A	autonomy level, 286
Abendroth, Wolfgang, 118	and international human rights law,
Absence of citizenship, 372	286
Absolute rationality, 77	American Declaration of the Rights
Absolutism and democracy, 56	and Duties of Man, 228
Ação civil pública, 470	American democracy, 285
Ação popular, 470	American Federal Constitution, 54
Acciones populares, 470	American Founding, 285
ACHR. See American Convention on	American Revolution, 6, 7, 13, 23, 33,
Human Rights	34, 76–7, 205, 274
Active/passive citizens, 21	American society
Adams, John, 22	constitutional rights in, 285
Adler, Max, 138	American Supreme Court, 6, 13
Administration as a system division,	Ammoun, Fouad, 161
128	Anarchism, 51
Administrative law, 471	Ancien-régime
Affirmative action, 367, 456	and corporations, 58
proportionate, 231	decadence terminated, 70
African Charter on Human and	corporate continuation, 60
Peoples' Rights, 212	structures, 21
African Commission on Human and	Ancient models of citizenship
Peoples' Rights, 212, 457, 462	Aristotle's, 17
African constitutions, 456	Athenian, 17
African Court on Human and Peoples'	Andean culture, 351
Rights, 494	Anter, Andreas, 90
African socialism (Kenya), 404	Anthropomorphic identification, 199
African states, 160, 457, 474	Anti-Federalist ideas, 34
autonomy issues, 456	Anti-government cases, 392
African Union, 213, 462	Apartheid, 287, 288
Agencia oficiosa, 464, 465	Apartheid regimes, 24
Allegiance, 13	Apersonal institutionalization, 202
Amazonian culture, 351	Arendt, Hannah, 261
American citizenship, 12, 13	Argentina, 183, 211, 435
American Convention on Human	suffrage in, 138
Rights (ACHR), 177, 223, 227, 260,	Argentine Supreme Court
269, 373, 455	and right to health, 444
American courts	Aristotelian, 217

Articles of War, 13 Brexit referendum, 424 Brezhnev, Leonid, 376 Attlee, Clement, 327, 329 Austin, John, 65 British Conservatives, 325 Austria, 139, 143, 148, 168, 309 British Constitution, 335 Authoritarianism dualist reading, 342 and freedom, 79 British electoral constituencies, Autos declarations, 365, 366, 367, 465 333 British Parliament Aymara people, 236 Azerbaijan, 381 common law rights, 334 and the executive, 336 as the highest court, 334 implied repeal rule, 333 Bashkortostan Republic, 378, 383 Beetham, David, 4 British Parliamentarism, 334 Bendix, Reinhard, 281 British political system, 135, 332, Benhabib, Seyla, 6, 27 339 Bentham, Jeremy, 70 British polity, 324, 330, 349 British public law, 348, 349 Bergsträsser, Ludwig, 312 Bernstein, Eduard, 138 and franchise reform, 336 Billaud-Varenne, Jacques Nicolas, 12 public act control, 341 Bills of right, 155 ultra vires principle, 337 Bismarck, Otto von, 50, 51, 306, 307 Brunkhorst, Hauke, 23, 36 Black disfranchisement, 24 Bundestag. See German Parliament Black franchise, U.S., 288 Bureaucratic state and democracy, 87, democratic transition, 288 88, 90 Block of constitutionality, 223, 242–3, Burke, Edmund, 64, 70, 81, 331 255, 465 Burundi, 456 Bolivia, 157, 220, 235, 236, 237, 272, C 435, 437, 452 indigenous communities, 439, 441 Cacarica River, 368, 462 Bolivian Constitution, 440, 441 Caesarism Bolivian Constitutional Court, 229, possible convergence with 235, 236, 237, 247, 441, 489 democracy, 105 Bolshevism, 51 Calvin, Jean, 41 Calvinism, 41 Bonapartism and Bismarck, 50 Cameroon, 456 and democratic government, 56 Canada, 229, 249, 259, 494 as political regime, 54 laws on standing, 469 Canada sex workers, 469 Botswana, 459 Canadian Bourbon monarchy as a corporation, 58 constitutional law, 249 and corporations, 57 public law, 249 'Bourgeois classes', 101 Supreme Court, 259, 469 Bourgeois replacing citoyen, 76 Capitalism definition, 109 Brandeis, Louis Dembitz, 294 Caramani, Daniele, 156, 283 Brazil, 170, 247, 278, 444, 454, 469, 488 Caribbean culture, 351 Brazilian Class Action Law, 467 CEJIL. See Centre For Justice & Brazilian Constitution, 470 International Law Brazilian Supreme Court, 247 Central African Republic, 456, 457

Central Asia, 245	structural adaption, 185
Central Asia, 243 Centre For Justice & International Law	Citizenship rights
(CEJIL), 435	of affiliation, 27
Chain of legitimation, 60	of legislative participation, 27
Chamberlain, Neville, 329	
	of private recognition, 27
Chariamatic	Citizenship
Charismatic	active and passive, 20
leadership, 98	as basic human right, 8
legitimacy, 98	and class conflicts, 21, 22
qualities, 102	and collectivization, 11
rationality of politicians, 93	democratic, 14
Chateaubriand, François-René, 42	in early nation states, 15
Chayes, Abram, 466	exclusionary principles, 15
Chechen Republic, 384, 397	and feudal allegiance, 16
Chernobyl disaster, 478	formation through litigation, 493
Chile, 211, 213, 222, 454, 494	and French ancién-regime, 11
Chilean Constitutional Court,	and French Revolution, 13
246, 247	global. See Global citizenship
Chilean law, 267	and individualization, 11
China	integrational theory of, 116
public interest litigation, 476	Liberal concept of, 17
Circuit Court of Appeals, U.S.	and militarization, 14
independence from UN rulings, 286	and military service, 13
Citizen as a completely societal	normative substance, 24
agent, 76	passive, 21
Citizen consultation and democracy, 4	patterns of, 271
Citizen education, 53	patterns of transnational, 493
Citizen	perception by Rousseau, 78
as basic subject of democracy, 6	pluralistic institutional form, 15
as centre of attribution, 276	political, 208
as claimant of rights, 10	and political exclusion, 23
as co-implied in legislation, 19	and political inclusion, 22, 23
communicative behavior, 429	as political tie, 206
and democracy, 9, 10	and politics, 10
displacement from governance	replacing vested powers, 29
focus, 191	Republican concept, 17
evolution of German concepts of, 16	restrictions, socioeconomic, 20
as a fiction, 428	rights-based, 305
and French Revolution, 16	secondary patterns, 432
in German historiography, 12	segmentary, 428
as global legal construct, 496	and solidarity, 197
as legitimational figure, 6, 18	and statehood, 10
modern concept, 11	U.S. Supreme Court definition of, 13
and modern state, 10	Citoyen-soldat, 12
physical, 428	Civil Rights Act, U.S., 287, 299, 304
political construction, 10, 18	Civil rights litigation, 305
and polity, 18	Civil Rights Movement, 258, 292, 295,
as public agent, 19	302
as passe agent, 17	

Civil War Amendments, U.S., 287, 299, 300 Civil War, U.S, 24, 285, 292, 299, 300 Classical legal sociology, 201 Classical sociology, 500 political focus, 501 Cognitive intelligence of state, 429 Cohen, Andrew, 402 Coke, Edward, 334 Cold War, 159, 298 Collective litigation, 166 singular person, 17 Collectively binding decisions, 125 Colliot-Thélène, Catherine, 431 Colombia, 186, 223, 237, 247, 255, 259, 281, 350, 378, 400, 432, 435, 437, 438, 444 clientelism, 352 collective litigation, 470, 481 elections in, 351, 455, 461, 464, 465, 471, 488, 494 electoral participation, 371 human rights law, 355 hybrid citizenship, 352 multiple cultures, 351 participatory citizenship, 357 polycratic elements, 354 public interest litigation, 481 right to health, 482 social violence, 353, 354, 361 two-party system, 353 Colombian Civil Code, 470 Colombian Constitution, 357, 445 Colombian Constitutional Court, 223,	Commissarial dictatorship, 153 Common Law, 115, 233, 334, 335, 337, 340, 347, 449, 450 English, 409 rights, 334 Communist Manifesto, 42, 137 Compelling law. See Jus cogens Comte, Auguste, 70 Concept of citizen, 89 Concept of the citizen, 27, 28 Condorcet, Nicole, 35, 53, 78, 80 Conflict as irreducible political component, 32 Congo, 456 Consejo de Estado, 447, 471, 482, 483 Conservative Party, 44, 50 Constitution of the U.S., 300 Constitutional construction, 259 Constitutional Court in FRG. See German Constitutional Court Constitutional Courts, 168, 169, 170 as co-legislators, 169 Constitutional rights defense by courts, 340 in prisons, 305 Constitutional sovereignty, U.S., 31 Constitutional rights defense by courts, 340 in prisons, 305 Constitutional sovereignty, U.S., 31 Constitutional legitimacy, 61 Control of conventionality, 223 Corporations and social cohesion, 86 Corporations administrative functions, 56 decline in monarchies, 57
256, 257, 536, 539, 500, 361, 364, 365, 366, 437, 444, 464 correction of state failures, 361 doctrine of connectedness, 446 and health care rights, 446 and indigenous communities, 437, 438, 443 tutela jurisprudence, 446, 447, 464	privileges, 57 Cosmopolitan governance, 432 Council of Europe, 160 Crawford, James, 166 Crisis of parliamentary institutions, 152 Critique of democratic freedom, 71
Colombian Council of State, 482 Colombian education law, 271 Colombian Supreme Administrative Court, 447	Critique of metaphysics, 85 Critique of parliamentary democracy, 75 Czechoslovakia, 139, 168

D	as administrative form, 60
Dahl, Robert, 4	as improbable form, 98
Death penalty	as legal artefact, 60
in South Africa, 239, 240	in social integration, 60
Declaration of Human Rights and	Democracy concept, normative
Freedoms of the USSR, 386	substance, 33
Decolonization	Democracy development, 39
U.S. support for, 298	1848 uprisings, 40
Democracy	emergence as regulatory
active citizen at the core, 37	administration, 59
change to authoritarianism, 151	exogenic imprinting, 185
and charismatic rationality, 93, 94	first wave of consolidation, 40
	post-colonial, 40
contemporary, 277 convergence with Caesarism, 105	and protection of freedoms, 41
as creating the people, 103	in Russia, 39
decentred models, 500	and working class, 52, 53
definition, 3	Democracy establishment
equal and comprehensive inclusion	in Britain, 43
of citizenry, 33	in Europe, 50
and freedom, 116	global, 188, 283, 498
global structure, 499	Democracy system
globalization after 1945, 193, 211	as collective integration, 103
growth and differentiation of	as full inclusion, 155
political domain, 32	Democratic
and institutional centralization, 62	agency, 420, 492
institutional level, 3	citizenship, 415
legal auto-genesis, 277	concepts, 60
as legal system of inclusion, 276	political system. See Political system,
and legal inclusion, 422	democratic
and legal mobilization, 491	Democratic doctrines
as morally elevated social	corporations and estates in, 74
integration, 94	and legitimate government, 73
normative level, 4	perceptions by Hegel, 74
as plurality of freedoms, 116	Democratic freedom critiques
political character of, 204, 216	by Comte, 70
as a process of compensation, 226	by Hegel, 71
as process of integration, 84	by Saint Simon, 71
as result of nationalization, 497	Democratic governance, 203
slow evolution, 105	Democratic inclusion, 285, 432
spontaneous apersonal integration,	Democratic institutions
132	growth, 100
and structural conditions, 86, 99	legitimacy, 36, 67, 80, 222
as system of equal inclusion, 497	and mass mobilization, 88
as system of inclusion, 273	Democratic legislation, 222
as system of legislation, 10	Democratic legitimacy, 87, 113, 131
as system of participation, 273	Democratic norm setting, 443
and Western Europe, 282	Democratic polity
Democracy and political order, 59, 60	global foundations, 501

Demonstrate	M. b
Democratic society	Mubarak regime, 472
upholding, 228	State Council Law, 472
Democratization, 283	Eisenhower, Dwight David, 294, 298
in Europe, 283	Electoral citizen, 335
strategically selective, 134	Electoral democracy, 432
Deng Principles, 359, 462, 465	Electoral franchise
Denmark	in Britain, 44
constitutional reforms, 155	in France, 45
Desegregation, 293, 303	in Germany, 44
Dicey, Albert Venn, 43, 44	and political goals, 50
Discursive democracy, 432	in the U.S., 44
Displaced persons, 460, 461, 462	for women, 43
Disraeli, Benjamin, 50	Electoral participation, 288
Divided citizenship considerations	Embedded voluntarism, 132
(U.S.), 292	Emergence of democracy, 114
Doctrine	Enemy aliens
of living constitutionalism, 249, 257	in World War I, 144
of national democracy, 61	Engels, Friedrich, 51
of open statehood, 319	Enlightenment philosophers, 68
of parliamentary sovereignty (UK), 331	Erga omnes principle, 163, 174, 175,
of pouvoir constituant, 30	470, 471
of proportionality, 228–31	EU. See European Union
of virtual representation, 7, 331	European Convention for the
Domestic courts, 178, 180	Protection of Human Rights and
Downing, Brian, 282	Fundamental Freedoms, 340
Dred Scott ruling, 24, 291, 299	European Convention on Human
Dugard, John, 174	Rights (ECHR), 160, 161, 177, 210,
Duguit, Leon, 104	224, 225, 227, 239, 260, 263, 266,
Duma. See Russian Parliament	320, 321, 329, 342, 343, 344, 345,
Durkheim, Emile, 83, 85, 86, 97, 98,	346, 347, 375, 387, 391, 393, 394,
100, 107, 110	396, 449
	European Court of Human Rights
E	(ECtHR), 175, 178, 224, 225, 226,
Early labour movement	232, 260, 262, 263, 264, 266, 319,
in Europe, 52	344, 346, 348, 375, 390, 393, 396, 444
German, 52	European Court of Justice (ECJ), 264,
East Africa, 462	319, 320, 444
Eastern Europe, 154, 165, 182, 212,	European Parliament, 392
216, 239, 245, 262	European Small Claims Procedure, 392
Ebert, Friedrich, 148	European Union (EU), 174, 196, 213,
ECHR. See European Convention on	228, 432
Human Rights	as a community of rights holders, 320
ECJ. See European Court of Justice	Evolution of modern law, 110
ECtHR. See European Court of Human	Evolutionary account of state, 84
Rights	Executive branch of government, 148,
Ecuador, 220	168, 178, 336, 340, 358
Egypt	as dominant, 54, 55
locus standi, 472	Extra-territorial litigation, 265
<i>'</i>	0

F Fascism, 51, 148, 151, 297 Federal government, U.S., 302 Federal Republic of Germany (FRG), 165, 170, 249, 280, 306 democratic processes, 193, 196, 201	FRG. See Federal Republic of Germany Fuller, Lon, 121 Fundamental rights, 340 G Garfield, James, 292
democracy secured, 311	Gehlen, Arnold, 95
Fifteenth Amendment, 291	Generalized medium of inclusion, 130
Fifth Amendment, 304	Generation of legal order, 93, 99
Formal law, 91	Generic citizenship, 187
Formation of democracy, 52, 280	Georgia
Formative core, 32	(independent), 389
Forsthoff, Ernst	Soviet state of, 383
on West German statehood, 320	Georgia, U.S. state, 80, 290
Fortescue, John, 205	Gerber, Carl Friedrich Wilhelm, 46,
Founding Era (U.S.), 292	53, 65
Fourteenth Amendment, 291, 300	German (FRG) courts
France, 204, 206, 208	autonomy, 318
Franchise	supranational integration, 318, 459
mulitiple, in UK, 135	German case law, 245
restrictions (UK), 135 U.S., 137	German Constitutional Court, 245,
Franco, Francisco Bahamondes, 149	250, 317, 320, 321, 450 accepting <i>jus cogens</i> , 315
Freedoms of citizenship, 424	connections to ECJ, 319
Freedoms	as guardian of the constitution, 314
as core elements of modern society,	litigation as constitutional device, 450
83	monist and dualist principles, 315
generic and experienced, 81	as a political organ of the state, 314
and governmental legitimacy, 74	protection against third parties, 317
human characters and, 72	regard for international rulings, 318
and modern economy, 72	relations to ECJ, 319
range of liberties and, 73	and social welfare, 318
rationalities, 73	German Democratic Party, 142
French Revolution, 5, 7, 8, 16, 20, 21,	German Parliament (Bundestag), 314
22, 30, 32, 34, 39, 41, 42, 43, 56, 57,	German rulings, 246
58, 69, 70, 71, 73, 76, 78, 80, 83, 95,	German
168, 197, 206, 273, 274	citizenship, 310
Jacobin period, 75	First Reich, 53
and political centralization, 58	political system, 306
rival models of government in, 34	positivism, 53
French Third Republic, 25	Germany, 16, 44, 49, 50, 54, 55, 65, 101,
beginnings, 53	118, 136, 139, 141, 143, 144, 145,
constitution, 52	147, 148, 157, 159, 167, 169, 170,
male suffrage, 53	174, 220, 246, 268, 297, 306, 307, 308, 309, 311, 315, 319, 321, 322
and positivism, 53 voting franchise, 136	308, 309, 311, 315, 319, 321, 322, 325, 326, 327, 329, 467
Frente Nacional, 351	fascism, 148
Freyer, Hans, 69, 95	national fragmentation, 310
210,01, 114110, 02, 20	initial inglifortunon, 510

Germany (cont.) Helsinki Accords, 165, 212 war criminal trials, 159 Historicists welfare state introduction, 148 and constitutionalism, 63 as world power, 101 and political obligation, 64 Ghana, 157, 222, 457, 480 Hitler, Adolf, 310, 311 chieftaincy in, 457 Hobbes, Thomas, 139, 203 Constitution of, 481 Hohenzollern Dynasty, 141 locus standi, 481 Holmes, Oliver Wendell, 249 Giolitti, Giovanni, 50 Honneth, Axel, 26 Gladstone, William Ewart, 50, 92 House of Commons, 324, 325 Global citizenship, 279, 280, 285, 303, as a corporation, 330 493, 494, 495, 501, 502 widening authority, 134 conferral of, 493 House of Lords formation through litigation, 493 right to overrule, 327 patterns of transnational, 493 HRA. See Human Rights Act Global defamation, 495 Hugo, Gustav, 64 Global laws Human freedom, 5 citizen as construct of, 423 Human Rights Act (HRA), 491 contingent subject formation, 423 Human rights in creation of laws, 422 as normative channels, 431 and physical acts of citizens, 423 as normative system, 431 Global legal constraint, 422 Human species as substrate of political Global legal system, 419, 420, 421, 501 order, 81 Global right to democracy, 163 Hume, David, 68 Globalization Hungarian Constitutional Court, of democracy, 154, 416, 417, 427 of society, 198 Hungary, 139, 214, 239 of the legal system, 416 Goodhart, Michael, 4 I Gorbachev, Mikhail, 376 IACtHR. See Inter-American Court of reforms, 376, 377 **Human Rights** Gosewinkel, Dieter, 328 ICCPR. See International Covenant on Gramsci, Antonio Francesco, 145 Civil and Political Rights Great Lakes Protocol on Internally ICJ. See International Court of Displaced Persons, 462, 463 **Justice** Great Reform Act of 1832 (UK), 134 Idea of contingency, in sociology, Greenpeace, 467 Grégoire, Henri (Abbé), 80 ILO. See International Labour Grundgesetz (Basic Law) of FRG, 169, Organization 249, 312, 316, 317, 319 Immigration and Nationality as open to international law, 313 Act, 299 Guarani people, 441 Imperial Germany, 55, 306 Gurvitch, George, 68 **Imperialism** and general rights, 32, 33 link to democracy, 139 Habermas, Jürgen, 6, 18, 26, 118 in revolutionary era, 30 Hegel, Georg Friedrich Wilhelm, 41, Inclusionary modernization, 26 71, 81, 108, 117 Inclusive democracy, 117 Hellenic, 4, 206 Incomplete democracy, 426

International public order, 176 International soft law, 465
Intrusion on subjective rights, 228
Invisible constitution, 239
Italy, 50, 139, 145, 148, 149, 165, 169,
220, 329
democracy reestablished, 154
fascism, 148
parliament of, 136
political parties, 142
r r,
I
Jackson presidency, 137
Jacobin period, 7, 75
Japan, 154, 159, 220, 222
democracy in, 154, 157
war criminal trials, 159
Jay, John, 289
Jefferson, Thomas, 207
Jellinek, Georg, 65
Jhering, Rudolf, 66
Jim Crow laws, 298
Johnson, Lyndon Baines, 298
Judicial autonomy, 304, 305
Judicial contributions
to civil rights, 303
to desegregation, 304
to legislation, 304
Judicial interpretation, 257
Jury trial
and Russian women, 227
Jus cogens ('compelling law'), 161, 162, 163, 164, 173, 262, 315, 358
as a global constitutional norm, 174
human rights standing above laws,
ICJ rulings, 173
as normative order, 175
relative indelibility, 175
in Russian law, 476
scope limits, 174
and self-determination, 174
**
K
Kalenjin tribes, 405
Kampala Convention, 462
Kant, Immanuel, 5, 7, 17, 20, 47, 71,
80, 99

Kautsky, Karl, 138 Kelsen, Hans, 29, 65, 66, 67, 192, 193 Kennedy, John Fitzgerald, 298 Kenya, 157, 240, 241, 242, 253, 254, 281, 401, 435, 459, 461, 463, 473, 474 colonial rule in, 401, 402 democratic construction in, 402 ethnic factionalism, 408 ethnic fragmentation, 402 indirect rule, 401, 402 nationalist movements, 402	242, 245, 246, 247, 258, 259, 262, 269, 350, 358, 435, 437, 444, 454, 459, 460, 467, 470, 485, 494 democracy in, 154 democratization in, 138 legal protection of indigeneity, 453 political construction in, 150, 244 transformative applications, 255 Lauterpacht, Hersch, 160, 194 Law authority connection to, 275
public economy, 406	inner-legal construction, 272
public litigation, 475	as medium of integration, 96
right to constituent power, 475	self-generation, 270
Kenyan citizenship, 403, 404, 405, 408, 409, 413	Law as concrete institutional form, 41 Law positivization, 126
Kenyan Constitution, 255, 403, 404,	League of Nations, 192
407, 413, 456, 457	Legal activism, 298, 305, 468
Kenyan government	as mode of citizenship, 433
international sanction, 412	Legal collectives, 492
Kenyan High Court, 245, 246	Legal construction, 275
Kenyan Independence Constitution,	Legal exchanges, 227, 279, 419, 450
403	between global and national law, 422
Kenyan legal system, 410, 413	Legal mobilization, 432, 433, 491
and ethnic groups, 411	correlation with democracy, 492
and international law, 410, 411	as democratic agency, 492 and design of political system, 492
judicial autonomy, 408, 410 judicial quality, 408, 412	Legal nihilism, 380, 399
and minorities, 411, 413	Legal procedures, 420
and monist categories, 410	Legal sociology, 2, 83, 95, 105, 112, 121,
volume of litigation, 412	123, 132, 133, 190, 192, 193, 194,
Kenyan National Constitutional	195, 198, 201, 202, 427, 500, 501, 502
Conference, 474	after 1945, 194, 195
Kenyan nationalism, 403	cosmopolitan views, 502
Kenyan society pluralism, 401	and demands for freedom, 500
Kenyan Supreme Court, 253, 408, 409	early, 500
Kenyatta, Jomo, 403, 404	and global democracy, 502
Keynesian welfare states, 125	as political sociology, 112
Kikuyu tribe, 403, 405	Legal system construction, 115
L Laband, Paul, 65 Labour government, 329 Labour Party, 135, 136, 143, 327 Landshut, Siegfried, 68 Lassalle, Ferdinand, 52 Latin America, 157, 160, 165, 176, 211,	Legal system creation of democratic norms, 278 differentiation, 172 global extension, 172 inclusion, 172 self-generated autonomy, 278 as site of citizenship, 487 as subject of democracy, 209
213, 215, 216, 219, 220, 223, 227,	Legal-sociological paradox, 201

Legitimacy, 275	Luther, Martin, 41
conceptual apparatus, 277	Luxemburg, Rosa, 142
contractual, 204	<i>O</i> .
of law, 274	M
primary norms, 431	Macdonald, Ramsay, 328
secondary norms, 431	Machiavelli, Niccolo, 13
semantics of, 273	Majimbo components, 404
Legitimacy of parliamentary	Mali, 456
institutions, 152	Mapiripán Massacre, 462
Legitimate state, 81	Margin of appreciation, doctrine,
Legitimate violence, 109	224
Legitimational myths	Markoff, John, 282
British, 311	Marks, Susan, 215
German, 311	Marshall, John, 249, 290
Leibniz, Gottfried Wilhelm, 79	Marshall, Thomas Humphrey, 22, 26,
Lenin, Vladimir, 381	104, 116
Liberal democratic state, 83	Marx, Karl, 42, 51, 75, 76, 81, 109
Liberal Party, 136	Marxist theories
Liberty, 7, 8, 41, 46, 71, 89, 105, 107,	about democracy, 145
131	organized capitalism, 145
collective, 78, 197	Mass mobilization, 144
and government legitimacy, 97	Mau Mau uprising, 402
protection from atomized, 96	Mauritius, 224
Liebknecht, Karl, 142	Medieval Estates
Lipset, Seymour Martin, 17, 40, 49, 282	as base for parliaments, 281
Litigant citizens, 443	Mexican constitution, 267
Litigation loops, 443	Michels, Robert, 55, 95
Litigation	Mill, John Stuart, 49
collective, 451, 452	Minority representation, 28
as core pattern of citizenship, 443	Modern democracy, 416
as democracy-building, 488	Modern law, 111
and indigenous peoples, 452	Moi, Daniel arap, 405, 473
legislative effects, 444	Mond-Turner talks, 145
political outcomes, 490	Monetary imperialism, 425
political significance, 489	Monetary system, 89
public interest, 468, 473, 474	Monist model/system, 255, 315, 316,
Littré, Emile, 53	410
Living constitutionalism, 248–51, 257	Monist interpretations of laws, 255,
Living-tree constitutionalism, 259	315, 316
Lloyd George, David, 140, 148	Montesquieu, Charles-Louis, 68
Locke, John, 7, 17, 217	Moore, Barrington, 282
Locus standi, 470, 472	Moral functions of state, 111
Locus classicus, 478	Morales, Evo, 183, 439, 440
Low-intensity citizenship, 425	Multi-centric democracy, 431
Low-intensity democracy, 425, 426	Multiracialism (Kenya), 403
Luebbert, Gregory, 282	Mussolini, Benito, 146, 149
Luhmann, Niklas, 27, 124, 126, 128,	Mutunga, Willy, 253, 254, 255, 409
130, 131	Myrdal, Gunnar, 297

N	North Africa, 213
NAACP. See National Association for	North German Federation, 54
the Advancement of Colored People	Northern Ireland, 233
Napoleon, Bonaparte, 54	Nueva Granada, 350
Nation	
building, 21, 102	O
as foundation of legitimate rule, 99	OAS. See Organization of American
National Association for the	States
Advancement of Colored People	Office of President, 92
(NAACP), 302, 303	Olympic Games, 495
National citizen, 279, 280, 283, 285	Ombudsman, 476, 477
National citizenship, 205, 285, 305, 322,	Ombudspersons, 476, 477
414, 496	Open constitutionalization, 238
National comradeship, 310	Open statehood, 238, 321
National democracy, 187, 414, 420,	Open statehood doctrine. See under
498	Doctrine
constituent foundation for, 189	ordre public, 176, 200
emergence of, 191	ordre public transnational, 200
normative domain, 192	Organization of African Unity, 160
in USA, 285	Organization of American States
National fragmentation, 311, 370, 385	(OAS), 161, 213
National legislation, 421	Organized labor, 52
National legislatures, 414, 418	Orientation towards democracy, 164
and inner-societal democratization,	Originalism, constitutional, 248
499	Otis, James, 7
National polity, 30	D.
National Socialists (Germany), 310	P
National sovereignty, 205	Paine, Thomas, 56, 62
Nationhood, 17, 190	Paris Commune, 136
Natural justice, 338	Parliamentary Council, 312, 316, 320
Naumann, Friedrich, 310	Parliamentary democracy, 89, 90, 91,
Nazi Germany, 150	92, 93, 94, 152
Netherlands, 139, 264	Parliamentary sovereignty
Supreme Court, 264	doctrine of, in UK, 332
Neumann, Franz, 118	Parliaments, 89, 323, 333
New Deal, 285, 286, 292	origin in Estates, 281
NGOs. See Non-Governmental	Parsons, Talcott, 26, 104, 113, 114, 115,
Organisations	116, 117
Nineteenth Amendment, 51	Particular interests, 418
Non-Governmental Organisations	Pattern of agency, 30, 31
(NGOs), 434, 471	Patterns of politicality, 428
consultative activities, 435	Pedagogy
recognitive activities, 435	and citizenship, 78
Normative	and nationhood, 53
democracy, 117	People as an absent force, 153
horizon, 197	People
theories, 121	as aggregate of contract formers, 70
Norms and physical violence, 193	as created by democracy, 103
	•

original externality, 204 Permanent Court of International Justice (PCIJ), 192	mode of communication, 31 order of legitimacy, 32 primary environment, 18
Peru, 247, 454	primary limits, 434
Pinheiro Principles, 359, 462, 465	principle of inclusion, 25
Pinochet, Augusto, 211, 213, 265, 267, 494	and private economic rights, 25 and reinforcement of governmental
Plebiscitary government, 98	infrastructure, 26
Plebiscites, 349	secondary limits, 434
Plural voting, 135	and social rights, 25
Pocock, John Greville Agard, 6, 27	Politicization of society, 424
Poland, 139, 212, 214, 239	Politics
Political citizenship, 208, 415	legitimate violence in, 109
Political democracy	as a triadic division, 128
bourgeoisie as agent of, 49	vocabulary of, 273
and collective freedom, 48	voluntarism in, 67, 109
conceptual substructure, 48	Polity
early limitations, 48	construction by citizenry, 62
and economic expansion, 49	legitimacy of, 99
and general human dispositions, 47	world, 181
Madison's views on, 48	Polyarchy theory, 4
Political integration, 112	Popular sovereignty, 49, 61, 101
Political parties, 91	Positivism
Political paternalism, 395	apolitical law concept, 66
Political procedures, 420	and democratic government, 56
Political self-legislation, 200	English, 65
Political society, 106, 208	German, 65
Political system	inquiry of, 66
decentralization, 430	and legal norms, 65, 66
mono-centric concepts, 492	and metaphysics, 65
nationalization, 156	and political system legitimacy, 66
supervisory oversight, 429	relation to historicism, 64
Political system, democratic	and Third Republic, 53
as aggregate of societal wills, 112	and will of the state, 66
and chain of communication, 5	Positivist inquiry, 107
claims to rights, 31	Positivization of the law, 126
and decisions by a citizen, 6	Post-democracy, 426
as dominant system of inclusion, 110	Post-democratic politics, 425
embedded voluntarism, 132	Pouvoir constituant (constituent
exercise of rights, 31	power), 30
formative core, 32	Power
functional distinction, 32	coded as law, 129
and global legal system, 190	distillation into law, 131
and inclusion of citizens in	Pre-suffrage polities and women, 24
legislation, 7	Preuß, Hugo, 310
and inclusion of society's sectors, 6	Primary constitution, 188
legitimacy construction, 32	Prisons
and mass of legislating institutions, 5	constitutional rights in, 305

Private law, 337 and public freedom, 46 Proceduralist theories, 121 Proceduralization of democratic	Reconfiguration of democracy, 427 Reconstruction (U.S.), 287, 292, 300 Reconstruction Act, 287 voting rights, 137
activity, 486	Recursive circularization, 129
Proletariat, 51, 138	Reform Act of 1832, 134, 324, 330
Promotion of solidarity by government,	Reform Act of 1867, 44, 50, 330
85	Reformation, 273
Proportionality, 228-31, 234, 237, 238,	Regime rules, 199
266, 314, 317, 343, 344, 347, 398, 444	Reich, First German, 306, 307
remedy by, 266	citizenship, 308, 309
review of, 344	fiscal system, 308
Prostitutes, 469	multiple polities within, 308
Proudhon, Pierre-Joseph, 75, 106, 138	Reichstag, 54, 136, 308
Prussia, 10, 306	Representation of People Act, 134, 328,
state, 326	330
three-class franchise, 308, 326	Representative democracy, 331
within German Empire, 306	Representative government, 331
Prussian Land Law, 228	and American Revolution, 7
Przeworski, Adam, 164, 282	and French Revolution, 7
Public as part of triadic system, 128	and national sovereignty, 7
Public interest litigation, 394, 466, 475, 483–6	Rhodesia, 156, 162 Right not to be displaced, 462, 463
locus classicus, 478	Right of access to a court, 173, 263,
Public law, 337	264, 267
and public freedom, 46	Right to (have) rights, 261–7
Puchta, Georg Friedrich, 65	Right to protect rights, 320
Putin, Vladimir, 374, 377, 379, 380,	Rights
381, 385, 390, 393, 399	creation by rights, 267-71
Putnam, Robert, 282	education, 271
	health care, 269, 270
Q	medical service, 270
Quod omnes tangit ad omnibus	mental health care, 270
approbari debet, 205	public space, 269
	self-generation, 270
R	water, 269
Racial discrimination, 297, 298	Rio Bogota case, 447, 483
UN convention on elimination, 299	Robespierre, Maximilien, 12, 20, 22, 34,
in U.S., and foreign relations, 298	56, 78, 80, 81
in voting, across countries, 155–6	Roman law, 64, 467
Radical Left	Roosevelt, Eleanor, 297
and democracy, 51	Roosevelt, Franklin Delano, 286, 293
Ramsay, David, 13	Rosanvallon, Pierre, 43, 68
Rational state, 71, 108	Rousseau, Jean-Jacques, 5, 7, 18, 35, 47,
definition by Hegel, 71 Rationalist metaphysics, 77	48, 53, 61, 71, 78, 99, 203 Roussellier, Nicolas, 55
Rawls, John, 121	RSFSR. See Russian Soviet Federative
RCC. See Russian Constitutional Court	Socialist Republic
	1

Rueschemeyer, Dietrich, 282 Russia, 39, 140, 171, 186, 212, 215, 227, 245, 262, 280, 329, 374–400, 450, 476, 477, 488 assimilation of international law, 450 citizens' oversight, 477 guarantees to indigenous peoples, 453 litigation and international law, 450, 451 ombudsman, 476, 477 ombudspersons, 476 public interest litigation, 476, 477 public prosecutors, 476 quality of democracy, 374 use of law, 395 Russian administrative deportation, 393 Russian Administrative Litigation Code, 384, 394, 395, 396 Russian citizenship, 400 inner-legal, 384 national, 381 Russian Civil Procedure Code, 380	catastrophic collapse in 1990s, 376 endemic deconstitutionalization, 378 endemic privatization, 378 gubernatorial elites, 385 interactive litigation, 380, 385 judicial corruption, 379 judicial reform, 379, 380 reconstitutionalization policies, 381 Russian President, 398 Russian Prison Code, 396 Russian Revolution, 140 Russian Soviet Federative Socialist Republic (RSFSR), 386 Declaration of the Rights of Man and Citizen, 386 Russian Supreme Court, 263, 266, 380, 391, 393, 396, 398 Russian-Georgian War, 388 Russification, 381  S Saint Simon, Claude Henri, 71 Saint-Just Louis Antoine, 7, 8, 35
Russian Civil Procedure Code, 380 Russian Concept of Judicial Reform,	Saint-Just, Louis Antoine, 7, 8, 35 Saramaka People, 176, 269
and jus cogens, 386	Savigny, Friedrich Carl, 64 Schelsky, Helmut, 128
Russian Constitution, 245, 263, 378, 380, 394, 398	Schmid, Carlo, 250, 312, 313, 316, 320 Schmitt, Carl, 29, 35, 104, 112, 152,
Russian Constitutional Court (RCC), 227, 232, 387, 396, 398	193, 206, 207, 319, 418, 419 Second coding, 130
Russian cyclists, 495 Russian domestic law, 393	Second Empire, French franchise in, 54
Russian Empire, 381	Second Enlightenment, 194, 195 Second Reich. <i>See</i> Weimar Republic
Russian Federal Law, 392, 393, 395 Russian Federation, 377, 378, 384, 386,	Secondary constitution, 188
397, 400 Russian Law on Political Parties, 374	Secondary constitutional acts, 188 Secondary constitutionalization, 188
Russian legal system	Secondary soft law, 462
Federal Law, 266 recognition of international law, 386,	Segmentary citizenship, 487, 488
391 judicial autonomy, 389	constitutionalization, 487 rights, 492
formal dualism in, 388	subjectivization, 485
political pressures, 388 growing autonomy, 389, 398	Self-determination and democracy, 56
Russian Parliament (Duma), 246, 374,	multiple meanings, 162
391, 392, 398  Pussian political system 376	national, 56
Russian political system, 376	in UN Charter, 161

Self-legislating people, 127	South Africa, 162, 214, 222, 239, 246,
Shadow justice, 377	252, 435, 456, 485
Shany, Yuval, 165	collective litigator NGO, 481
Sieyès, Emmanuel-Joseph, 18, 20, 30,	South African Constitutional Court,
34, 35, 48, 99	239, 240, 241, 252, 464
Smith, Adam, 68	South African rulings, 246
Social contract	Southern Cone region, 183
concepts, 203, 204	Sovereignty
by Hegel, 72	national, 49, 204
by Hobbes, 203	popular, 49
by Kant, 62	Soviet Union (USSR), 381
by Rousseau, 7, 47, 78, 203	Communist Party, 382
Social Democratic Party (SPD) of	ethnic cleansing, 381
Germany, 141-2, 307	ethno-federal order, 382
as model mass party, 308	military endeavours, 329
Social integration, 115	pluralistic citizenship, 381
Societal abstraction in sociology, 99	preventing democratic
Societal evolution toward democracy,	developments, 154
118	Russian nationality in, 383
Societal nationalization, 26	social citizenship, 383
Society	Soviet citizenship, 383
differentiation by Hegel, 72	Spain, 222
forgetfulness in early democracies,	democratization, 138, 213
77	suffrage in, 138
formal freedoms as partial, 73	Spanish Constitution, 467
politicization by rights claiming, 221	Spanish Constitutional Court, 245
when inadequate for support of	SPD. See Social Democratic Party of
revolutions, 76–7	Germany
Sociology	Species freedoms, 78
classical era of, 82	Stalin, Joseph, 381
concepts of, 67	State as protector of individual
discovery of society, 68	liberties, 97
early concepts of people, 70	
early development, 67, 105	State legitimacy
early, political focus, 107	and citizen participation, 29 derivation, 108
growth of theory, 68	as fulcrum of social order, 28
as history of society, 69	instrumental theory of, 109
and normative order, 106	by political quality, 30
political rapprochement of the	State
modern, 113	as centre of the society, 108
rejection of institution transplants,	and collective equality, 11
69	in direction of social relations, 29
Weber's concept of, 102	as an immediate societal presence,
Sohm, Rudolph, 111	29
Soldier suffrage, 140	and individual decisions, 11
Solipsistic epistemology, 66	monopoly of legitimate power, 109
Somalia, 463	position in society, 29
Sonderwege ('special paths'), 282, 326	as sovereign collective person, 104

as system of shared rights, 10	Syria
State-citizen nexus, 28–9	war in, 396
Statehood, 319	Systemic rationality, 124
Statute of Charagua, 441	trans-systemic, 124
Strasbourg Court. See European Court	System's constitutional state, 130
of Human Rights	System's legal state, 130
Strategic litigation, 485	
Structural litigation, 363	T 174
Structural nationalization, 156	Tanaka, Kotaro, 174
Structural unconstitutionality, 363	Taney, Roger, 291
Subjective rights	Tanzania, 480
classification, 29	Constitution, 481
collective public, 17	public interest litigation, 481
singular private, 18	Tatarstan Republic, 383
Sudan, 463	actions of Supreme Court, 388
Suffrage, 20, 21, 24, 40, 43, 44, 49, 51,	Terror
134, 136, 137, 138, 139, 155, 287,	and civic virtue, 79
289, 307, 326, 329, 335	Teubner, Gunther, 198, 199, 200
and black enfranchisement, 51, 137,	Theory of democracy, 120, 196
291 famala 51	Theory of polyarchy, 4
female, 51	Theory of procedural democracy, 197
female in France, 51, 155	Third Republic (France), 136
female in Germany, 327	Tilly, Charles, 4, 6, 58, 282
female in UK, 51, 135, 140, 327, 328	Tocqueville, Alexis, 22, 41, 70
female in U.S., 51 as instituted by Conservatives, 50	perception of democracy, 70 Total citizen model, 318
	Transformative constitutionalism, 252
male in Colombia, 350	Transnational
male in France, 43, 44, 53, 54	citizenship, 332, 418, 495
male in Germany, 53, 54, 55, 307	
male in Italy, 50 male in UK, 134, 326, 328	constitutional subjects, 463 functional domain, 495
male in U.S., 44	human rights, 321, 433
Suicide, 97	scientific practices, 494
Supreme Court, U.S., 206, 248, 296,	Triadic sub-differentiation, 128
300, 305	Trindade, Cançado, 177
in desegregation, 293, 303	Truman, Harry S., 293
and international law, 80, 290	Tuori, Kaarlo, 321
liberalization, 301	Turner, Brian Stanley, 27, 143
and state laws, 291	Tutela litigation, 362, 363, 369, 445,
Supreme Court, UK, 226	446, 447, 464, 465, 470, 482
Suriname, 176, 269, 444	,,,,,
Sweden	U
democratization in, 138	Ubuntu and human dignity, 240
inter-group bargains, 147	UDHR. See UN Declaration of
suffrage, 138	Indigenous Rights
welfare state, 148	Uganda, 160, 494
Switzerland	UK, 470, 494
universal male suffrage, 55	concept of citizen, 330
0 -	

UK (cont.) democratic institutions, 323–7 separation of powers, 338 suffrage, 140 UK governance system authoritarian aspects, 327 crown as a corporation, 330 focus on individual, 324 impact of international law, 323 nationalization process, 325 partly democratic nature of, 323 recent differentiation, 323 as representative, 331	Universal Declaration of Human Rights. See UN Declaration on Indigenous Rights Universal suffrage, 43 Uribe, Alvaro, 368 US Circuit Courts, 469 US Democrats state citizenship model, 289 US Federalists concepts, 34 federal citizenship model, 289 US Occupying Forces, 220 US Presidency, 137, 286, 287, 294, 301
rights litigation, 449	USA, 400
UK Human Rights Act (HRA), 346, 347	Civil Rights litigation, 449, 468, 488
UK Parliament, 333	prison rights litigation, 488
organs, 331	minorities strategic litigation, 485 US-American courts, 494
and power of the judiciary, 323	US-American society, 468
traditional sovereignty, 323	
UK public accountability, 337	V
UK public law, 339, 467	Vida digna ('dignified life') right, 227,
definition, 337	269, 455
UK voting	Vienna Convention on the Law of
female franchise, 327 plural, before 1918, 326	Treaties, 158, 178
universal male, 326	Vienna Declaration and Programme of Action, 212
Ultra vires principle, 337, 339, 341	Vietnam War, 302
UN Convention Against Racial	Virtual representation, 7, 331, 332, 333
Discrimination, 299	Virtuous citizens, 78
UN Declaration on Indigenous Rights	Vivir bien ('living well') principle, 236,
(UDHR), 161, 164, 219, 241, 329,	237
340, 457, 464, 475, 480	Vocabulary political, 32
UN Guidelines on Internally Displaced	Voronezh, 396
Persons, 463	Voting Rights Act, U.S., 287, 299
UN Human Rights Committee, 161, 224	Vulnerability, 367, 372, 465
UN International Labor Organization	disproportional, 231
(ILO), 263	W
UN Security Council, 264	Wall Street Crash, 135
UN Special Rapporteur, 176, 394	Warren, Earl, 294, 295, 304
Unit citizen, 20	We the People, 257
United Nations (UN), 196, 210,	Weber, Max, 49, 60, 87, 88, 89, 90, 91,
304	92, 93, 100, 101, 103, 105, 110, 148,
charter, 158, 161, 218, 297	325
eviction and displacement, 242	Weimar Constitution, 168
self-determination, 161 United Russia Party, 385, 390	catalogue of rights, 310 removal of Prussian hegemony, 310
cinica rassia i arty, 505, 570	removal of r fussian negemony, 310