

through legitimate jobs with social lives centered on indoor activities like playing video games or older family members who created a safe haven within the homes of wanted people.

Goffman draws excellent conclusions in the final section of the book especially in the areas of police tactics in urban areas and police-community relations. Her methodological note in the appendix can stand alone as an essay for a research methods class. I look forward to assigning my Sociology of Law class this book as it educates and entertains readers in equal fashion due to the superior writing abilities of Goffman.

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No Day In Court: Access to Justice and the Politics of Judicial Retrenchment. By Sarah Staszak. New York: Oxford University Press, 2015. 320 pp. \$99.00 cloth.

Reviewed by Christopher P. Banks, Department of Political Science, Kent State University.

Sarah Staszak's *No Day In Court* is an ambitious and comprehensive treatment of the politics of securing access to courts and justice. Staszak's general claim is that "a wide array of rules, procedures, and incentives" (p. 5) operate as "subterranean mechanisms" (p. 9) that constrict access to courts for civil litigants that seek their day in court as part of the rights revolution. This phenomenon, or "judicial retrenchment" (p. 5), is theoretically explained by a confluence of "multiple coalitions, promoting different goals and interests, which have changed over time" (p. 6). The key variables that elucidate judicial retrenchment are insularity, ideology and temporality (p. 10); that is, different actors and interests constrict access by autonomously maximizing their discretion within the institutional framework of the federal judiciary to make the "rules of the game" (pp. 5, 213) that advance their political goals in any given historical time period.

Staszak adopts a historical institutional approach to test her theory of judicial retrenchment within the context of four case studies that show that access to courts is restricted by imposing fundamental changes to the decision-makers, rules, venues, and incentives that comprise adjudication (p. 34). For Staszak, the case studies are illustrative of different "strategies" that are used by a variety of institutional actors, coalitions and interests to restrict

court access over time (p. 29). After clearly outlining her theory in chapter two, in the next chapter the author details the dramatic shift toward the use of alternative dispute resolution (ADR) and mandatory arbitration agreements, a process that has removed federal judges from deciding contested cases involving consumer protection, employment contract, or student loan disputes. Chapter four then demonstrates how different legal and political interests advocated for rule changes that culminated in the Rules Enabling Act of 1934 and the 1938 Federal Rules of Civil Procedure—each are significant because they provide the foundation for the set of procedural rules that govern civil adjudications. As with the rise of ADR, the creation of procedural rules were born out of initial reform efforts that were designed to facilitate access but ultimately worked to deny it in the ensuing post-New Deal institutional struggle between the legislative and judicial departments' effort to control the rulemaking process, especially after the 1970s. In both chapters, the author effectively argues that while the anti-litigation posture of the Supreme Court in recent decades has contributed mightily to retrenchment, the phenomenon itself can only be explained by the convergence of a multiplicity of ideological (and sometimes apolitical) interests that is often bipartisan in nature in any given political time.

Similar themes and arguments are laid out in the next two chapters. Chapter five recounts the institutional struggle to limit judicial review over federal agency rulemaking and adjudications, a political contest that has its roots in the New Deal and the growth of executive power in the administrative state. While liberals and conservatives initially fought over the role courts would play in curbing agency authority, as the New Deal era waned and its polarizing effects ebbed, so too did the relevance of competing ideological interests that futilely sought to limit agency power and preserve citizen suits through congressional legislation and court rulings in subsequent periods of post-New Deal governance. In chapter six, Staszak establishes that the availability to sue for legal remedies for rights' violations of statutory law is not merely a function of clearly defined ideological interests. While liberal and conservative groups lobbied for expanding or constricting access to courts based along party lines, retrenchment in the courts and in Congress were largely bipartisan efforts that created qualified immunities for officials, restricted litigant standing, or disallowed the award of attorney's fees or punitive damages, thus diminishing the incentives of aggrieved litigants to sue the federal government for violating civil rights laws.

While at times the narrative suffers because of its complexity, a clear strength of *No Day In Court* is that it cogently argues that judicial retrenchment is a manifestation of political influences that

cannot be explained on simple ideological terms. Once understood as an admixture of different interests, coalitions, and strategies that evolve over the course of American governance and political time, retrenchment exacts a cost that is not only substantial, but ironic. All too often the original goals of reform efforts that seek to increase judicial access for the politically disadvantaged in the rights revolution have been undermined by the behind-the-scenes practices of subsequently denying it by manipulating the institutional rules and processes that govern judicial access and rights or remedies. In advancing her theory, Staszak successfully navigates beyond conventional studies in American political development that arguably remain isolated in describing the effects of Supreme Court doctrine within a myopic interpretation of judicial institutions and American political development. In doing so, Staszak makes a significant contribution to the law and courts literature by powerfully reminding us that the arcane realm of jurisdictional rules of courts and procedure is often the proving ground, and substantive foundation, for securing litigant access to courts and justice.

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Foucault and the Politics of Rights. By Ben Golder. Stanford: Stanford University Press, 2015. 246 pp. \$24.95 cloth.

Reviewed by George Pavlich, Canada Research Chair in Social Theory, Culture and Law, and Professor of Law and Sociology, University of Alberta

Nowadays, liberal political contexts revel in claims to universal human rights. Their discourses tend to frame the latter as bulwarks of individual freedom, preventing arbitrary coercion, detention, torture and worse. Whiggish historical accounts cast rights as inevitable outcomes of social progress stretching back to ancient Greece though the Enlightenment to mid-20th century declarations. But as Moyn (2012: 3) notes, current understandings of human rights depart significantly from past iterations; they emerged, “in the 1970s seemingly from nowhere.” Other critics (Brown, Butler, Rancière) echo the contingency here implied, reframing debates to focus on how rights might explicitly constrain rulers.

Referencing these critics, Golder explores Foucault’s evocations of rights in his later analyses of political struggles, aiming to unearth a “critical politics of rights” that is “anti-foundationalist, non-