

# Citizenship

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## Introduction

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Citizenship is the process of creatively balancing tensions between inequality and solidarity by enmeshing persons as individuals and groups within networks of mutual rights and obligations, themselves part of social orders, which are thereby rendered legitimate. Reflections about how best to balance the tension between inequality and solidarity have long been a critical element of group dynamics surrounding citizenship and the impact of globalization has complicated the traditional relationship between state and citizen- rule making powers have become more diffuse, while citizenship status has become more broadly defined- further confusing analysis of how best to conceive of rights and rules in contemporary society.

In essence, the expansion of citizenship rights involves recognition of inequality as unjust or unfair and the mobilization of efforts to ensure equality, either as a result of top-down reform or social mobilization by the aggrieved in order to force social change. The first response to social movements by the interests threatened is reactive- to defend the status quo. However, for long-term stability, interests must be mediated through mental models and by the degree to which dominant interests prove themselves capable of understanding the implications of their intransigence, which may ultimately be the overthrow of the social order. The orderly extension of citizenship rights are therefore the key medium through which elites can maintain and legitimize the future existence of any given social order.

Historical analysis indicates that the development of citizenship rights has not been a linear process, as universal aspiration and national reality have often been at odds- the struggle for gender or racial equality are just two pertinent examples of this dynamic in action. In developing countries, where under-developed markets have stunted economic growth and associated social consciousness, political powers have not often expanded citizenship rights but rather rescinded them, and effective and transparent governance is not the precondition for the realization of individual and group rights, the development of citizenship is complicated further.

Rules are resources that must be steadily expanded and adapted to maintain social order. A move towards a new conception of citizenship will require recognition of this fact, deeper analysis of the design and implementation of policies, and thought as to how we can best refine existing citizenship practices. The critical question for social policy in market economies has become how to balance the state, market and civil society in order to generate the solidarity and fairness necessary to create reinforcing networks of rights and obligations, and thus citizenship. Approaching this topic through an integrated framework that accounts for past experience and present changes is essential to ensure global stability and prosperity.

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## **Executive summary**

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### **I. Understanding citizenship as legal status**

Legal status can serve as a litmus test for inclusion and exclusion; the specificity or generality of rights; the degree of correspondence between theory and practice; and the mediation of social processes and tensions through the language and practice of rules in general and law in particular. Analysis of legal status allows us to examine the extent to which rule-making supports or undermines the legitimacy of an order through generating solidarity or increasing conflict. Through the construction of indices to measure legal status we can examine the degree to which the normative framework fits with experience on the ground.

### **II. Understanding human rights and citizenship rights**

In contrast to legal status, which can be a mechanism for inclusion or exclusion, human rights discourse establishes a normative universal standard. Agreement on the Universal Declaration of Human Rights heralded a departure from positivist theories of law that located the source of rule-making solely in a sovereign state, and supported the idea of inherent inalienable human rights. This thought situates the state within a broader normative framework in two ways: it allows measurement of the conduct of the state towards its own citizens; and it enshrines the right to movement, asylum and nationality, thereby creating obligations for the state vis-a-vis humanity more broadly.

While the Declaration is universal, national histories are particular. The work of T.H. Marshall on this subject remains valuable, and we can draw important insights from it to inform current discussions on citizenship. A key aspect is that citizenship rights form an indispensable condition for the creation of competitive market economies- the contemporary market as an institution depends on a set of freedoms that are in turn dependent on free citizens who can enter into contractual obligations at will while secure in the knowledge that mechanisms of enforcement exist to support their legitimacy of these obligations.

### **III. Genesis of different trajectories of citizenship within the context of the nation state**

The classification of rights into civil, political and social rights indicates that we must understand the different strands of rights formation, their fusion or separation in different contexts, and the role that the nation state, as the crucible of rights, has played in this process. Drawing on historical analysis is important to understand the institutional balance reached in each country and by the challenges posed by globalization and post-nationalism. Since citizenship is ultimately a process through which to mitigate a process of contestation, this analysis also enables us to analyze patterns of interaction between disparate social groups.

### **IV. The challenge of citizenship in a new context**

Globalization is posing new risks and opportunities for social policy in developing and developed countries. Many countries around the world are currently restructuring the role of the state and the delivery of citizenship rights, or are in the process of articulating new ways to deal with the role of the state in a rapidly changing political and economic milieu. Citizenship can no longer be conceived in terms of a hierarchy, where the individual and the state are the two units of a social order, bound together by mutual rights and obligations. In 1945, the polity, economy and civil society were all national, but today the economy and civil society have become global, and thus citizenship must be understood and defined in relation to state, market and civil society at the global, national and local levels. This involves analysis of the corporation as a major player in the creation of rights and obligations; international civil society as a mechanism to address issues of exclusion and promote solidarity; non-state institutional arrangements, such as the European Union or local governments, as decision

making bodies; and international financial institutions such as the World Bank as arbiters of citizenship in a way that draws on the past and creatively charts the direction of the future.

#### **V. Towards the operationalization of citizenship**

Today, creation of both the preconditions and effective conditions of citizenship require consideration of the use of information and law as resources; innovative citizenship development strategies; good governance; and global discussion of citizenship. Beyond these themes, analysis of state functionality and the rights and obligations that stem from this allow for policy and institutional actions to be further delineated.

#### **VI. Conclusions**

Rules are resources that create fields of interactions and allow for the orderly process of change to those fields. However, the basis for the field of citizenship has changed- rights and obligations are no longer based solely within the nation state, but stem from a variety of global actors and organizations. This process has confused traditional conceptions of rights and changed long-standing rules. In modern market based society, the critical question for social policy is how to balance the state, market and civil society in order to generate the solidarity and fairness necessary to create reinforcing networks of rights and obligations, underpinned by accountable, transparent and effective governance. An approach to citizenship that uses an integrated framework that accounts for past experience and present challenges can help us to think about these issues in a coherent and productive fashion and allow us to draw conclusions as to how to operationalize citizenship in practice.

## I. Citizenship as Legal Status

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Focusing on citizenship as a legal status allows us to examine the shape and content of the formal rules of the game in a social order- in terms of the recognized constituent units of the system; the normative basis and dimensions of rights and obligations; the criteria of eligibility for the status to confer rights and obligations; the rules for changing the rules; and analysis of whether the order itself is bound by the rule of law. An analysis of citizenship logically begins with an examination of legal status because throughout history, people have been associated with specific social roles, ranging from the guild to the caste. Furthermore, the concept of the individual, unencumbered by any specific social role emerged gradually, and is the basis of the liberal idea of freedom. In addition, the classification of people into legal categories is a defining characteristic of the modern state. 'The individual is treated as someone to whom a certain description applies; s(he) is 'categorized'. Therefore, all (s)he need do to make good his claim is to show that a certain description does indeed apply to him.'<sup>1</sup> Finally, examination of citizenship as a legal status is useful because state officials and officials in other hierarchical organizations derive authority from their legal status: defining the modalities and limitations of the exercise of power is therefore inherent to the constitution of the rule of law in social orders.

### Box 1: Categorization, Exclusion and Reform- Race, Gender and Veterans

History is replete with examples to prove how legal status has shaped citizenship. For example, 'the history of civil society in colonial Africa,' argues Mahmood Mamdani, 'is laced with racism...The rights of free association and free publicity, and eventually of political representation, were the rights of citizens under direct rule, not of subjects indirectly ruled by a customarily organized tribal authority. Thus, whereas civil society was racialized, native authority was tribalized. Between the rights-bearing colons and the subject peasantry was a third group: urban-based natives, mainly middleñ and working-class persons, who were exempt from the lash of customary law but not from modern, racially discriminatory civil legislation. Neither subject to custom nor exalted as rights-bearing citizens, they languished in a juridical limbo'.<sup>2</sup> The term 'civil rights' came to be used to describe the legal rights and immunities which were enjoyed by white persons under municipal law of the various states but which were often denied in whole or in part to free blacks.

In Mississippi, it was held in 1859 that 'free negroes or persons of color, here in violation of our laws and policy, are entitled to no such rights. They are also to be regarded as alien enemies or strangers prohibiti, and without the pale of comity, and incapable of acquiring or maintaining rights of property in this state.'<sup>3</sup> Clearly, across both time and region, race has been an explicit means through which to divide people into subjects and citizens.

The use of gender as a strategy for social categorization, on the other hand, has been more subtle and, therefore, more enduring. The individual as posited by liberal theory, feminist scholars show, has been a man and not a person. Women's right to property ownership and the franchise, for example, are results of contestations of the 19<sup>th</sup> and 20<sup>th</sup> centuries in democratic countries. It is this condition that leads some feminist scholars to ask, 'if citizenship is admitted to be gendered, can we fail to explore whether rule is gendered?'<sup>4</sup>

In contrast, the 1944 GI bill of rights is an example of the creation of a legal status for a group that radically changed the opportunities for citizenship in the United States. The act provided 'federal aid to help veterans adjust to civilian life in the areas of hospitalization, purchase of homes and businesses, and especially, education...Within the following 7 years, approximately 8 million veterans received educational benefits. Of that number, approximately 2,300,000 attended colleges and universities, 3,500,000 received school training, and 3,400,000 received on-the-job training. By 1951, this act had cost the government a total cost of approximately \$14 billion.'<sup>5</sup>

Clearly, legal status can have strikingly different impacts upon citizenship- it can repress the contestation of rights, become an instrument for the creation of opportunities for exercising rights, or create entitlements to rights for specific categories of people. To understand the intersection of legal status and citizenship, we can draw upon the distinction made by H.L.A. Hart between internal and external views of the law. <sup>6</sup> Typically, those with the professional credentials for drafting and enforcing the law hold the internal view, while anthropologists who attempt to explain it provide the external view. This distinction, though critical, is not in itself sufficient to allow us to focus on contestations within a social order. However, when situated within a broader framework of interaction among actors and stakeholders it is instructive. Table I below illustrates an analysis of legal status and law as a process.

**Table I: Mapping the dynamics of legal status**

<b>External</b>	<b>Internal</b>
The public, social movements	The authorizing environment for rule-making (Board of Corporations, Parliament, Congress, Cabinet)
Legal community of practice	Composers/Drafters (Constitutions, primary, secondary legislation, by-laws, manuals)
Judicial Review, civil society and media	Administrators/Organizers
Excluded/ineligible people	Users/citizens

Focusing on the interactions between actors in the right hand column allows us to establish the degree of alignment between the rules and routinization of practices. Since actors are positioned in a hierarchy, the extent to which legal status produces loyalty to the social order depends on feedback loops between and among actors and the degree of efficiency and effectiveness of the administrators in delivering the rights or enforcing the obligations in an accountable and transparent manner. The ‘use’ perspective is essential for the legitimacy of the system, as that legitimacy is the outcome of the degree to which people, once granted a particular legal status, come to identify and endorse the social order so produced. Examination of this alignment allows us to both explore the internal dynamics of a status within a system, and the degree to which the existing organizational arrangements serve as the foundation for creating broader sets of rights and obligations.

Actors in the left-hand column are positioned to push the frontiers of the existing social order through questioning the balance between solidarity and inequality. They catalyze changes to existing citizenship arrangements, in questioning the fairness or effectiveness of an existing legal status and the creation of new legal status for specific groups. The creation and expansion of citizenship rights is a process of contestation which can lead to new interpretations of old laws and the promulgation of new laws or the creation of new mechanisms to deal with issues that do not fit an existing framework. In such a way, groups in the left hand column that question the status quo can prove that the law is malleable. Each group within that column has a differing position of knowledge and power in relation to actors in the right-hand column and thus alliances and networks between and among groups of actors on the two sides become central to change within an order. Social orders that allow for and respond to the voices of groups clamouring for change sustain or enhance their legitimacy through strategies of inclusion. Orders strongly dedicated to certain forms of inequality, however, have often resorted to repression to prevent the emergence and consolidation of movements or conditions for change. Such orders, as Hirshman explains in the case of former East Germany, can collapse under the combined pressures of voice and exit. <sup>7</sup> While in usual circumstances, aggrieved individuals chose either voice or exit, in some instances they resort to both, thereby forcing the social order to change, rather than forcing change within it.

In many instances, the provision of citizenship rights in law does not guarantee equality of citizenship rights in practice. While states can attempt to balance inequality and solidarity, discrimination and social classifications remain entrenched in many societies. Inequality can stem from deep rooted cultural practices such as caste, and the challenge is to create the conditions for citizenship rights not just at the legal level, but through mechanisms that can

affect a fundamental change of mental models and social practices at all levels of society. Indeed, when citizenship laws are enshrined in social treaties and constitutions that are far removed from the daily existence of those they are supposed to benefit, the gap between proclaimed equality and the reality of inequality can be the basis for the rise of social movements to realize these rights in practice. This type of social movement directed towards the realization of rights under law poses different questions for statecraft and policy than a labor movement that seeks to change repressive labor laws, for example. In the latter case, actors work to expand the existing social order by changing exclusionary laws, while in the former actors must work within the order to ensure that existing laws become inclusive in practice.

When discrimination is identity based and centred on the subordination of one group by another, the development of citizenship can be extremely difficult. These dynamics can pose fundamental issues for the balance of individual and group rights and necessitate the creation of mechanisms for equality based on citizenship as a relationship between individuals. Each person may have a multiplicity of identities, but citizenship must become an overarching category. To address this, social policy may need to be oriented towards the targeting of excluded groups to create a level playing field for citizenship. In this regard, the extent to which interactions with the state by groups that consider themselves excluded are humiliating and denigrating, or impartial and fair, can play a critical role in the generation of further resentment or the development of cross-cutting ties that can lead to a more inclusive identity and conception of citizenship.

The twin issues of change within an order and a change of the order relate to ‘rules of the game’ inherent in the structure of that order on one hand, and the means to change those rules on the other. Alf Ross drew on the rules of the game analogy in 1958 to highlight the importance of shared ideology in understanding the willingness of people to comply with those directives that they consider binding. A game of chess, he argued, could be understood neither by reference to rules issued by the international federation, as any pair of players could agree not to follow all the rules, nor by mere observation from outside, as an outside observer would not be able to differentiate between tactical decisions of a player and moves dictated by the rules agreed between the two players.<sup>8</sup>

Therefore, an ideology common to the players can define rules of the game as the directives with which they comply, because they respond to them as binding. Table II frames the question of citizenship within this notion of the rules of the game. This allows us to empirically determine the domains of agreement and disagreement and the availability of mechanisms for widening the areas of agreement or diminishing the areas of disagreement among people with claims to being members of a given social order. The effectiveness of policies designed to legitimate the social order can be judged by their success in creating common mental models and mechanisms for creatively managing the ever-changing contours of the citizenship process.

**Table II: Rules of the Game**

<b>Exclusion</b>	<b>Inclusion</b>
Universe of disagreements/Divergent mental models	Universe of agreements/Shared mental models
Closed status system	Open status system
Restricted mobility	Demonstrated mobility
Injustice/repression	Credible mechanisms for dispute resolution
Opaque rules	Credible rules for change of rules
Fragmentation of rules	Harmony of rules

The range and bundling of rights and obligations in any given context are affected by the formation of new groups. The degree to which an order is open or closed to the extension of

legal status to new groups or to changing the status of existing groups is an important test of its capacity for coping with change. Even when creation of status is open in theory, mechanisms are needed to create trust in the social order. These mechanisms are important for several reasons. First, as the ambiguity of rules is only revealed in practice, the existence of effective mechanisms for dispute resolution is critical for the alignment of policy objective with social practice. Second, when not resolved, individual disputes can become group conflicts. Effective dispute resolution mechanisms not only pre-empt this risk but have the additional benefit of turning entitled people into stakeholders in the social order. Third, trust in dispute resolution enhances the value of voice, thereby reinforcing the sense of identification with, and ownership of, the social order. Finally, when dispute resolution mechanisms reveal that existing rules are a constraint to change, arenas of citizen deliberation become vehicles for voicing the need for change, and for building consensus around changes to the rules.

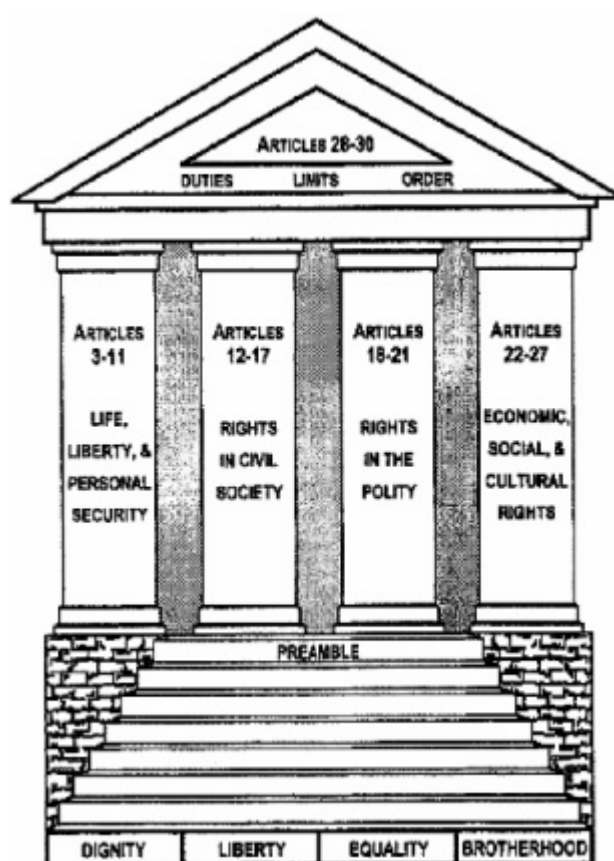
However, we must distinguish between the differing types of rules under discussion and the relationship between them. Hart argued that a legal system derives its dynamic character from the interplay between primary and secondary rules.<sup>9</sup> In his definition, while primary rules are mechanisms for imposing duties, secondary rules are mechanisms for conferring powers, as they are rules about rules. Secondary rules provide procedures for creation, modification and abrogation of primary rules. The distinction between primary and secondary rules could serve as a marker for the crucial difference between rule of law and rule through law.<sup>10</sup> When rulers rule through law, they provide predictability to their subjects but are not themselves subject to clear secondary rules for defining and constraining their powers. In contrast, when rule of law prevails, the powers of rulers are defined by rules, violations of which entail sanctions against them. From an historical perspective, the expansion or suspension of secondary rules could, therefore, be seen as a mechanism for expansion or contraction of the rule of law. Hence, the pivotal importance of T.H. Marshall's observation on the foundational importance of 'the right to justice,' as this right enables one to 'defend and assert all one's rights on terms of equality with others and by the due process of law.'<sup>11</sup>

Having defined how citizenship can expand or contract and how this process can occur, we can then seek to compare rights on a geographical and inter-temporal basis, and such a comparison indicates that the rule of law on a global level is not nearly as entrenched as one would hope. A series of indices exists which allows us to do this.<sup>12</sup> For example, The Freedom House Freedom in the World 2006 Report, scores 55 countries at 5 or less (out of a possible 15) on the rule of law.<sup>13</sup> The European Social Inclusion Index, constructed to address a knowledge gap on citizenship and inclusion for 13 million EU non-naturalized immigrants residing in 15 EU member states, also indicates that 'although status (or rights) for migrants in the EU are relatively difficult to acquire and weakly protected, they have significant rights associated with them. Anti-discrimination bucks this trend- the legislation tends to cover a great breadth of areas (with the exception of discrimination on the basis of nationality), but yet is rather weak on enforcement'.<sup>14</sup>

## II. Understanding Human Rights and Citizenship Rights

The rule of law is based on the concept of *Rechtstaat*, defined as a political community ‘in which the powers of everyone having public authority are carefully defined and the citizen has a legal remedy for abuse of power’.<sup>15</sup> Any discussion of rights, however, must be based on the normative framework of rights articulated in the Universal Declaration of Human Rights. The Preamble offers a vision of the future, in ‘recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world.’<sup>16</sup> Mary Ann Glendon provides a full analysis of the genesis and structure of the Universal Declaration of Human Rights, which is not our purpose here. (See Appendices I and II for further detail). Rene Cassin, one of the key players in the formulation of the Declaration, used the metaphor of a temple’s columns to describe the structure of the Declaration, an image well captured by Glendon’s book.

**Diagram I: Cassin’s Portico: A depiction of the structure of the Universal Declaration of Human Rights**



The vision of ordered liberty articulated in the Declaration is to be enjoyed by all human beings, by the mere virtue of being human. As stated in article 2: ‘everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’. Framed as universal, the Declaration provides the agreed normative standard against which citizenship rights in any social order can be measured. Describing the task as recognition of our inherent right by virtue of our common humanity, the Declaration emphasizes equality and, parting company with positivist legal thinking that describes the state as the ultimate source of law, requires the conduct of the state to be judged by a normative framework. Recognizing rights of movement, asylum and nationality, it goes beyond the notion of citizenship as bound by the state. It also elevates the issue of rights from

a national to an international level of cooperation. Little surprise then that discourse of ‘post-national citizenship’, as Soysal points out, is deeply imbued with the notions of human rights.<sup>17</sup>

T.H. Marshall’s lectures of 1949 on citizenship and social class, the iconic texts on citizenship in European social theory, explain the difference between universal aspiration and national reality. Marshall was both analyzing and participating in the formulation of policies of citizenship in post-war Britain, and the following five themes in his work have continuing relevance for the understanding of citizenship today:

i) Marshall classified citizenship into civil, political and social rights; specified the institutional arenas for contestation over and expansion of each set of rights; described the contents of each category of rights; and offered an historical periodization for the articulation and consolidation of rights in Britain as depicted in Box II below.

**Box II: Marshall’s schema of rights**

<b>Category of rights</b>	<b>Content of the right</b>	<b>Institutional arenas</b>	<b>Periodization</b>
<b>Civil</b>	Liberty of person, freedom of speech, thought and faith, right to own property and conclude valid contracts, right to justice as the prerequisite for all other rights	Courts of Justice	18 <sup>th</sup> Century
<b>Political</b>	Right to participate in exercise of political power, as member of body invested with political authority or as elector of members of such a body	Parliament and Councils of Local Government	19 <sup>th</sup> Century
<b>Social</b>	Spectrum from right to degree of economic welfare and security, to right to share in full social heritage and live life of a civilized being according to prevalent social standards.	Educational System and Social Services	20 <sup>th</sup> Century

ii) Marshall defined citizenship as a status and specified the type of loyalty distinctive to it. ‘Citizenship is a status bestowed on those who are full members of a community. All who possess the status are equal with respect to the rights and duties with which the status is endowed. There is no universal principle that determines what those rights and duties shall be, but societies in which citizenship is a developing institution create an image of an ideal citizenship against which achievement can be measured and towards which aspirations can be directed.’<sup>18</sup> In contrast to kinship, citizenship ‘requires a bond of a different kind, a direct sense of community membership based on loyalty to a civilization which is a common possession. It is a loyalty of free men endowed with rights and protected by a common law.’<sup>19</sup>

iii) Marshall argued that the tension between the principle of equality in citizenship and the inequality inherent in the emerging capitalist economy was mediated through struggles over civil rights: the core rights of citizenship, in the 18<sup>th</sup> century, were ‘indispensable to a competitive market economy’. The movement from status to contract, in Maine’s apt phrase, was essential to the competitive market. ‘For modern contract is essentially an agreement between men who are free and equal in status, though not necessarily in power. Status was not eliminated from the social system. Differential status, associated with class, function, and family was replaced by the single uniform status citizenship, which provided the foundation of equality on which structures of inequality could be built.’<sup>20</sup> Thus, social policy was established ‘by the exercise of political power, for social rights imply an absolute right to a certain standard of civilization which is conditioned on the discharge of the general duties of citizenship... the aim is to remove inequalities that cannot be regarded as legitimate.’ Under these circumstances, ‘apparent inconsistencies are in fact a source of stability, achieved through a compromise which is not dictated by logic.’<sup>21</sup>

iv) Marshall posited that enjoyment of recognized rights in practice depended on a process of geographical fusion and functional separation. National institutions, such as courts and parliament, were required to give access to rights of citizenship. Therefore the ‘machinery had to be shaped afresh,’ requiring the creation of a specific ‘apparatus’. Custom, the amalgamation of rights at the local level, and statute laws restricting freedom of labor had to be overcome, bringing about separation of three sets of rights. As a result, ‘when the institutions on which the three elements of citizenship depended parted company, it became possible for each to go its separate way, travelling at its own speed under the direction of its own peculiar principles.’<sup>22</sup>

v) Marshall described the significant shift from duties to rights between the 18<sup>th</sup> and the 20<sup>th</sup> centuries. Some duties - the most important of which was to pay taxes and insurance contributions - had become compulsory. ‘Since these are compulsory, no act of will is involved and no keen sentiment of loyalty’. The same condition, he argued, applies to both education and military service. Other duties, of which the most important is the obligation to work, are more vaguely ‘included in the general obligation to live the life of a good citizen, giving such service as one can to promote the welfare of the community.’<sup>23</sup> In contrast, parallel rights had multiplied over the same period, shifting the balance within citizenship from state centred to citizen centred.

Marshall’s concepts remain useful as we consider citizenship in a modern setting, but we must build on this work, apply it to a globalized world, and attempt to understand why elements of modern citizenship and rights discourse do not fit neatly into his paradigm. For example, we cannot understand citizenship as a process of balancing tensions between inequality and solidarity today without reference to gender, race, ethnicity, caste and other historically prevalent social and cultural cleavages. Claims of universal status membership are inherently hypocritical when certain individuals are explicitly excluded. This further highlights the issue of group rights and, therefore, rethinking of individualistic assumptions of the tradition of citizenship.

Confusing terminology has further obfuscated the rights discourse of rights with regard to human rights and citizenship rights. An important distinction, as Isaiah Berlin argued, in his famous essays on liberty, is between negative freedom and positive freedom, or in Jonoski’s terms, the distinction between liberty, claim, power and immunity.<sup>24</sup> Amartya Sen makes the distinction between political freedoms, economic facilities, social opportunities, transparency guarantees and protective security.<sup>25</sup> Janoski and Gran have made an important contribution to the clarification of terminology by relating Marshall’s classification to Hohfeld’s categories of rights.

**Box III: The Relationship of Citizenship Rights to Hohfeld’s Categories of Rights**

<b>Hohfeld’s Categories</b>	<b>Citizenship Rights</b>
1. Liberties: Unilateral protections or actions; refer to the individual’s ability to act as they please as long as others are not hurt	1. Legal Rights: Freedoms of religion, speech, due process, and general rights to use the legal system to protect other rights.
2. Claims: the right to goods or services that require correlative duties from others. Unlike liberties, claims require the positive and supportive action of other persons.	2. Social rights: Education, medical services, and cash payment for welfare and social security. Social rights depend upon claims that others pay taxes for services and payments.
3. Powers: The right to control cooperatively other persons or properties	3. Political rights: By voting, citizens cooperatively control the agenda for political action in the future. By holding office, citizens control other citizens in a direct way.

	Participation rights: By participating in workers' councils, members of organizations help set the course and policy for their firms.
4. Immunities: The right to escape powers or claims	4. Legal rights: As an exception to universalistic principles because of past deprivations of rights, legal rights can also refer to compensation for aggrieved groups.

Source: Jonoski and Gran, *Political Citizenship: Foundations of Rights*<sup>26</sup>

At the time of his writing, Marshall assumed that the British Government has assumed a socialist policy, and he was concerned about the place of the market in a predominantly state-managed socialist economy. Sen's distinctions reflect and highlight our contemporary conditions. Political freedoms express the victory of democracy as the organizational form of the polity over its alternatives. Both the authoritarian and communist models collapsed in the 1980s, resulting in a moment of enthusiasm, for a seeming consensus was the only conceivable form of governance. Now, this consensus is far more fragile, highlighting the need for understanding the nature of contestations through which political freedoms are consolidated rather than a one-time event through which they are granted. Economic facilities again reflect Sen's sensitivity to the political constitution of the economies. He shows that in the United States, low unemployment is critical to political legitimacy, while in Europe, double-digit unemployment is politically tolerable because of the way social safety nets have evolved since World War II.

Social opportunities highlight the need for both investment and creation of human capabilities, marked particularly through health and education, and the lesson that creation of a level playing field for social mobility rather than guaranteeing of social mobility might be the limit of the intervention of a democratic polity in the economy. Transparency guarantees is an important insight into the examination of governance. Marshall, for instance, did not mention the impact of corruption on the realization of rights from the 17<sup>th</sup> to the 19<sup>th</sup> century. Today, accountability of governments to the governed has become an important part of the social contract. Transparency, given both the globalization of the media and the radical reduction in the cost of information, is not longer just a desirable mechanism for binding free people together, but an indispensable precondition of securing consent and ensuring continuous engagement and participation of people in their affairs. Protective security entails a subtle shift from the category of social rights as an articulation of a principle within a socialist polity, to the obligation of the society and the state to its vulnerable members, be these vulnerabilities situational, or outcomes of long historical processes, such as race or location.

A further major problem in the discourse of rights is that it sometimes displays distrust in the market without a differentiated examination. In developing countries, the question of whether the market would have the same elective affinity with civil and political rights as it did in Britain has not been explored. As a result, with certain important exceptions, a set of market instruments that could be directed towards empowerment of the poor do not play a significant role in the policy debate.<sup>27</sup> At the same time, rights discourse often assumes a welfarist model, when today this model is suffering from a crisis of affordability in developed countries, creating concerns about sustainability. The critical question for social policy in its broadest sense is how to balance the market, civil society, community organization and the state, in order to generate the solidarity and fairness necessary to create reinforcing networks of rights and obligations.

Any analysis of freedom must also include an examination of the apparatus for its delivery. This involves the right to good governance based on: the quality of people recruited to government; their accountability and transparency to the people whose wellbeing they govern; the organizational functions of governance and the alignment between these functions; the management and combining of assets to produce value for citizens; economic and social preconditions and opportunities; fair rules and procedures; and government

operation within a medium to long term vision of a country's future. While the Universal Declaration implicitly references good governance at both the international and national level in Article 28 ('Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized'), the emergence of dysfunctional states makes it necessary to argue explicitly for the right to good governance as the precondition for realization of other rights.

The ideas of Marshall and other European social thinkers were heavily influenced by particular European and national histories, so that the historical separation of institutions - judicial, political and executive - are uncritically taken for granted. Yet the creation of citizenship in developing countries today will not result from fragmented focus on these separate domains but first and foremost from ensuring the effective performance of the whole of government. What J.S Mill warned of in terms of class legislation has now manifested itself in what Hernando de Soto calls the *ibad lawsî* in mercantilist states, where struggles for redistribution consume the key energies of business and industry.<sup>28</sup> Even in OECD countries, the notion that the state represents the interests of the citizenry as such remains heavily contested. For example, Anthony Giddens argues that it is more plausible to see Marshall's three institutional mechanisms as arenas of contestation or conflict, each linked to a distinctive form of surveillance. He associates civil rights with surveillance as policing, where the apparatus of judicial and punitive organizations control *ideviantî* conduct. Political rights are then linked to surveillance as reflexive monitoring of administrative power, while economic rights are linked to surveillance as 'management of production' whereby the workers leave their rights at the factory gate.<sup>29</sup>

Indeed, while social contestations and temporal periodization have received significant attention, the idea of surveillance links to spatial dimensions of citizenship in terms of advantages or disadvantages derived from location, which have (with some important exceptions) received far less attention.<sup>30</sup> Lefevre's notion of the production of space becomes highly relevant in this context, for provision of infrastructure and creation of social opportunities through investment in health and education become mechanisms for both expansion of opportunities in the market and participation in the polity and civil society. Importantly, several European countries, such as Ireland, now recognize this and have been paying special attention to spatial planning.

### III. The genesis of citizenship within the context of the nation state.

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Developing countries aside, the notion of citizenship rights has evolved unevenly even in Europe, with progress and setbacks over time. Indeed, fascism was a dominant force in Germany and Southern Europe between the two World Wars; authoritarian rule dominated Southern Europe until the mid 1970s; and the Soviet sphere of influence collapsed only in the early 1990's. It is useful to understand exactly how citizenship rights reached the point at which we conceive of them today through close historical analysis of their evolution.

Before becoming citizens, Europeans were made into subjects of territorially organized states, a great transformation on which much intellectual thought and analysis has been focused. War was the dominant function of the emerging European state between the 14<sup>th</sup> and 19<sup>th</sup> centuries and during the hundred-year peace of 1815-1914 in Europe, this belligerence was directed towards the conquest and subjugation of the people of other continents. With the 'warfare state' rising to prominence during the first half of the 20<sup>th</sup> century, war-making was central to the state's acquisition of the art of disciplining, as people had to be seized by the state through conscription and moulded into instruments of coercion. Hierarchy as a principle of organization was first put into use in the military, was then applied to the civil and judicial administration, and thereafter to the corporation.

Today's public finance derives its impetus from war-making during this period. Conscription and taxation, therefore, were the two obligations imposed on subjects of the state. Establishing a monopoly on the right of taxation by the state and the guarantee of freedom of movement for the subjects within the territory of the state were gradual processes. In the economic domain, the state functioned as a redistributive mechanism among the elite. Privileges, ranging from charters for colonial companies to trade monopolies, made and undermined great fortunes. While this feature is common in developing countries today, the upper reaches of professional and civil life were either formal or informal monopolies of the elite. Freedom of movement was constrained by cost of protection, entailing payment of tolls by travelers on the highways and waterways of centralizing states. Freedom of movement became accepted as a general concept when the state internalized cost of protection for those granted the right of movement. As the English legislation on vagabondage makes clear, freedom of movement was associated with legal status: those classified as vagabonds could be seized for forced labor. As George Orwell shows, the poor without any assets had the right to sit for the night, but if they were found sleeping in a public space in London the police were obliged to move them on.<sup>31</sup>

Law during the formative period of the centralized state may have had a closer affinity with repression, disciplining and class legislation than with justice. The repressive face of the law manifested itself in multiple areas. Enclosure entailed expropriation of vast areas of communal and public land, and its transfer into the hands of large landowners. This phenomenon was not limited to the 16<sup>th</sup> and 17<sup>th</sup> centuries, as large tracts of land were also cleared in the Scottish highlands during the 19<sup>th</sup> century. The customary rights of communities were severely curtailed, with the violators punished either by death or long sentences. Freedom of assembly was denied to workers in Britain until 1825, when the law against trade unions that criminalized coalitions of laborers, was repealed. With the emergence of industrial production, working conditions and work by women and children became areas of legal dispute. However, legal codes favored the status quo- law was not only one-sided, but highly corrupt in its execution. The 'terror of stability' was very real in that few could expect fair treatment under the law. However, as E.P. Thompson has argued, law was not only an epiphenomenon of repression but also a distinctive domain of theory and practice. It may have been unequally applied, but in 18<sup>th</sup> and 19<sup>th</sup> century Britain the medium of the law was used to resolve disputes, thereby transforming this law into both an instrument of change and method for the consolidation of order.

The renewal of political theory and political economy in the 16<sup>th</sup> and 17<sup>th</sup> centuries in Italy, England, Scotland and France is a critical component of the conceptualization of state - a term first used in Italy - as the embodiment of the rule of law. It was these texts that provided the foundation for the renewal of the notion of constitutions. The American and French Constitutions marked significant breakthroughs in written statements of rules of the game to guide the polity and simultaneously impose limits on the exercise of power. The doctrine of judicial review in the United States - a clear mechanism for a change of rules - transformed the courts into a mechanism for interpreting these rules in new ways and for expanding their contextual applicability.

The Governmental and Constitutional continuity in the United States stands in sharp contrast to French republics and empires. Before the Third Republic, the duration of democratic governments was not more than three to four years. Indeed, the foundational rights proclaimed in the Declaration of the Rights of Man of 1789 were largely lost during the Napoleonic dictatorship. Again we see that the trajectory of citizenship rights in Europe has been far from a logical process of continual consolidation. As Carl Brinkman argues, 'in Europe, civil liberties have been successively attained and lost. In the United States the state laws for the repression of sedition, syndicalism and anarchy which followed upon the cessation of the war (World War I), while legitimately applicable to genuine dangers to peace and order, are so broadly drawn and have been so generously interpreted that most of the revolutionary leaders of 1776 could be sent to jail for long terms under their provision.'<sup>32</sup>

In the course of the late 19<sup>th</sup> and 20<sup>th</sup> centuries, the state steadily assumed a series of functions that made it a critical factor in determining the opportunities and well-being of the population. Germany was the first country in which the state entered into what was the production of 'human capital', as education became compulsory and was used as a tool to produce loyalty to the state and engender a distinctive form of nationalism. Simultaneously, Germany began to deliver social rights through a corporatist compact between government, the dominant classes, and labor, a process that took precedence over the delivery of social, civil and political rights. Across Europe, the sequencing and degree of emphasis on different sets of rights varied depending on the organization of the state, the mental models of the ruling elites, and the nature of the mobilization of newly formed groups.<sup>33</sup>

The emergence of industrial capitalism was by all accounts a highly painful experience, as working conditions were terrible and welfare systems did not exist. The central dilemma for the elite was how to mitigate the tensions that inevitably arose from these conditions, and recognize the rights of women and minorities in order to avoid a full-scale assault on the social order. Indeed, alternatives to the capitalist system that supported their privileged position within society seemed very real- the Paris Commune was a visible reminder of outright class conflict, and the spirit of revolution was everywhere in Europe. In response to these tensions induced by the competitive market economy, the state began to assume a series of functions to regulate three distinct orders- the political, the economic and the social.<sup>34</sup> Thus citizenship became a mechanism for enmeshing individuals and groups into nation states and avoid social upheaval.

This has been a gradual process, and it is only relatively recently that alternatives to the market economy, and the democracy that underpins it, have been- perhaps temporarily- put aside. The British economy, after the repeal of the Corn Laws in 1846, became a globalizing force referred to by its critics as the doctrine of the cosmo-political economy. Germany, the US and Russia, among others, responded by formulating the doctrine of the national economy. In Germany, this made the state a central player in the production of infrastructure, critical to the integration and global positioning. The tensions between national interest in the first wave of globalization resulted in the First World War and the Great Depression, forcing the state to become the regulator the economy on one hand and an instrument for social service provision on the other.

It is no coincidence that a large number of social programs have their origins in responses to the Great Depression. As rights were severely restricted or outright denied under the totalitarian regimes of mid-century, Europe has embarked on the rediscovery of civil rights since the defeat of fascism and the implosion of communism. The process of shifting from generous social rights to society based on prescribed civil and political rights has been difficult for many former Communist states as they prepare for accession to the European Union. As the latest report on inclusion for the European Union makes clear, as a result of this process there has been an increase in both unemployment and social protection. The European experience indicates that the desirability of a human rights regime in any context has to be carefully aligned with the feasibility and credibility of delivering those rights over time as their surrounding social and political context changes. The welfare state in Europe, particularly in Britain but even in Germany itself, was a direct response to the expansionist Nazi warfare state. In the United States it was a response to the Great Depression and the return of thousands of war veterans that led to the heavy investment in human capital through the GI Bill of Rights. The architecture of the post-World War II world was distinctly national in terms of national states, national economies, national policies, and tightly regulated national currencies. It is in this context that the Welfare State was consolidated, both in Europe and North America. This led in turn to the golden age of the middle class in the period from the 1950s to the 1980s.

A strong argument can be made that it was the emergence of the middle class in democratic countries that consolidated sets of civil and political rights into a framework for citizenship and opened up the debate about the optimal combinations of the market, civil society and the state in delivering social opportunities. It also is worth noting that it is with the emergence of the middle class that the market was transformed from a class based mechanism that precipitated conflict, into a means through which to generalize property rights and release entrepreneurial energies in search of wealth creation. Suddenly rights expanded and with increased wealth, transitioned from theory to practice. The possibility of shouldering broader obligations of citizenship was realized and both direct transfers through social programs and taxation choices became key decision areas.

Despite the debate over the universalist nature of rights, it has become clear that state-building strategies that started with social rights and corporatist arrangements in the absence of political rights and civil freedoms did not endure, whether in Germany or the former Soviet Union, Fascist Italy or corporatist regimes in Latin America. We can therefore rework Marshall's observations on the compatibility between civil rights and competitive markets into a broader thesis of mutual dependence and understand civil rights as the foundation for a competitive market economy. From this stems the argument that a competitive market economy is the guarantor for the creation of social opportunities and the wealth that will allow for both the rights and the obligations to pay for those rights.

In Singapore, the provision of affordable housing, investment in education and full employment through the creation of conditions for multi-national corporate investment (at a time when the international consensus focused on import substitution as the key development modality), created both a functioning state and a competitive market economy. This indicates that social policy cannot be conceived of merely in terms of wealth redistribution- at the heart of Singapore's success was high saving rates. To Ngiam Tong Dow, 'Good governance, impartial courts of law, our honesty and integrity are the bedrock for wealth management.'<sup>35</sup>

The story of transformation of both Europe and North America is the story of the metamorphosis of the state from an agent of classist legislation and corruption to a source of social power and systems of accountability and transparency between the government and the governed. Through this process, the distinctiveness of law, whereby rules become resources and the medium of expression of agreements and compromises within a society, became critical to the creation of webs of rights and obligations that bind people together. The rule of

law and good governance are inseparable, for a system of governance can only be a system of rule of law. A system of national accountability consists of a series of distinctive rules and practices that create the necessary transparencies, accountabilities and predictabilities for the binding rights of citizenship. This demands a revenue raising system through which to create a social compact- citizens pay for obligations and solidarity, and the transparency of the rules becomes an asset in further wealth creation. It also requires a budget, where decisions regarding state functions are translated into the concrete allocation of resources, and a system ensuring that accountability for performance of those functions is established between different departments and levels of governance. For functionality, an implementation system is essential, and while the complexity and range of tasks can vary, the essential task is to deliver services or to procure goods, whilst also providing accountability and transparency. This is not a simple arrangement- even in advanced societies today the mainstreaming of rights and effective implementation of those rights still remains challenging.

#### IV. The challenge of citizenship in a new context

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The world today is radically different to that of 1945. Globalization is not new and has occurred in successive waves, but the character of globalization today is posing new challenges and providing new opportunities. The architecture of the post World War II international system was based upon the idea of the state as the sole unit within which to base rights and obligations and upon which to endow international sovereignty. Economies were conceived of in strictly national terms, as exemplified by restrictions on currency flows, exchange rate fluctuations and national markets. Multi-national corporations, international civil society or supra-national institutions were neither part of the discourse nor the reality of the time. Subsequently, a number of new actors - organizations and institutions - have emerged, many of which have considerable autonomy in rule-setting vis-a-vis the individual, relegating the state to one player among many.

The state continues to mediate citizenship rights and entitlements, and provide a predictable policy environment for the implementation of those rights. As such, it remains a critical variable in the citizenship dynamic. However, the perception of the state as the key arbiter of citizenship rights needs to be re-examined in the new global context given the degree of freedom the state can now exercise in relation to International Financial Institutions (IFIs), global corporations and civil society. To a larger degree than in the past, the state must now enter into a two way relationship with these entities in which each can influence the extent to which the others can prescribe the rules of the game. Therefore, state law making powers can actually be highly constrained by that state's need to attract funding or investment- IFIs and corporations impose both implicit and explicit conditionalities on the countries in which they operate, curtailing the autonomy of the state.

##### *Corporations*

Today, economic opportunities for vast numbers of people depend on their place in the value chains and networks of global corporations. A distinctive characteristic of these corporations is their legal status as rule-makers. While they need to comply with a minimum set of standards that are specified by national authorities, and actions are to some degree mediated by state parties through transnational bodies such as the WTO or the EU, a vast range of rights and rules is left to their own discretion. These include decisions on the type of wages and benefits that they establish for their branches in developing countries, the extent to which they consider environmental concerns, and their efforts to invest pension funds in socially responsible ways. The fact that a company usually focuses on a single goal allows for a large degree of alignment, removing the state from micro-managing the organization. Equally significant is the change in the capacity of consumers to make choices and the extent to which members of the middle classes of OECD countries - as both consumers and shareholders of publicly traded companies - attach importance to standards of human rights, social responsibility and the environment. While the actions of corporations may be self-interested, there is little doubt that they are influencing the reality of rights and obligations, both positively and negatively, for a sizeable number of citizens that are enmeshed within their supply chains and networks.

This new space occupied by corporations can be referred to as part of the concept of 'corporate citizenship'. Indeed, Microsoft 'is committed to being a responsible industry partner, working with businesses, communities, and governments to help advance social and economic well-being and to enable people around the world to realize their full potential.'<sup>36</sup> Arthur D Little claims that: 'Corporate citizenship is about companies taking into account their complete impact on society and the environment, not just their impact on the economy. It is about business assuming responsibilities that go well beyond the scope of simple commercial relationship'<sup>37</sup>; and the World Economic Forum defines corporate citizenship as the 'contribution a company makes to society through its core business activities, its social

investment and philanthropy programs, and its engagement in public policy.<sup>38</sup> Given the rising power of consumers and shareholders, the rights and obligations of corporations vis-a-vis the citizen and society are being renegotiated. This is not a universal trend- many corporations continue to allow rent-seeking and bribery- but it is a positive movement in terms of global citizenship rights in the modern era.

### *International civil society*

International civil society is also redefining the field of citizenship. Three features of civil society as an international network are particularly significant: first, it has become critical in setting normative standards of behaviour and mobilizing for compliance by governments, corporations and international organizations; second, it is directly involved in the delivery of benefits and services, particularly social services, both in developed and developing countries through raising resources or obtaining resources as contractors for delivery of these services; third, it has become a catalyst for the mobilization of groups of people, particularly poor people, for demanding rights from states, international financial organizations and corporations. All these features are made possible by the incredible capacity of NGOs to mobilize of public opinion in general and the media in particular. No network matches international civil society in its ability to rapidly transmit and disseminate information and demand action. Hence its power to influence both the national governance and international development agendas.

The rediscovery of social capital as a mechanism for building solidarity through trust and cooperation has led to a significant emphasis upon the role of communities and networks in managing issues that previously would have been assigned to the state in some countries. The dichotomy of experience in Italy and France is instructive. When an individual is stripped of assets in France, a social network of obligations does not cushion this in any way, as the system of protection is state-centered. With a similar situation in Italy, however, the individual will be supported by an extensive network of kinship and friendship, thereby providing her or him with an additional safety net that is wider than that provided by the state.<sup>39</sup>

### *Non-state institutional arrangements*

The most significant transformation of the nation state has taken place in Europe, where the concept of the nation state first developed. Beginning with cooperation on steel and coal issues that divided German and French interests for decades, the European project has gradually but systematically created new institutional relationships between member states at the core of Europe, and recently through the accession process in Central Europe. In terms of rule-making, the emergence of the European Court of Justice has been an enormously significant development in repositioning the state with regard to rule of law- individual citizens of member countries have the right to sue their governments and these governments have proved willing to abide by the court's decisions. Thus we are witnessing the willingness of states to abide by a set of agreed, enforceable rules that are larger than their territory.

As citizens of Europe have acquired the right to mobility within the borders of the European Union, and the right to vote at the local as well as European levels, the scope of rights is becoming wider and is likely to have unanticipated consequences for participation of citizens in governance. Local authorities, which previously looked to their capitals for guidance and financing, now have the opportunity to come together in polycentric networks to create new opportunities, enter into new obligations and embark on new strategies. In China too, the Central Government shows a real flexibility in permitting local governments autonomy in decision-making. Some commentators go as far as to argue that new forms of city states emerging within the boundaries of the existing nation state as the sources of new economic dynamism. Ireland's spatial planning again reflects the long-term vision of a group of leaders who see both the European Union and globalization simultaneously as opportunities for positioning and as constraints for new initiatives that have to be clearly understood.

### *International Financial Institutions (IFIs)*

International Financial Institutions were created, as was the global institutional architecture more generally, on the assumption that their members would be functioning states. In their first decades, they focused on well delineated tasks- the IMF on currency control and exchange rate advice; the World Bank on the provision of infrastructure; and the UN agencies on technical advice. Four changes have repositioned the IFIs in relation to the field of citizenship: first, with the Washington Consensus, the function of the IFIs changed from supporting governments to restructuring them through structural adjustment programs aimed at creating a competitive economy but whose record on the ground was quite mixed; second the World Bank and the regional banks started assuming new responsibilities ranging from education to social protection policies, reflecting functions to be performed by the states, and also becoming advocates of specific sets of policies in all these domains; third, with the emergence of failed and fragile states, the IFIs began to substitute for the state through direct contracting with NGOs, or entering into support of community based programs that bypassed the state; and fourth, the World Bank and some of regional banks created a distinctive social policy domain through resettlement and indigenous peoples' policies.

Resettlement policies attempt to improve the standard of living of people affected by World Bank projects through giving these individuals a special legal status as a result of the adverse impact on their livelihoods that goes well beyond the obligations of their governments to them as delineated in national law. Indigenous peoples' policies ensure that any Bank-financed project affecting indigenous people now requires a specific indigenous peoples' plan, thereby creating special legally binding status for a single group, and setting a precedent in international law.

These policies have developed without due consideration as to the nature of identities or to the social and political systems of disparate countries, and have made these banks into an arbitrator of group relationships. At one level it can be argued that all Bank activities are interventions in the social domain: they determine the creation of facilities, and contribute to the creation, and affect the parameters, of social opportunities. Specifically, the Bank has a set of instruments ranging from PRSPs, PRSCs, and social protection reforms whose explicit goal is either to reduce poverty or to cushion the impact of various policies on the poor. The Bank's increasing acknowledgment of the centrality of governance in its recent focus on corruption can be linked to the critical importance of transparency guarantees. Where the Bank's resettlement and indigenous peoples' policies differed is that they provided normative standards that provide for rights above those stipulated by national laws and regulations or enforced through careful supervision and monitoring by the Bank and have entailed both delivery through non-governmental organizations and intensive scrutiny by national and global civil society movements.

Were the Bank to advocate a social policy predicated on citizenship rights it would become a catalyst for striking a balance in different countries between rights and obligations that are underwritten by both national resources and global commitments, but unlike its resettlement and indigenous people's policies, it would not adopt a universal standard that is applicable across the board. Because the World Bank and other IFIs have entered gradually, and in a piecemeal fashion, into the interface between social and economic policy as manifested in programs of good governance and legal and judicial reform, the larger question of social policy agenda that would bring their efforts into an integrated framework has not yet been tackled. Such a framework would require an understanding of state-building as a process that is directed towards the creation and sustained delivery of rights and obligations of citizenship. Such an endeavor demands careful exploration of how effective markets can become the vehicles for creating opportunities to produce the preconditions for the exercise of rights. To succeed, it must seek to create synergies between expansion of the market, effectiveness of the state, and civil society oversight.

#### Box IV: Key Organizations in relation to Citizenship

Type of Organization	Relations to Citizenship
<b>Centralized State</b>	Crucible of citizenship for last 200 years
<b>Modern Corporation</b>	Key hierarchical arena for creation of rights-obligations regimes
<b>Global Organizations (UN, Bretton Woods Institutions, WTO, regional developmental organizations)</b>	Critical either in formulation of rights discourse or as catalyst for promotion/ rejection of policies - affecting form and content of citizenship systems - by member states.
<b>The Market</b>	Key institutional arena with distinctive rights and obligations in creation of opportunities to exercise rights and generate wealth - providing resources making feasible redistributive policies.
<b>Civil society</b>	Especially as <i>global</i> network of advocacy and delivery of social services, important in reflexive monitoring of accountabilities and transparency of the state and the market. Focused on benefits to certain categories of individuals and groups.
<b>European Union</b>	Networked state and distinctive new form of political community. A form of social organization attempting to deal with distinctive challenges posed by citizenship today.

Citizenship can no longer be conceived of in terms of a hierarchy, where the individual and the state are the two units of a social order, bound together by mutual rights and obligations around nationality as the language of sovereignty. The international system is based on states as the constituent units. The state retains a major role as the institution through which to mediate the demands of domestic and international legitimacy, a role that is based on the primacy of the rule of law. However, it is not the legal position of these states, but their effectiveness in fulfilling obligations to their citizens that is the critical challenge. The current context of globalization provides both an opportunity and a constraint to the conceptualization of citizenship as a relationship between people within a territory and the government of that territory. Again, Ireland is an example of an effective state that has successfully redefined this relationship through articulating a long-term horizon for the expansion of the rights and obligations of citizenship. The Irish have mobilized capacity towards the achievement of national goals within the EU supranational framework, and developed innovative approaches to issues such as spatial planning in order to leverage the benefits of globalization.

Today, creation of both the preconditions and effective conditions of citizenship require recognition of the relationship between networks, hierarchies and the market. Individual positioning in relation to economic networks on one hand, and civil society networks on the other, makes a critical difference to the opportunities available to that individual, and to their understanding and positioning vis-a-vis both their government and to international organizations. Understood in relational terms, the placement of individuals in the value chains of global corporations cannot be separated from the placement of those corporations globally vis-a-vis civil society movements and the value systems or mental models of consumers, as shareholders and as investors. The global media is equally critical as a network, defining images of prosperity and participation, but also of exploitation, exclusion and deprivation. Both positively and negatively therefore, the production of citizenship as a process entails understanding local positioning with regard to national and global sets of relationships. Our understanding of classic economics and classic policies regarding the factors of production are outmoded. Today, the complex legal relationships that allow or impede access to international markets are the point of entry for citizenship rather than obsolete notions of state-centric rule provision.

**Table III: Comparison of National and Post-national Models of Membership**

<b>Dimension</b>	<b>Model I: National citizenship</b>	<b>Model II: Post-national citizenship</b>
<b>When</b>	19 <sup>th</sup> to mid-20 <sup>th</sup> centuries	Postwar
<b>Where</b>	Nation-state bounded	Fluid boundaries
<b>How membership relates to territory</b>	Identical	Distinct
<b>Rights/privileges</b>	Single status	Multiple status
<b>Basis of membership</b>	Shared nationhood (national rights)	Universal personhood (human rights)
<b>Rights versus obligations</b>	State-building through creation of obligations	Emphasis on the obligation to provide rights to citizens
<b>Relationship of actors in rule-based societies</b>	Linear relationship between citizen and state	Complex relationship between citizen, networks, hierarchies and the market
<b>Source of legitimacy</b>	Nation-state	Transnational community
<b>Organization of membership</b>	Nation-state	Nation-state
<b>Human capital</b>	State provision	Global provision through distance learning and virtual health networks
<b>Development projects</b>	Top down; donor driven	Bottom-up; community driven
<b>Citizenship as legal status</b>	National	Post-national

## V. Towards the operationalization of citizenship

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Analysis of the conceptual underpinnings and applicability of citizenship, the dynamic between rights and obligations over time, and the risks and opportunities posed by globalization indicates that efforts to operationalize citizenship going forward must be carefully assessed. Citizenship is the conceptual model and operational framework necessary for reinforcing the networks of rights and obligations that must underpin state effectiveness, and as such is a critical component of equitable and sustainable development. To chart a way forward on citizenship, four broad themes must be considered: the use of information and law as resources; innovative citizenship development strategies; good governance; and global discussion of citizenship. Beyond these themes, we can also use a state functionality framework to delineate citizenship rights and obligations, and from these derive the policy and institutional actions that can be used to better implement mechanisms of citizenship.

### *Information and law as resources to support the social order*

In order for citizens to have a stake in the social order and therefore to support change from within, rather than outside that order, access to information on citizenship rules and obligations is essential. Information can be captured by elites to ensure that power remains concentrated rather than diffuse. Systematic blockages in the flows of information allow that information to be used as power and prevent citizens from understanding their rights and how to access those rights in support of their own concerns. Information is a resource, and elite capture of that resource undermines the rules of the game and therefore mechanisms for development of the citizenship process.

Law can also be used as a resource to expand the formal rules of the game and thus bring excluded groups within the parameters of the social order. This relates both to market access and property rights. Obstacles must be removed to allow for the participation of the excluded in the formal economy and for the 'liberalization of the poor' in a way that supports individual wealth creation and further underpins the economy as a key locus of citizenship rights. Hernando de Soto has demonstrated repeatedly that formal property rights systems in developing countries create obstacles that prevent the poor from registering their property, thus minimizing the ability to convert that property into a source of capital, and perpetuating informal and inefficient systems of economic and social interaction.<sup>40</sup> As a result, instead of one set of rules of the game that is universally accepted as a clear frame of reference for transactions, the rules are fragmented and prevent the participation of large segments of the population in market-based economies. The winners of political battles use the formal law as a mechanism for the capture of resources rather than the creation of public assets, thereby undermining the rule of law itself.

Remedial urban strategies are critical to correct this misalignment. Contrary to popular images of rural poverty in Africa, Asia or Latin America, the majority of people in developing countries now live in urban areas. The human and social capital of urban groups can be harnessed to support citizenship through innovative community-based efforts in cities and towns using principles developed in similar rural-based programs such as the NSP or KDP. The citizenship framework provides a platform for the re-thinking of reform in these urban areas- the relationship of citizen and government suffers a series of disconnects when a large segment of the population exists outside the formal rules of the game. A serious approach to citizenship will seek to remove constraints to allow for the mobilization of holistic social energies through community level programs in urban areas that increase popular participation and support the expansion of citizenship rights. This participation can provide the critical linkage for restoring the balance between rights and obligations.<sup>41</sup>

### *Innovative citizenship development strategies*

There has been intense philosophical and political discussion on deliberative democracy and citizen participation, with the villages and slums of developing countries as the sites where this theory is being put into practice.<sup>42</sup> International civil society and the World Bank have become catalysts for a process of consultation and participation for people in projects and programs that can have far-reaching implications for governance at the local level. The key to sustaining the participation of the poor and the ultra-poor in the developmental and citizenship process is to create mechanisms to transfer decision-rights that were previously monopolized at the highest levels. Programs like the National Solidarity Program (NSP) in Afghanistan or Kecamatan Development Project (KDP) in Indonesia have shown that people at the bottom of the hierarchy are not only willing to do the heavy lifting of development but can do it more effectively. These programs, which combine block grant to communities with work to constitute good governance, accountability, citizen awareness and empowerment, allow a participatory process to foster the sense of rights and obligations inherent in citizenship. For participation to work, however, it must not assume the character of a periodic ritual, but must involve real decisions over real resources, and the corresponding accountabilities for creating, receiving and mobilizing those resources.

The weakest aspect of policy-making both in developed and developing countries is the lack of alignment between decision-making on policies and implementation of those policies. The dominant mental model is still that policymaking is for elites. An important body of literature both from the public and private sector makes it clear that the most successful policies are those that have begun with an understanding the issues of implementation first and then worked backward from that to the formulation of policy objectives and the establishment of monitoring processes that would ensure effective implementation. The problems associated with lack of implementation are particularly evident in large infrastructure projects, where a fair procurement process is implicitly assumed. Lack of attention to proper supervision and the creation of a shared environment for responsibility between governments, financiers and implementers has cost hundreds of millions if not billions of dollars, either in outright losses or in opportunity costs resulting from project completion. An important mechanism for overcoming these constraints and creating synergies has been the National Program. Such programs are, in effect, networks of projects, binding various organizations through clear rules and transparent monitoring mechanisms to deliver an outcome. 'National social programs create a network of intimate relations between citizens and the central government throughout the country, helping to define the boundaries of the national political community and enhancing the legitimacy of the state.'<sup>43</sup>

Because these programs are national in scope, spatial obstacles to the delivery of services is highlighted by participants and taken into account in the design of future national programs. Successive phases of the programs therefore become instruments for the removal of various spatial constraints, creating a credible process of coproduction between citizens, governments and non-governmental actors. When priorities are delineated by a group of people themselves, and clearly addressed by decision-makers in the country, a momentum for building trust is possible that then creates the foundation for thinking through and envisioning horizons for planning and development in the medium to long-term.

Governments can also think innovatively about other ways to provide social services. Education, for example now has to serve the twin goals of providing people with the capabilities to adjust to rapidly changing contexts while also demonstrating commitment to citizen well-being. The revolution in global communication and information management may render obsolete the hierarchical social service provision model. When global communication technology can be put to use through distance learning or linking of health facilities through major centers of the world, voluntary contributions can truly find a global outlet. Opportunities can now be created for millions that previously would have been confined to hundreds or thousands. Bundling and unbundling of services to citizens need not

follow established routes, and developing countries can add value in these areas through innovation.

### *Good Governance*

Good governance is an essential component of citizenship. While the process of state-building from the 16<sup>th</sup> to the early 20<sup>th</sup> century in Europe revolved around the creation of obligations, particularly through conscription and taxation, the dominant international discourse in the last three decades has been towards an emphasis on rights. The obligations that make the delivery of rights possible however, have not been receiving sufficient attention. When populations of twenty to thirty million bear between ten and twenty thousand taxpayers, the absence of a virtuous circle between rights and obligations becomes palpably evident. Therefore, building, creating and enhancing the national systems of accountability is fundamental to the creation of mutual networks of rights and obligations.

Similarly, the granting of rents, whether from natural resources or from the licensing of telecom and other assets, becomes central to building bonds of trust between the governments and the governed. A seemingly highly technical instrument like the Single Treasury Account, where all the incomes and expenditures of a government are brought within a single system of accountability, can be an enormously powerful mechanism for making the real resources of a country available to its people and to their international interlocutors. Equally, an initiative that promotes transparency and extractive industries by disclosing rents paid to governments can enhance voice and participation of the citizens. At least two thirds of budgets around the world do not have sufficient information to enable their citizens and governance watchdogs to review how national resources are spent- a situation that must not endure.

Donors must also play a role in promoting good governance. Development programs must be re-thought in the context of evolving citizenship rights and obligations. States continue to regulate the citizenship environment for the populations within their territory, but decision rights for social programs and other donor projects undermine the ability of the state to set the rules for that environment. Donor programs can create a dual channel of accountability that contradicts the state as the authorizing environment for rule-making and thus weakens the citizenship compact. The mutual rights and obligations of the citizen and state cannot be mediated when services are provided by donors or foreign NGOs that are accountable only to their domestic constituencies, and externally imposed safeguard policies create unequal citizenship dynamics. Individuals who are granted entitlements through NGOs and international organizations do not have recognized legal claims to these privileges, and therefore instead of a successive consolidation of a regime of rights, or alteration of emphasis on a set of rights to balance solidarity and inequality, individuals confront a confusing array of arrangements without understanding their genesis or having a clear voice in the determination of their content, scope and sustainability. This problem requires rethinking on the part of donors about their assistance modalities and exit strategies- efforts that specifically address citizen participation, such as national programs, may provide one mechanism through which to increase government accountability and citizen ownership over time.

### *Global discussion*

All of these actions must be underpinned and supported by a larger global discussion on citizenship. Without constructive and informed debate about the importance of rights, obligations, and rules, inequality will persist, legal informality will endure, and stability will prove elusive. This global discussion should include debate, deliberation and advocacy of citizenship by global civil society, and partnerships between civil society, firms dedicated to corporate citizenship, and international financial institutions. Within this discussion, donors must re-examine their efforts to support citizenship; citizens must seek to understand the balance of obligations as well as rights; and governments must think about innovative

methods to improve governance, increase inclusion within the social order, and continually balance the state, market and civil society to generate citizenship.

*Mapping state functions and policy actions to citizenship rights and obligations*

A state can only be deemed effective, and citizenship developed, when that state protects and serves the rights of its citizens. Therefore, a necessary step in understanding how to create an agenda for the implementation of citizenship is analysis of the interrelated functions that a modern state must perform. Such a framework for state functionality must be based upon a compact with the citizens of that state which provides for accountability and the development of corresponding citizenship rights and obligations. From this one can draw in a linear fashion the necessary policy and institutional actions as they relate to the functions of the state.

Box V below begins with ten functions performed by effective states in the modern world. This does not presuppose a functional approach to state analysis, but merely provides a useful frame of reference for the purposes of extrapolating citizenship rights; nor are these functions definitive, but merely a starting point upon which to base further thinking. The corresponding citizenship rights and obligations as they relate to these functions are illustrated, and the related policy and institutional actions delineated. This formulation allows policy-makers to understand citizen rights and obligations from a dual perspective- from larger state functionality downwards, and individual policy level actions upwards- and therefore to better balance inequality and solidarity within a framework of mutual rules.

**Box V: Mapping state functions to citizenship rights, citizen obligations, and policy actions**

<b>Rules and processes</b>			
<b>State function</b>	<b>Illustrative citizenship right</b>	<b>Illustrative citizenship obligation</b>	<b>Illustrative policy institutional action</b>
Legitimate monopoly on the means of violence	The right to security of person and property, and freedom of movement of goods and people across the state territory.	The obligation not to use violence; obligation to obey the legitimate use of force; obligation to military service as defined by law.	Police reform; relaxation of restrictions on freedom of movement; transportability of entitlements with legal change of residence.
Administrative control	The right to good governance across all levels of administration; the right to challenge decision making through due administrative and judicial process; the right to just compensation for appropriation of property; and the right to a fair and transparent recruitment policy and process for state employment.	The obligation to monitor and scrutinize; the obligation to participate in decision making; the obligation to actively facilitate government policies (co-production model).	Administrative reform; transparency and accountability to citizens.
Rule of law	The right to equal treatment under the law; and the right to justice including the right to a fair trial and habeas corpus.	The obligation to be aware of, and obey, the law.	Judicial reform, with particular emphasis on access to justice and simplification of judicial process to make it efficient and affordable; paralegal training; transparency of judicial process.
Management of public finances	The right to clear and uniform criteria for taxation; the right to transparency in revenue and expenditure at the collective level; the right to accountable, equitable and effective state expenditures.	The obligation to pay taxes; the obligation not to bribe public officials; the obligation to expose mismanagement and corruption.	Transparency of budget and budget process; citizen inputs into budget allocations (at least at the local level).
Investment in human capital	The right of access to primary education and preventative healthcare.	The obligation to contribute labor and skills to the workforce; the obligation to maximize use of opportunities in an effective manner; the obligation of parents to support and participate in their children's education; the obligation not to expose others to health risks.	Affordable and equitable access to socially acceptable minimum education and preventative healthcare.
Delineation of citizenship rights and duties	The right to an identity device; the right to information; and the protection of all rights for all citizens in a fair and transparent manner.	The obligation to respect the rights of others; the obligation to seek any redress within the law.	Public debate or consultation process on the balance between rights and responsibilities, including consideration of mandatory public service (in lieu of conscription), taxation, local revenue mobilization for local development and role of citizens in neighbourhood security;

			simplification of procedures for obtaining legal documents, identity cards, passports etc.
Provision of infrastructure services	The right to the equitable use of existing publicly provided infrastructure; the right to fair policies on the provision of public services.	The obligation to surrender private property for public purpose; the obligation to contribute to operational maintenance; the obligation for payment of services.	Public investments in expanding access and ensuring quality of infrastructure, rather than in subsidizing consumption of infrastructure/utility services (note: redistribution through cross-subsidies for underserved areas is different from paying for subsidies from general taxes).
Formulation of the market	The right of entry into the market and the formation of a firm; the right to freedom of association and exchange; and the right to a level playing field.	The obligation to play by the rules including: the obligation to avoid collusion and distortion of the market; the obligation to respect the entry of others into the market; the obligation of corporations to attend to social and political stability; the needs and the well-being of future generations.	Enact legislation to prevent market collusion.
Management of state assets	The right to good stewardship of state assets.	The obligation to protect public assets.	Enact legislation to define which public assets are state assets and which are common property social assets, and develop regulations to manage them accordingly; enact legislation and regulations governing use of incomes from natural resources; enact legislation and rules to manage socio-cultural heritage in an equitable and inclusive manner.
International relations	The right to the responsible use of sovereign guarantee, state decision making and treaty agreements; the right to seek refuge in other countries.	The obligation to be aware of international law; the obligation behave in accordance with international norms; the obligation to respect the citizens of other states.	Broad-based consultations and transparency in international relations; use of referendum to achieve social endorsement of major issues.

## VI Conclusions

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Rules are resources that both create fields of interaction and allow for an orderly process of change. As the rules are recognized as resources, and actors agree to act on their basis, the formal system acquires the legitimacy and the flexibility to deal with new challenges. The extension of rights in such systems can therefore be gradually but steadily accumulated through successive enlargements to incorporate new groups and individuals. This avoids a situation in which rigid and exclusionary rules exclude actors from the playing field who are then left no choice but to create informal rules that result in a parallel system of rights and obligations or actively mobilize to overthrow the existing rules.

However, the basis for the field of citizenship has changed- rights and obligations are no longer based solely within the nation state, but stem from a variety of global actors and organizations. This process has confused traditional conceptions of rights and changed long-standing rules. In modern market based society, the critical question for social policy is how to balance the state, market and civil society in order to generate the solidarity and fairness necessary to create reinforcing networks of rights and obligations, underpinned by accountable, transparent and effective governance. Change to old rules and the creation of new rules have costs, however, and the integration of theory and practice in this regard is a major challenge.

Going forward, efforts to further translate citizenship theory into practice must focus on allowing the free flows of information and the use of law as a resource. The rule of law, if it is truly to become the glue that binds economic, political and social governance together, must have integrity, internal coherence and alignment to stated objectives. National programs that support governance and the development of citizenship from the ground up are a key component of the process that will foster rights and responsibilities and a credible sense of co-production between citizens, governments and non-governmental actors. Good governance must provide the basis for this though ensuring a virtuous circle between the necessary rights and obligations of citizenship. Donors can play their part in this dynamic by reworking their assistance modalities and exit strategies to support accountability of the state. Global discussion of these issues will support further thinking on citizenship and the crucial role that it plays in a globalized world. Addressing citizenship through the prism of state functionality is one means by which to draw out rights and obligations, and the policy actions that necessarily emerge from that process. More broadly, approaching citizenship through an integrated framework that takes account of both the achievements and problems of the past, and the opportunities and perils of the present, will significantly support sustainable development in our increasingly interdependent world.

## Appendices

### Appendix I: Preamble to the Universal Declaration of Human Rights

‘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.

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.

Whereas it is essential to promote the development of friendly relations between people.

Whereas the people of the United Nations have in the charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.

Whereas the Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms.

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge.

Now, Therefore, The General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.’

## **Appendix II: The structure of the Universal Declaration of Human Rights**

Articles 3 to 11, the first column, are devoted to individual rights: rights to life, liberty, and personal security; bans on slavery and torture; rights to legal recognition, equality before the law, effective remedies for violation of fundamental rights and freedom from arbitrary arrest and detention; guarantee of fair criminal procedures, presumption of innocence; and the principle of nonretroactivity in criminal law.

Articles 12 to 17, the second column, articulate the rights of people in civil and political society. They include: the right to be free of arbitrary interference with one's privacy, family, home or correspondence, and from arbitrary attacks upon one's honor and reputation; freedom of movement and the right of return; the right to seek and enjoy political asylum; the right to a nationality; provisions on marriage and the family and the right to own property and not be arbitrarily deprived from it.

Articles 18 to 21, the third column, set forth the rights in the polity. They include: freedom of religion and belief; freedom of opinion, expression and communication; freedom of assembly and association; and the principle of public participation in government through 'periodic and genuine elections' and including 'the right of equal access to public service in his country.'

Articles 17 to 21, the fourth column, envision economic, social and cultural rights. Article 22 not only names these rights but calls for international cooperation for their realization. 'Everyone as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and for the free development of his personality.' These rights include: the right to work, freely chosen, and to protection against unemployment; right to equal pay for equal work; right to just and favorable remuneration; the right to form and to join trade unions; the right to rest and leisure, including reasonable limitations of working hours and periodic holidays with pay; right to a standard of living adequate for the health and well-being of himself and his family; right to education; right to freely participate in the cultural life of the community; right to intellectual property; and right of mothers and children, including those born out of wedlock, to protection.

Articles 28 and 29, composing the portico, bring individuals, civil society and the state. Article 28 states that 'everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized'. Article 29 sets the duties to the community and limitations to be imposed to secure due recognition of rights. And article 30 concludes that 'nothing in this Declaration may be interpreted as implying for any State, group, or person any right to engage in any activity or perform any act aimed at the destruction of any rights and duties set forth herein.'

## Endnotes

- <sup>1</sup> John Plamentaz 'Liberalism' *Dictionary of the History of Ideas*, III, 1968:38.
- <sup>2</sup> Mahmood Mamdani, *Citizen and Subject: contemporary Africa and the legacy of late colonialism*, Princeton University Press 1996: 19.
- <sup>3</sup> 'Civil rights' in *The Encyclopedia of Social Sciences*, III, 1930: 513
- <sup>4</sup> R. W. Connell, 'The state, gender, and sexual politics' *Theory and Society*, 1990: 511
- <sup>5</sup> Daniel Shugurensky ed. *History of Education: Selected Moments of the 20<sup>th</sup> Century*. Online resource, University of Toronto. [http://fcis.oise.utoronto.ca/~daniel\\_sch/assignment1/](http://fcis.oise.utoronto.ca/~daniel_sch/assignment1/)
- <sup>6</sup> H.L.A. Hart *The Concept of Law* (1961). Clarendon Press.
- <sup>7</sup> Albert O. Hirschman *Exit, Voive and Loyalty: Responses to Decline in Firms, Organizations and States* (1970). Harvard University Press.
- <sup>8</sup> Alf Ross *On Law and Justice* (1958). Law Book Exchange, Ltd.
- <sup>9</sup> H.L.A Hart *The Concept of Law* (1961). Clarendon Press.
- <sup>10</sup> The distinction is made by, among others, Jeffrey Sachs and Katharina Pistor, Progress, 'Pitfalls, Scenarios, and Lost Opportunities', in Sachs and Pistor (eds.) *Rule of Law and Economic Reform in Russia*, 1997 Westview Press.
- <sup>11</sup> Citizenship and Social Class 1950/1992: 8.
- <sup>12</sup> For a discussion regarding methodological problems and policy utility of these efforts see: Kevin Davis *What can the rule of law variable tell us about rule of law performance?* (2004). NYU Law and Economic Research Paper No. 04-026, and CEELI's Judicial Reform Index.
- <sup>13</sup> Freedom House, *Freedom in the World 2006*, <http://www.freedomhouse.org>
- <sup>14</sup> *Ibid* p.27.
- <sup>15</sup> John Plamenatz 'Liberalism' *Dictionary Of The History of Ideas*, III, 1968: 38.
- <sup>16</sup> Preamble to the Universal Declaration of Human Rights
- <sup>17</sup> See Yasemin Soysal *Limits of Citizenship: Migrants and Post-national membership in Europe* (1994). University of Chicago Press.
- <sup>18</sup> *Ibid*: 18.
- <sup>19</sup> *Ibid*: 24-25.
- <sup>20</sup> *Ibid*: 20-21.
- <sup>21</sup> *Ibid*:49.
- <sup>22</sup> *Ibid*: 9.
- <sup>23</sup> *Ibid*:45-46.
- <sup>24</sup> See Isaiah Berlin, *Four Essays on Liberty*, Oxford University Press, 1969.
- <sup>25</sup> See Amartya Sen *Development as Freedom* Oxford University Press, 2004.
- <sup>26</sup> Thomas Janoski and Brian Gran 'Political Citizenship: Foundations of Rights' in Turner and Isin eds. *The Handbook of Citizenship Studies*, 2003:17. Newbury Park, CA: Sage.
- <sup>27</sup> Important exceptions to this trend include Hernando de Soto (e.g. *The Mystery of Capital* (2001). London: Transworld Publishers Limited.) and C.K Prahalad (*The Fortune at the Bottom of the Pyramid: Eradicating Poverty through Profits* (2006). Prentice Hall), and in practice in the work of Professor Yunus and the Grameen bank.
- <sup>28</sup> J.S Mill *On Liberty* (1975) p. 245 Oxford University Press; Hernando de Soto *The Mystery of Capital* (2001). London: Transworld Publishers Limited.
- <sup>29</sup> Anthony Giddens, 'Class, Sovereignty and Citizenship' 1985:205-6, Chapter 8 of A. Giddens *The Nation-State and Violence: Volume Two of a Contemporary Critique of Historical Materialism* (1985). Berkeley and Los Angeles: University of California Press.
- <sup>30</sup> This subject has been approached, however, by geographers including Henri Lefevre, David Harvey and Manuel Castells.
- <sup>31</sup> George Orwell *Down and Out in Paris and London*, ch. 37: 2003. Penguin Books. Orwell notes some exceptions, such as the Embankment, in London.
- <sup>32</sup> *Encyclopaedia of the Social Sciences*, III, 'Citizenship' page 512.
- <sup>33</sup> See the discussion between Michael Mann and Bryan Turner. The overall trend is reflected in the assumption of functions by the state as specified in Constitutions adopted between 1870 and 1970. See John Boli-Bennett 'The Ideology of Expanding State Authority in National Constitutions', in J. Meyer and M. Hannon (eds.) *National Development and the World-System* (1979). Chicago: University of Chicago Press.
- <sup>34</sup> . We have previously set out an account of how those functions were assumed. See Ghani, Lockhart and Carnahan *Closing the Sovereignty Gap: An Approach to State-Building*, ODI Working Paper 253 (2005).
- <sup>35</sup> Ngiam Dong Tow *A Mandarin and the Making of Public Policy* (2007). University of Hawaii Press.

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<sup>36</sup> Microsoft Corporate Responsibility document:  
<http://download.microsoft.com/download/d/2/5/d2513e64-0dcd-4ef6-89c4-c99ee117936f/EUPolicyHandbook/CorporateSocialResponsibility.pdf>, Arthur D Little *The Business Case for Corporate Citizenship*, at:  
[http://www.adlittle.com/insights/studies/pdf/corporate\\_citizenship.pdf](http://www.adlittle.com/insights/studies/pdf/corporate_citizenship.pdf).

<sup>37</sup> David Brown, Justin Keeble and Sarah Roberts *The Business Case for Corporate Citizenship* Arthur D. Little Inc. Arthur D. Little defines eight areas where good corporate citizenship can provide business benefits: reputation management; risk profile and risk management; employee recruitment, motivation and retention; investor relations and access to capital; learning and innovation; competitiveness and market positioning; operational efficiency; and license to operate.

<sup>38</sup> World Economic Forum website:

<http://www.weforum.org/en/initiatives/corporatecitizenship/index.htm>

<sup>39</sup> Graham Room (ed) *Beyond the Threshold: The Measurement and Analysis of Social Exclusion* (1995). Policy Press.

<sup>40</sup> De Soto, H. *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (2001). London: Transworld Publishers Limited.

<sup>41</sup> However, legal status can be universalized without dependence on national legislation. For instance, with the emergence of the European Community, the European Court of Justice acquired the right to make judgments on the relationship between citizens of a country and their government, and alter the decisions by national authorities in view of their commitment to a European-wide charter of rights and obligations. Similarly, the International Court of Justice on crimes against humanity is dealing with legal status as part of an internationally-binding set of rights and obligations, entered into by governments but now made actionable through specific legal mechanisms. With the emergence of the 'post-national citizen', an entire series of rights are being accorded to immigrants who are not citizens in their countries of residence. For further reference, see Soysal, Yasemin, *Limits of Citizenship: Migrants and Postnational Membership in Europe* (1994). University of Chicago Press.

<sup>42</sup> See for example Jurgen Habermas's work on the 'Public Sphere' and Seyla Benhabib 'Toward a deliberative model of democratic legitimacy', *Democracy and Difference: Contesting the Boundaries of the Political* (1996). Princeton University Press.

<sup>43</sup> 'The Welfare State as Statescraft: Territorial Politics and Canadian Social Policy', in S. Liebfried and P. Pierson, eds., *European Social Policy: Between Fragmentation and Integration* (1995). Washington, D.C.: Brookings Institution, p. 270.