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Global Sociology and the Nature of Rights

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Abstracts

Citizenship is fundamentally a western political and legal concept; it is also a concept relevant specifically to a national polity. By contrast human rights have been, since their formal proclamation in 1948, promoted as universal rights. The relationship between the social rights of national citizenship and the human rights of the Declaration provides a useful case study in which to discover whether sociology can provide concepts and theories that function across conceptual boundaries and territorial borders. Furthermore, human rights discourse may prove to be the primary candidate for sociology to operate as an effective discourse of global social reality. However, human rights require duties if they are to be binding. This article considers the reformulation of the Tobin Tax as a basis for creating human duties as a necessary foundation for human rights.

Sociología global y la naturaleza de los derechos

La ciudadanía es fundamentalmente un concepto político y legal occidental; es también un concepto específicamente relevante para la política nacional. Por contraste, los derechos humanos han sido propuestos, desde su proclamación formal en 1948, como derechos universales. La relación entre los derechos sociales de la ciudadanía nacional y los derechos humanos de la Declaración proporciona un estudio de caso útil para descubrir si la sociología puede proporcionar conceptos y teorías que

funcionan a través de fronteras conceptuales y territoriales. Además, el discurso de os derechos humanos puede convertirse en el primer candidato de la sociología para operar como un discurso efectivo de la realidad social global. Sin embargo, los derechos humanos requieren deberes si queremos que sean efectivos. Este artículo analiza la reformulación de la Tasa Tobin como base para la creación de deberes humanos como un fundamento necesario para los derechos humanos.

La sociologie et le caractère des droits

On pense de la citoyenneté comme un concept occidentale politique et juridique; mais elle est aussi un concept spécifiquement lié à la nation. Par contre, depuis leur proclamation formelle en 1948, les droits humains sont jugés des droits universels. Le rapport entre les droites sociales de la citoyenneté nationale et les droits de l'homme de la déclaration fournit une étude de cas utile dans laquelle pour découvrir si la sociologie peut fournir les concepts et les théories qui fonctionnent à travers des frontières conceptuelles et des frontières territoriales. En outre, le discours de droits de l'homme peut s'avérer être le candidat primaire pour que la sociologie fonctionne comme discours efficace de réalité sociale globale. Cependant, les droits de l'homme exigent des fonctions s'ils doivent durer. En fin, cet article considère la reformulation de l'impôt de Tobin comme base pour créer des devoirs humains comme fondation nécessaire pour les droits humains.

Global Sociology and the Nature of Rights

The citizen was closely connected historically with the rise of the European city, civility, and civilisation. The word itself is derived from the French *citeseyn*, *citezein* or *sithezein*. A citizen was originally a member of a city and, while enjoying certain privileges, was equally burdened with obligations. Service in the city militia and taxation were typical duties of the citizen. A citizen was primarily a denizen of a city as a legal entity. Because the countryside was pagan and uncivilized, pagans were lacking in urbanity. Citizens were part of the *civitas* – the urban culture of the city and church. While we can trace these components of citizenship from the Greek polis and the early church, citizenship is most appropriately regarded as a modern concept that first emerged with the creation of autonomous cities in medieval Europe, but came to maturity with modern revolutions.

It is important sociologically to treat citizenship as a product of three political revolutions – the English Civil War, the American War of Independence and the French Revolution. These Revolutions were the cradle of modern nationalism and citizenship came to involve the rights and duties of a person who is a member of a national community. The creation of European nation-

states from the seventeenth century necessarily involved the construction of communities which assumed the existence of, and which went a long way to create, homogenous populations. These national communities were held together, against the divisions of class, culture and ethnicity, by nationalistic ideologies. The Treaty of Westphalia in 1648 was the origin of the modern world system of nation-states, and state formation involved the creation of nationalist identities on the basis of a double colonisation, both internal and external. This process was the cultural basis for the creation of national forms of citizenship.

The notion of citizenship spread from Europe to Japan and then on to China. Intellectuals in both countries were influenced by a range of political ideas from Europe in the late nineteenth century about civil society and citizenship. Especially in China, citizenship was slow to develop and remained connected to the idea of patrimony, benevolence and kinship. It is a citizenship of blood or what we might call a 'citizenship of kinsmen'. Like other empires, China did not give rise to a notion of citizenship based on a market place of strangers, but there was a distinctive development of ideas about citizenship in the period 1890–1920 in which Chinese intellectuals struggled to find a language appropriate to the public domain that could express the first stirrings of modernisation. In Japan, citizenship developed with modernisation, but remained tied to the idea of a loyal subject of the emperor. In Meiji Japan, the sociology of Herbert Spencer had become known among both senior government officials and intellectuals associated with the movement of the Liberal Democratic Right. Spencer was therefore the first sociologist whose works came to be translated into Japanese in Meiji and Taisho Japan from 1877 to the early twentieth century. Japanese academics and civil servants were especially interested in his combination of evolutionary theory, utilitarian individualism and laissez-faire economics. From Spencer, they developed the idea of individual rights within the liberal state. With American occupation, the new Japanese political institutions included aspects of western citizenship, but this was essentially a top-down or passive citizenship. In other Asian societies, the growth of citizenship has been associated with post-colonial struggles. Indonesia – as a consequence of the national struggle against the Japanese and Dutch in the period 1944–46 – has developed a notion of national citizenship in the context of an emerging nationalism. Whereas Chinese and Japanese citizenship has often been authoritarian and state dominated, Indonesia has evolved with a clear notion of citizenship and a viable civil

society. In conclusion, while citizenship emerged in the West, it has been appropriated in Asian political culture.

The origins of human rights

The great expansion of human rights legislation and culture over the last century has been a consequence of the mechanisation of warfare, the growing number of civilian casualties in both civil and international wars, and the horrors of biological and chemical warfare. We need to understand the growth of human rights within a broad historical context of the idea of humanity. In his *Crimes against Humanity*, Geoffrey Robertson traces the historical origins of human rights back to a decision of the Second Lateran Council in 1139 to prohibit the use of the crossbow in wars between Christians.[1] This historical interpretation is interesting in drawing attention to mechanical instruments of warfare (the crossbow) and its use within a community (of Christians).

The encounter between colonial settlement and aboriginal people has been another important setting for the emergence of rights in modern history. These colonial conflicts were features of the great land rush that formed the modern world between 1650 and 1900. One illustration was the Wounded Knee Massacre of 1890 when between 150 and 300 men, women and children of the Lakota Sioux people were killed by members of the US Seventh Cavalry. This massacre, which involved the use of four Hotchkiss cannons, capable of firing fifty two-pound explosive shells per minute, has all the hall marks of what came subsequently to characterise twentieth-century violence: the mechanisation of organised killing; revenge (for the Battle of the Little Bighorn); ethnic cleansing, whereby the Lakota were characterised in the *Nebraska State Journal* as murderous redskins; and the indiscriminate killing of women and children. Finally the attempt by the Lakota people to secure an apology from the United States government has not been successful.

Technological developments enhanced the capacity of states and their military to inflict systematic violence on civilian populations. Hiroshima and the Holocaust were both instances of the violent application of modern technology against civilians. Genocide, both old and new, necessarily involves a comprehensive denial of human rights. However in the second half of the twentieth century, there were important transformations of warfare. There

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[1] Robertson 2002.

are three principal characteristics of new wars (Münkler, 2005). First, while old wars were typically between nation states, new wars take place outside the parameters of the state, that is there has been a privatisation of warfare, made possible by the reduction in the cost of armaments. For example, the Kalashnikov rifle is a relatively inexpensive but very effective weapon that has become a basic element in 'small wars'. The use of these cheap, portable weapons does not require a lengthy period of training, drill and discipline. Secondly, there is typically a significant asymmetry between the competing forces. Unlike the First World War where large armies engaged with each other on a battle front over many years, in new wars small armed forces (guerrillas or terrorists) create localised havoc, usually against civilians. Finally Münkler perceives an 'autonomisation' of forms of violence that were once subordinated to and incorporated in a military system. One indication of this trend is that the division between criminal organization, insurgency and warfare no longer exists. Just as terrorism is a privatisation of the military, so the security forces that protect politicians and corporate leaders are themselves private, profitable agencies.

The 'juridical revolution' of the twentieth century, involving the international recognition of human rights as formulated in the United Nations Declaration, is a major illustration of the general process of globalization. Human rights may be defined as the entitlements of individuals qua human beings to life, security and well being. They are said to be universal, incontrovertible and subjective, that is individuals possess them because of their capacity for rationality, agency and autonomy. Human rights legislation assumes that individuals have certain fundamental powers ('inalienable rights') that no political order can expunge. They are legal instruments by which governments (or more frequently their despotic leaders) can be held criminally responsible in international law and prosecuted in the courts for the ways in which they mistreat their own citizens. Human rights are essentially twentieth-century legal responses to atrocities committed against civilian populations and as a result, where such atrocities have been witnessed by a world audience with the spread of global communication systems, people began to think and act as global citizens.

Citizenship versus Human Rights

Political statements about human rights and citizenship, state sovereignty and rights are often contradictory. For example, the declaration of the National

Assembly of France in 1789 claimed that 'the natural and imprescriptible rights of man' were 'liberty, property, security and resistance of oppression', but it went on to assert that 'the nation is essentially the source of all sovereignty' and that no 'individual or body of men' could be entitled to 'any authority which is not expressly derived from it'. While human rights are said to be innate and inalienable, social rights are created by states. These two contrasted ideas – the imprescriptible rights of human beings and the exclusive rights of citizens of sovereign nation states – have remained an important dilemma in any justification of rights. My argument is that the protection offered by nation states and national citizenship is declining, and yet the state and citizenship remain important for the enforcement of both social and human rights.

This article is concerned to understand the differences between the social rights of citizens and individual human rights. Social rights are entitlements enjoyed by citizens and are enforced by courts within the national framework of a sovereign state. These social rights, which are typically related to corresponding duties, are 'contributory rights', because effective claims are associated with contributions that citizens have made to society through work, war (or a similar public duty), or parenting.[2] A system of universal taxation and contributions to social services through income tax are obvious indications of social citizenship. By contrast, human rights are rights enjoyed by individuals by virtue of being human, and as a consequence of their shared vulnerability. Human rights are not necessarily connected to duties and they are not contributory. There is for example no corresponding system of taxation relating to the possession of human rights. There is as yet no formal declaration of human duties – although there has been much discussion of such obligations. UNESCO encouraged an initiative for a charter of the duties and responsibilities of states, but these initiatives have yet to have much practical consequence. The United Nations Declaration implies obligations, but they are not clearly or forcefully specified. While states enforce social rights, there is no sovereign power uniformly to enforce human rights at a global level.

Hannah Arendt presented a devastating criticism of 'the Rights of Man' in *The Origins of Totalitarianism* when she observed that these inalienable rights were supposed to exist independently of any government, but once the rights of citizenship with the support of a government had been removed, there

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[2] Turner 2001.

was no authority left to protect people as human beings.[3] Human rights without the support of a sovereign state, she argued, are merely abstract claims that cannot be enforced. It is almost impossible to define what they are or to show how they add much to the specific rights of citizens of nation states. The right to rights only makes sense for people who are already members of a political community. Finally she concluded bitterly and ironically that these arguments were compatible with conservatives like Edmund Burke who had argued that the rights of an Englishman were more secure and definite than the abstract rights of man.

Human rights abuse is characteristically a product of state tyranny, dictatorship, and state failure as illustrated by civil war and anarchy; a viable state is important as a guarantee of rights. There is a valid argument therefore that the liberties of citizens and their social rights are better protected by their own national institutions than by external legal or political intervention. The often chaotic outcome of human-rights interventions in East Timor and Kosovo might force us to the conclusion that any government that can provide its citizens with security, but with weak democracy, is to be preferred over anarchy. The ongoing internal security crises in Central Asia, Afghanistan and Iraq might also be added to the list of failed, or at least problematic, interventions. From a Hobbesian perspective, a strong state is required to enforce agreements between conflicting social groups. Another way of expressing this idea is to argue that we need to maintain a distinction between the social rights of citizens that are enforced by states, and the human rights of persons that are protected, but frequently and inadequately enforced, by both nation states and international institutions.

Citizenship: The Limits of the Global

There has been much discussion recently of the possibility of global citizenship and global governance. With the growth of the European Union, sociologists have considered the possibility of transnational citizenship. Anthropologists have also explored the problem of identity in modern societies with the growth of transational communities and diasporic cultures. Aihwa Ong has described 'flexible citizenship' as 'a strategy that combines the security of citizenship

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[3] Arendt 1951.

in a new country with business opportunities in the homeland'.[4] Consequently existing paradigms of (national) citizenship have been criticised precisely because they cannot encompass these changes that result from globalisation. While the sociological analysis of transnational identities is an important and interesting field of research, I argue that it is ultimately obfuscating rather than illuminating to use the concept of citizenship to describe these developments.

In fact citizenship can only function within the nation state, because it is based on contributions and a reciprocal relationship between duty and rights, unlike human rights for which there are as yet no explicit duties. To employ the notion of citizenship outside the confines of the nation state is to distort its meaning, indeed to render it meaningless. The idea of flexible citizenship is simply a political fiction. This criticism is not just a linguistic quibble. It implies that some terms are properly national and must remain so. There are limits to the idea of 'sociology beyond societies' because some concepts are inherently not mobile, but necessarily fixed and specific. It does not follow that they are useless; it merely signifies that some institutions cannot become global. We should try to make 'human rights' more serviceable for international research rather than transform the specific meaning of 'citizenship'.

Citizenship, the rights and duties of members of a nation state, is a juridical status that confers a socio-political identity on persons, and determines how economic and other resources are redistributed within society. Its existence is confirmed by the provision of a passport. There are broadly speaking two versions of the social rights that constitute citizenship. In the strong version, citizenship is an important component of distributive justice, because it involves a contributory principle in which there must be some balance between an individual's contributions to society, typically through work, military service and parenting, and the rewards such as welfare, education and subsidies, which such an individual might expect. The central idea behind active citizenship is that the democratic state is an association, where membership and its rewards are ultimately dependent on individual contributions to the public good. In the weak version, citizen entitlements are related to needs rather than to qualifying behaviour, individual merit or status. For example, provision for handicapped children is a benefice rather than a reward for contributions.

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[4] Ong 2005.

There are several possible arguments against my position. Firstly, the very existence of dual citizenship might indicate that the relationship between sovereignty and social rights is not as precise as I have claimed. Secondly, there is a lack of fit between duties and rights, for example in the case of children's rights or people with disabilities. Citizenship tends to assume a healthy and intelligent person who is capable of undertaking civic duties, or at least capable of gainful employment. Citizenship thus contrasts sharply with human rights since the latter do not presuppose any relationship between rights and duties, and make no assumptions about the mental or physical health of people who are claimants to rights.

These hypothetical objections appear in fact to strengthen rather than undercut my argument. Generally speaking states are reluctant to admit dual citizenship, precisely because it creates divided loyalties and ambiguous identities, and it is seen as a clear challenge to sovereignty. The lack of fit between rights and duties in the case of disabled persons accounts for the fact that they are discriminated against and often treated as second-class citizens. The elderly, while also frequently discriminated against, may be regarded as having retrospective claims on collective resources. The absence of a relationship between rights and duties in these cases only serves to reinforce the notion that citizenship is a set of contributory rights. In the case of the United States, where there has been a relatively weak development of welfare institutions, the underlying assumption of citizenship entitlements is nevertheless that citizens will serve in the military, pay their taxes, raise children and generally contribute to the common good. Civil rights are not divorced from civil duties.

Conclusion: Taxation and Global Citizenship

What solutions might be possible to this tension between the social rights of citizens and the human rights of people as such? We can simply accept the contradiction, and merely live with the fact that citizenship provides rights within territorially delimited political spaces and that human rights offer protection and security outsides these limits, especially where states have failed to protect their own citizens. Whether these two sets of rights are in a condition of antagonism or mutual support becomes a largely empirical question. However, this modest answer is unlikely to be satisfactory. The real solution is to develop human rights in terms of human duties, and then to give these institutions significant political authority.

The key characteristic of the existence of citizenship in nation states is the development of universal taxation and military subscription. A public political space can be said to exist once citizens contribute taxes to common purposes such as defence or education or road building or the maintenance of dykes. When men are summonsed to defend these utilities through military service, a state obviously exists in Max Weber's terms. Human rights are criticised by lawyers because they do not have these characteristics. Rights claims appear to have no corresponding set of duties, and hence they are often said to lack correlativity, and they are ultimately not justiciable.

In the United States, human rights are in the popular imagination seen to be the rights of foreigners who suffer from catastrophes of various sorts – droughts, famines and civil war. Americans by contrast have civil liberties and civil rights that are guaranteed by the Constitution. This view replicates the Burkean position that the rights of citizens – in his case Englishmen – are more real than the abstract rights of universal declarations. Human rights for many western citizens do not impinge on their everyday world and are quite unlike the rights they enjoy as citizens. How do we make human rights more concrete and effective?

Human-rights enforceability can be strengthened through the United Nations, but it will realistically require greater economic commitment from the United States and other powerful nations. We also know that the exponential growth of NGOs in recent decades has also created a global civil society that impinges on people's local social reality. But the real necessity is to give ordinary people a sense of ownership over human rights and a clear understanding of how such global arrangements can contribute to social reform. In my view, until people start to contribute taxes to support human rights activities, human rights culture and institutions will continue to be remote. One model might be the Tobin tax as a basis for creating global responsibilities.

The underlying right of a global world is what I might call a 'right of mobility'. Many modern rights claims are implicitly or explicitly about crossing borders or creating new settlements – rights of migrant labour, rights to hold a passport, rights to enter a country, rights of asylum, rights of refugees and other rights to residence, rights to marry outside one's group, or the right to buy property in other societies. However, these rights to mobility do not appear to relate to any duties of mobility. My proposal is to develop Tobin-type taxes related to various forms of mobility. The original taxation scheme proposed by the American economist James Tobin was to stabilise national

governments by getting greater control over international financial transactions.[5] The original proposal was a stamp duty on foreign exchange trading. This basic idea was expanded to include other possibilities such as a global lottery. Tobin's original proposal was simple but radical, and it has the overwhelming merit of being global, but it does not reach far enough down into national populations. It is to some extent a tax on the rich and it does not therefore have sufficient breadth. We should look towards more general and widespread taxes on the movements of people – a tourist tax on petrol consumption or tourist tax on air fuel, a mobility tax on people entering other countries by the use of a passport, or a sports tax for people travelling overseas to watch sporting events, or even internal taxes on crossing state boundaries. These taxes would be small from the point of the individual but they could produce a substantial resource for UN agencies in the battle on poverty, illiteracy, poor health, pollution or civil unrest. However, the principle is that privileged people who benefit from globalisation such as tourists should contribute to the global good.

There are obvious problems with such a global tax on human mobility. There would be considerable consumer resistance, because there would be arguments about getting some balance between contributions and receipts. Americans may feel that this is yet another tax on the rich to support countries that have failed economically or have authoritarian governments. However, a UN global tax would also make resources available to the residents of New Orleans as relief from losses resulting from flooding and the incompetence of their own government. American citizens of Pakistani descent might approve of UN relief going to their relatives in north-western Pakistan after the recent earthquake. In global terms, it would be more difficult to argue that human rights are only important when they provide a justification for United States intervention in Iraq or Afghanistan. The argument would be that the mobility tax is a duty that applies in principle to everybody and that these resources create funding to meet the needs of rights claimers everywhere. This proposal involves a radical overhaul of the Tobin argument by a creating a flat tax on global cosmopolitanism, thereby involving large numbers of people in global civil society.

Citizenship works partly because when people put investments into their societies (through work, military service or parenting) they can assume that

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[5] Tobin 1978.

they have a legitimate claim on that society when they fall ill, or become unemployed or become too old to support themselves. Their past investments in the community can now be used to make legitimate claims on the 'commonwealth'. They can see a connection between effort, reward and virtue. Citizenship in this way involves an education in civic culture in which, because I am patriotically proud of the society to which I belong, am committed to defending its democratic culture. These relationships between individual, ethics and politics do not exist with respect to human rights. They do not contribute necessarily to civic education or indeed to ethics. If people started, albeit in a modest way, to pay for their rights and to contribute through taxation to the good common, human rights would become as more tangible part of everyday life, people would feel involved in global projects to prevent famine and drought, and they would start however modestly to see themselves as global citizens. Without a global taxation system, the UN will continue to be largely dependent on US funding and generosity. Without these changes, human rights will be subject to the criticism that they are fake rights because they do not correspond to duties. More importantly, the prospect of global governance and global citizenship remain merely political fantasies.

References

Arendt, Hannah 1951, *The Origins of Totalitarianism*, New York: Harcourt Brace.

Münkler, Herfried 2005, *The New Wars*, Cambridge: Polity.

Ong, Aihwa 2005, 'Citizenship' in David Nugent and Joan Vincent (eds) *A Companion to the Anthropology of Politics*, Oxford: Blackwell, pp. 55–68.

Robertson, Geoffrey *Crimes Against Humanity. The Struggle for Global Justice*, New York: The New Press, 2002.

Tobin, James 1978, 'A Proposal for International Monetary Reform' *Eastern Economic Journal* 4:153–159.

Turner, Bryan 2001, 'The erosion of citizenship' *British Journal of Sociology* 52, 2:189–209.