. Cambridge, UK/New York: Cambridge Univ. Press
Smeeding TM, Rainwater L, Burtless G. 2001. United States poverty in a cross-national context. In *Understanding Poverty*, ed. SH Danziger, RH Haveman, pp. 162–89: New York: Russell Sage Found./Cambridge, MA: Harvard Univ. Press
Smelser NJ, Baltes PB, eds. 2001. *International Encyclopedia of the Social & Behavioral Sciences*. Oxford: Elsevier
Smith RM. 1997. *Civic Ideals: Conflicting Visions of Citizenship in U.S. History*. New Haven, CT: Yale Univ. Press
Smith RM. 2003. *Stories of Peoplehood: The Politics and Morals of Political Membership*. Cambridge, UK/New York: Cambridge Univ. Press
Snyder H, Sickmund M. 2006. *Juvenile Offenders and Victims: 2006 National Report*. Washington, DC: USDOJ
Somers MR. 1994. Rights, relationality, and membership: rethinking the making and meaning of citizenship. *Law Soc. Inq.* 19:63–112
Somers MR. 1995a. Narrating and naturalizing civil society and citizenship theory: the place of political culture and the public sphere. *Sociol. Theory* 13:229–74
Somers MR. 1995b. What's political or cultural about the political culture concept? Toward an historical sociology of concept formation. *Sociol. Theory* 13:113–44
Somers MR. 1999. The privatization of citizenship: how to unthink a knowledge culture. In *Beyond the Cultural Turn: New Directions in the Study of Society and Culture*, ed. VE Bonnell, L Hunt, pp. 121–61. Berkeley: Univ. Calif. Press
Somers MR. 2001. Romancing the market, reviling the state: historicizing liberalism, privatization, and the competing claims to civil society. See Crouch et al. 2001, pp. 23–48
Somers MR. 2006. Citizenship, statelessness and market fundamentalism: Arendtian lessons on losing the right to have rights. See Bodemann & Yurdakul 2006, pp. 35–62

Somers MR. 2008. *Genealogies of Citizenship: Markets, Statelessness, and the Right to Have Rights*. Cambridge, UK: Cambridge Univ. Press
Somers MR, Block F. 2005. From poverty to perversity: ideas, markets, and institutions over 200 years of welfare debate. *Am. Sociol. Rev.* 70:260–87
Somers MR, Gibson GD. 1994. Reclaiming the epistemological other: narrative and the social constitution of identity. See Calhoun 1994, pp. 37–99
Soysal Y. 1994. *Limits of Citizenship: Migrants and Postnational Membership in Europe*. Chicago: Univ. Chicago Press
Spellman AB. 1964. Interview with Malcolm X. *Mon. Rev.* 16(1):14–24. **http://www.monthlyreview.org/564mx.htm**
Starr J, Goodale M, eds. 2002. *Practicing Ethnography in Law: New Dialogues, Enduring Methods*. New York: Palgrave Macmillan
Steiker CS. 2005. Capital punishment and American exceptionalism. See Ignatieff 2005, pp. 57–89
Strang D. 1991. Anomaly and commonplace in European political expansion: realist and institutionalist accounts. *Int. Org.* 45:143–62
Sunstein CR. 2003. The right-wing assault: What's at stake, what's already happened and what could yet occur. *Am. Prospect* 14(Suppl.):A2–4
Sunstein CR. 2004. *The Second Bill of Rights: FDR's Unfinished Revolution and Why We Need It More Than Ever*. New York: Basic Books
Sunstein CR. 2005. Why does the American Constitution lack social and economic guarantees? See Ignatieff 2005, pp. 90–110
Taylor C. 1989. *Sources of the Self: The Making of the Modern Identity*. Cambridge, MA: Harvard Univ. Press
Taylor C. 1990. Modes of civil society. *Public Cult.* 3:95–118
Taylor C. 1999. Conditions of an unforced consensus on human rights. In *The Politics of Human Rights*, ed. O Savic, pp. 101–19. London: Verso
Taylor C, Gutmann A. 1992. *Multiculturalism and 'The Politics of Recognition': An Essay*. Princeton, NJ: Princeton Univ. Press
Thomas DC. 2001. *The Helsinki Effect: International Norms, Human Rights, and the Demise of Communism*. Princeton, NJ: Princeton Univ. Press. 308 pp.
Thornberry P. 1991. *International Law and the Rights of Minorities*. Oxford, UK/New York: Clarendon/Oxford Univ. Press
Ticktin M. 2006. Medical humanitarianism in and beyond France: breaking down or patrolling borders? In *Medicine at the Border: The History, Culture and Politics of Global Health*, ed. A Bashford, pp. 116–35. New York: Palgrave
Tilly C. 1998. Where do rights come from? In *Democracy, Revolution and History*, ed. T Skocpol, pp. 55–72. Ithaca, NY: Cornell Univ. Press
Tomlins CL. 1985. The new deal, collective bargaining and the triumph of industrial pluralism. *Ind. Labor Relat. Rev.* 39:19–34
Trend D. 1996. *Radical Democracy: Identity, Citizenship, and the State*. New York: Routledge
Tsutsui K, Wotipka CM. 2008. Global human rights and state sovereignty: state ratification of international human rights treaties, 1965–2001. *Sociol. Forum.* In press
Turner BS. 1990. *Theories of Modernity and Postmodernity*. London: Sage
Turner BS. 1993. Outline of a theory of human rights. *Sociology* 27:489–512
Turner BS. 1995. Symposium: human rights and the sociological project (introduction). *Aust. N. Z. J. Sociol.* 31:1–44
Turner BS. 1997. A neo-Hobbesian theory of human rights: a reply to Malcolm Waters. *Sociology* 31:565–71
Turner BS. 2001. Disability and the sociology of the body. In *Handbook of Disability Studies*, ed. G Albrecht, K Seelman, M Bury, pp. 252–66. Thousand Oaks, CA: Sage
Turner BS. 2006. *Vulnerability and Human Rights*. University Park: Penn. State Univ. Press
Tushnet M. 1984. An essay on rights. *Texas Law Rev.* 62:1363
Twine F. 1994. *Citizenship and Social Rights: The Interdependence of Self and Society*. London: Sage
Unger RM. 1986. *The Critical Legal Studies Movement*. Cambridge, MA: Harvard Univ. Press

United Nations. 2000. *United Nations Human Development Report 2000: Human Rights and Human Development*. New York: Oxford Univ. Press
UN Gen. Assem. Resolut. 217 A (III). 1948. *Universal Declaration of Human Rights*, Dec. 10. UN Doc. A/810, at 71. **http://www.unhchr.ch/udhr/index.htm**
U.S. Dep. Justice. 2000. *Correctional Populations in the United States, 1997*. Washington, DC: USDOJ
Vago S. 2003. *Law and Society*. Upper Saddle River, NJ: Prentice Hall
Voet MCB. 1998. *Feminism and Citizenship*. London/Thousand Oaks, CA: Sage
Walker S. 1998. *The Rights Revolution: Rights and Community in Modern America*. New York: Oxford Univ. Press
Wallerstein IM. 1974. *The Modern World-System*. New York: Academic
Wallerstein IM. 2004. *World-Systems Analysis: An Introduction*. Durham, NC: Duke Univ. Press
Waltz KN. 1979. *Theory of International Politics*. Reading, MA: Addison-Wesley
Waltz S. 2001. Universalizing human rights: the role of small states in the construction of the Universal Declaration of Human Rights. *Hum. Rights Q.* 23:44–72
Waltz S. 2002. Reclaiming and rebuilding the history of the Universal Declaration of Human Rights. *Third World Q.* 23:437–48
Waltz S. 2004. Universal human rights: the contribution of Muslim states. *Hum. Rights Q.* 26:799–844
Walzer M. 1970. *Obligations: Essays on Disobedience, War, and Citizenship*. New York: Clarion
Walzer M. 1983. *Spheres of Justice*. New York: Basic Books. 345 pp.
Walzer M. 1988. *The Company of Critics: Social Criticism and Political Commitment in the Twentieth Century*. New York: Basic Books
Walzer M. 1995. The civil society argument. See Beiner 1995, pp. 153–74
Walzer M. 2003. *Toward a Global Civil Society*. New York: Berghahn Books
Walzer M. 2005. *Politics and Passion: Toward a More Egalitarian Liberalism*. New Haven, CT: Yale Univ. Press
Wasserstrom JN, Hunt LA, Young MB, eds. 2000. *Human Rights and Revolutions*. Lanham, MD: Rowman & Littlefield
Waters M. 1995. Symposium: human rights and the sociological project (introduction). *Aust. N. Z. J. Sociol.* 31:1–44
Weiler JH, Wind M, eds. 2003. *European Constitutionalism Beyond the State*. Cambridge, UK: Cambridge Univ. Press
Weinstock DM. 2007. *Global Justice, Global Institutions*. Calgary: Univ. Calgary Press
Wendt A. 1999. *Social Theory of International Politics*. Cambridge, UK/New York: Cambridge Univ. Press
Williams PJ. 1991. *The Alchemy of Race and Rights*. Cambridge, MA: Harvard Univ. Press
Wilson RA. 2001. *The Politics of Truth and Reconciliation in South Africa: Legitimizing the Postapartheid State*. Cambridge, UK: Cambridge Univ. Press
Wilson RA. 2006. Afterword to "Anthropology and Human Rights in a New Key": the social life of human rights. *Am. Anthropol.* 108:77–83
Wilson RA, Mitchell JP. 2003. *Human Rights in Global Perspective: Anthropological Studies of Rights, Claims and Entitlements*. London/New York: Routledge
Wolfe A. 1979. *Limits of Legitimacy*. New York: Free Press
Wolfe A. 1989. *Whose Keeper?: Social Science and Moral Obligation*. Berkeley: Univ. Calif. Press
Wolin SS. 1960. *Politics and Vision: Continuity and Innovation in Western Political Thought*. Boston: Little, Brown
Woodiwiss A. 1992. *Law, Labour, and Society in Japan: From Repression to Reluctant Recognition*. London/New York: Routledge
Woodiwiss A. 2003. *Making Human Rights Work Globally*. London/Portland: Glass House
Woodiwiss A. 2005. *Human Rights*. London: New York: Routledge
Young IM. 1990. *Justice and the Politics of Difference*. Princeton, NJ: Princeton Univ. Press
Young IM. 2000. *Inclusion and Democracy*. Oxford/New York: Oxford Univ. Press
Zaret D. 2000. Tradition, human rights, and the English Revolution. See Wasserstrom et al. 2000, pp. 47–64
Zizek S. 2004. From politics to biopolitics, and back (human rights in Western thought). *South Atl. Q.* 103:501–21
Zuckert M. 2000. Natural rights in the American revolution. See Wasserstrom et al. 2000, pp. 65–82

Annual Review of Law and Social Science

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Contents

Indexes

Errata

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