# DOWNLOAD PDF THE POLITICS OF RIGHTS

## Chapter 1 : The new politics of the Left: no rights for bad people by James Bowman | The New Criterion

*Stuart A. Scheingold's landmark work introduced a new understanding of the contribution of rights to progressive social movements, and it continues to stand out as a seminal and provocative book bridging political science and sociolegal studies.*

As several commentators have observed, something quite remarkable happens in this late work. In his early career, Foucault had been a great critic of the liberal discourse of rights. Suddenly, from about onward, he makes increasing appeals to rights in his philosophical writings, political statements, interviews, and journalism. He not only defends their importance; he argues for rights new and as-yet-unrecognized. Does Foucault simply revise his former positions and endorse a liberal politics of rights? Ben Golder proposes an answer to this puzzle, which is that Foucault approaches rights in a spirit of creative and critical appropriation. He uses rights strategically for a range of political purposes that cannot be reduced to a simple endorsement of political liberalism. This is an absolute must-read for anyone interested in Foucault or in rights, and that is a huge swath of people. By traversing political theory, critical legal theory, continental philosophy, and the voluminous literature on Michel Foucault, Ben Golder stakes out a novel account of how we should go about defending rights in a post-foundational era. I can see it being of immense value to researchers and students of Foucault on rights and on Foucauldian critique alike. It provides a persuasive exegesis, deftly showing how his specific critiques of political conditions evoked indeterminate rights to help resist particular forms of conduct. It also provides political activists with a reflexive, critical view of how human rights might be tactically or strategically envisaged within particular political struggles. For those tempted to yawn at the prospect of yet another tome on Foucault, I would recommend suppressing the urge: Its insightful probes will reward readers with absorbing ways to think differently about human rights that are now the lingua franca of dominant liberal political horizons. To the Foucault scholar, it presents a series of close readings of late texts that are generous, penetrating, and persuasive. Written in clear, engaging English, with a rhythm and an excitement that draws you through to the end, it is an accessible and fascinating book on subjects of wide interest to us all. Foucault and the Politics of Rights is a meaningful contribution for both advocates and critics of Foucault alike due to its resistance to resort to a normative liberal definition of rights while still advocating that rights do something, and, accordingly, should not be overlooked by anyone in conversation with rights, politics and power. Making claims for the right to die, the rights of the governed, and rights to sexuality? But so too does it shed light on the ongoing value of rights for contemporary politics, shaking up both the liberal faith in and the postmodern skepticism of rights in the process. Golder provides clear interpretations of central Foucauldian concerns and timely refutations of prominent misinterpretations of Foucault on rights. For all of this, Foucault and the Politics of Rights is to be highly recommended. This is Foucault studies at its best: How are we to make sense of his appeals to these rights? How can they illuminate rights talk more generally? His books and numerous essays demonstrate a consistent commitment to scholarly rigour and reflection on contemporary political problems. It deserves to be read and to be taken seriously by legal scholars, including those unfamiliar with Foucault. Golder mounts a vigorous critique of this thesis. This is where the author takes the argument beyond much of the radical left literature on the subject" â€”Christiaan Boonen, Political Studies Review "Golder should be praised for producing a comprehensive and definitive treatment of Foucault on rights, and the book must become the touchstone for the reception of Foucault in legal studies. I think this is an immensely readable book that is a must for human rights scholars. It is an extremely useful resource for thinking through the tensions that many of us working in the field of human rights face regularly and deserves to be a key text for anyone studying this area. In a clear, crisp, and enjoyable prose he is not only able to reject the mounting literature that attempts to interpret the late Foucault as a scholar who eventually naively followed the sirens of liberalism or even neo-liberalism but also to show his unsung centrality to the current critical legal field proper One of the many qualities of Foucault and the Politics of Rights is to remind us that Foucault was not only interested in exploring the realm of the abstract but also in applying his ideas to more contingent and pressing issues making visible previously unperceived problems, and thus creating original theoretical tools to change

our present. It is exemplary immanent critique: The exegesis is assured, authoritative, intimately versed.

## Chapter 2 : 5 most essential Political Rights of a citizen

*Stuart A. Scheingold's landmark work introduced a new understanding of the contribution of rights to progressive social movements, and thirty years later it still stands as a pioneering and provocative work, bridging political science and sociolegal studies. In the preface to this new edition, the.*

Definitional issues[ edit ] Rights are widely regarded as the basis of law, but what if laws are bad? Some theorists suggest civil disobedience is, itself, a right, and it was advocated by thinkers such as Henry David Thoreau , Martin Luther King Jr. There is considerable disagreement about what is meant precisely by the term rights. It has been used by different groups and thinkers for different purposes, with different and sometimes opposing definitions, and the precise definition of this principle, beyond having something to do with normative rules of some sort or another, is controversial. One way to get an idea of the multiple understandings and senses of the term is to consider different ways it is used. Many diverse things are claimed as rights: What actions or states or objects the asserted right pertains to: Rights of free expression, to pass judgment; rights of privacy, to remain silent; property rights, bodily rights. Why the rightholder allegedly has the right: Moral rights spring from moral reasons, legal rights derive from the laws of the society, customary rights are aspects of local customs. The inalienable right to life, the forfeitable right to liberty, and the waivable right that a promise be kept. Natural versus legal[ edit ] Main article: Natural and legal rights Natural rights are rights which are "natural" in the sense of "not artificial, not man-made", as in rights deriving from human nature or from the edicts of a god. They are universal; that is, they apply to all people, and do not derive from the laws of any specific society. For example, it has been argued that humans have a natural right to life. These are sometimes called moral rights or inalienable rights. An example of a legal right is the right to vote of citizens. Citizenship , itself, is often considered as the basis for having legal rights, and has been defined as the "right to have rights". Legal rights are sometimes called civil rights or statutory rights and are culturally and politically relative since they depend on a specific societal context to have meaning. Some thinkers see rights in only one sense while others accept that both senses have a measure of validity. There has been considerable philosophical debate about these senses throughout history. For example, Jeremy Bentham believed that legal rights were the essence of rights, and he denied the existence of natural rights; whereas Thomas Aquinas held that rights purported by positive law but not grounded in natural law were not properly rights at all, but only a facade or pretense of rights. Claim versus liberty[ edit ] A deed is an example of a claim right in the sense that it asserts a right to own land. This particular deed dates back to  Claim rights and liberty rights A claim right is a right which entails that another person has a duty to the right-holder. Somebody else must do or refrain from doing something to or for the claim holder, such as perform a service or supply a product for him or her; that is, he or she has a claim to that service or product another term is thing in action. This duty can be to act or to refrain from acting. Likewise, in jurisdictions where social welfare services are provided, citizens have legal claim rights to be provided with those services. Liberty rights and claim rights are the inverse of one another: For example, a person has a liberty right to walk down a sidewalk and can decide freely whether or not to do so, since there is no obligation either to do so or to refrain from doing so. Positive versus negative[ edit ] Main article: Negative and positive rights In one sense, a right is a permission to do something or an entitlement to a specific service or treatment from others, and these rights have been called positive rights. However, in another sense, rights may allow or require inaction, and these are called negative rights; they permit or require doing nothing. For example, in some countries, e. In other countries, e. Positive rights are permissions to do things, or entitlements to be done unto. One example of a positive right is the purported "right to welfare. Often the distinction is invoked by libertarians who think of a negative right as an entitlement to non-interference such as a right against being assaulted. Individual versus group[ edit ] Main article: Individual and group rights The general concept of rights is that they are possessed by individuals in the sense that they are permissions and entitlements to do things which other persons, or which governments or authorities, can not infringe. This is the understanding of people such as the author Ayn Rand who argued that only individuals have rights, according to her philosophy known as Objectivism.

Individual rights are rights held by individual people regardless of their group membership or lack thereof. Do groups have rights? Some argue that when soldiers bond in combat , the group becomes like an organism in itself and has rights which trump the rights of any individual soldier. Group rights have been argued to exist when a group is seen as more than a mere composite or assembly of separate individuals but an entity in its own right. For example, a platoon of soldiers in combat can be thought of as a distinct group, since individual members are willing to risk their lives for the survival of the group, and therefore the group can be conceived as having a "right" which is superior to that of any individual member; for example, a soldier who disobeys an officer can be punished, perhaps even killed, for a breach of obedience. But there is another sense of group rights in which people who are members of a group can be thought of as having specific individual rights because of their membership in a group. In this sense, the set of rights which individuals-as-group-members have is expanded because of their membership in a group. For example, workers who are members of a group such as a labor union can be thought of as having expanded individual rights because of their membership in the labor union, such as the rights to specific working conditions or wages. As expected, there is sometimes considerable disagreement about what exactly is meant by the term "group" as well as by the term "group rights. A classic instance in which group and individual rights clash is conflicts between unions and their members. For example, individual members of a union may wish a wage higher than the union-negotiated wage, but are prevented from making further requests; in a so-called closed shop which has a union security agreement , only the union has a right to decide matters for the individual union members such as wage rates. So, do the supposed "individual rights" of the workers prevail about the proper wage? Or do the "group rights" of the union regarding the proper wage prevail? Clearly this is a source of tension. The Austrian School of Economics holds that only individuals think, feel, and act whether or not members of any abstract group. The society should thus according to economists of the school be analyzed starting from the individual. This methodology is called methodological individualism and is used by the economists to justify individual rights. Other senses[ edit ] Other distinctions between rights draw more on historical association or family resemblance than on precise philosophical distinctions. These include the distinction between civil and political rights and economic, social and cultural rights , between which the articles of the Universal Declaration of Human Rights are often divided. Another conception of rights groups them into three generations. These distinctions have much overlap with that between negative and positive rights , as well as between individual rights and group rights , but these groupings are not entirely coextensive. Politics[ edit ] In the United States , persons who are going to be questioned by police when they are in police custody must be read their "Miranda rights". The Miranda warning requires police officers to read a statement to people being arrested which informs them that they have certain rights, such as the right to remain silent and the right to have an attorney. Rights are often included in the foundational questions that governments and politics have been designed to deal with. Often the development of these socio-political institutions have formed a dialectical relationship with rights. Rights about particular issues, or the rights of particular groups, are often areas of special concern. Often these concerns arise when rights come into conflict with other legal or moral issues, sometimes even other rights. With increasing monitoring and the information society, information rights , such as the right to privacy are becoming more important. Some examples of groups whose rights are of particular concern include animals , [6] and amongst humans , groups such as children [7] and youth , parents both mothers and fathers , and men and women. The concept of rights varies with political orientation. Positive rights such as a "right to medical care" are emphasized more often by left-leaning thinkers, while right-leaning thinkers place more emphasis on negative rights such as the "right to a fair trial". Conservatives and libertarians and advocates of free markets often identify equality with equality of opportunity , and want equal and fair rules in the process of making things, while agreeing that sometimes these fair rules lead to unequal outcomes. In contrast, socialists often identify equality with equality of outcome and see fairness when people have equal amounts of goods and services, and therefore think that people have a right to equal portions of necessities such as health care or economic assistance or housing. Meta-ethics is one of the three branches of ethics generally recognized by philosophers, the others being normative ethics and applied ethics. While normative ethics addresses such questions as "What should one do? Rights ethics is an answer to the

meta-ethical question of what normative ethics is concerned with Meta-ethics also includes a group of questions about how ethics comes to be known, true, etc. Rights ethics holds that normative ethics is concerned with rights. Alternative meta-ethical theories are that ethics is concerned with one of the following:

## Chapter 3 : The Civil Rights Movement and the Politics of Memory

*The Politics of Rights has, I believe, become an American classic." -Malcolm Feeley, Boalt Hall School of Law, University of California, Berkeley, from the foreword Stuart A. Scheingold is Professor Emeritus of Political Science at the University of Washington.*

History[ edit ] The phrase "Rights for Civil" is a translation of Latin ius civis rights of a citizen. Roman citizens could be either free libertas or servile servitus , but they all had rights in law. The Virginia declaration is the direct ancestor and model for the U. Bill of Rights  The removal by legislation of a civil right constitutes a "civil disability". In early 19th century Britain, the phrase "civil rights" most commonly referred to the issue of such legal discrimination against Catholics. In the House of Commons support for civil rights was divided, with many politicians agreeing with the existing civil disabilities of Catholics. The Roman Catholic Relief Act restored their civil rights. In the s, Americans adapted this usage to newly freed blacks. Congress enacted civil rights acts in , , , , , , , and  Protection of rights[ edit ] T. Marshall notes that civil rights were among the first to be recognized and codified, followed later by political rights and still later by social rights. In many countries, they are constitutional rights and are included in a bill of rights or similar document. They are also defined in international human rights instruments , such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Civil and political rights need not be codified to be protected, although most democracies worldwide do have formal written guarantees of civil and political rights. Civil rights are considered to be natural rights. Thomas Jefferson wrote in his A Summary View of the Rights of British America that "a free people [claim] their rights as derived from the laws of nature, and not as the gift of their chief magistrate. In many countries, citizens have greater protections against infringement of rights than non-citizens; at the same time, civil and political rights are generally considered to be universal rights that apply to all persons. According to political scientist Salvador Santino F. Implied or unenumerated rights are rights that courts may find to exist even though not expressly guaranteed by written law or custom; one example is the right to privacy in the United States , and the Ninth Amendment explicitly shows that there are other rights that are also protected. The United States Declaration of Independence states that people have unalienable rights including "Life, Liberty and the pursuit of Happiness". It is considered by some that the sole purpose of government is the protection of life, liberty and property.

## Chapter 4 : NPR Choice page

*Foucault and the Politics of Rights is a meaningful contribution for both advocates and critics of Foucault alike due to its resistance to resort to a normative (liberal) definition of rights while still advocating that rights do something, and, accordingly, should not be overlooked by anyone in conversation with rights, politics and power.*

Right to Life Everyone has the right to life, and - according to the international human rights mechanisms - this right can be violated in a variety of ways, including: International human rights mechanisms also place limits on the use of the death penalty. The right to freedom from torture Everyone has the right to freedom from torture and inhuman or degrading treatment or punishment. According to the international human rights mechanisms, this right can be violated in a variety of ways, including: The right to a fair trial Everyone has the right to a fair trial, and - according to the international human rights mechanisms - this right can be violated in a variety of ways, including by: The right to freedom of assembly and association Everyone has the right to freedom of assembly and association. The Right to freedom of thought, conscience and religion This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. The right to freedom of expression Everyone has the right to freedom of expression, and - according to the international human rights mechanisms - this right can be violated in a variety of ways, including by: According to the international human rights mechanisms, this right can be violated in a variety of ways, including by: The right to privacy Everyone has the right to privacy, and - according to the international human rights mechanisms - this right can be violated in a variety of ways, including by: The right to liberty and security Everyone has the right to liberty and security and - according to the international human rights mechanisms - this right can be violated in a variety of ways, including: The right to asylum Everyone who has a well-founded fear of persecution has the right to asylum in a country where they will be safe. The right to freedom from discrimination Everyone has the right to freedom from discrimination, and - according to the international human rights mechanisms - this right can be violated in a variety of ways, including by discriminating against someone because of: Political rights presume that the government processes should be structured so as to provide opportunities for political participation of all eligible citizens. According to the modern concept of political rights, every citizen should have the right and opportunity, without unreasonable restrictions, to take part in the conduct of public affairs, directly or through chosen representatives. While political rights are very much emphasized in the US, the percentage of Americans who choose to actively participate political process is one of the lowest among industrialized nations. This fact alone speaks volumes about the political environment in which American citizens are expected to exercise their political freedoms. For example, in the presidential campaign, for example, less than 50 percent of the eligible voters cast their ballots. Scholars differ on why this decline in voting has occurred from the high point of the late 19th century, when voting rates regularly ran at 85 percent or better of qualified voters. Some historians attribute the decline to the corresponding decline in the importance of political parties in the daily lives of the people. Others think that the growth of well-moneyed interest groups has led people to lose interest in elections fought primarily through television and newspaper advertisements. When non-voters are queried as to why they did not vote the answers range widely. There are those who did not think that their single vote would make a difference, and those who did not believe that the issues affected them, as well as those who just did not care â€” a sad commentary in light of the long historical movement toward universal suffrage in the United States. A shift of fractions of a percentage point in half-a-dozen states could easily have swung the election the other way. Perhaps as a result, Americans in the future will not take this important right, a right that lies at the very heart of the notion of "consent of the governed," quite as much for granted.

## Chapter 5 : Politics - U.S. Political News, Opinion and Analysis | HuffPost

*Political rights definition is - the rights that involve participation in the establishment or administration of a government and are usually held to entitle the adult citizen to exercise of the franchise, the holding of public office, and other political activities.*

These are rights by virtue of which the citizens take direct or indirect part in the administration of the state. Political rights are an essential complement of civil rights. In the absence of political rights civil rights become meaningless. Political rights provide ways and means by which citizens can check the arbitrary use of authority and encroachment upon their rights. Political rights are enjoyed by the citizens alone and not by aliens. These are not extended to aliens because they owe allegiance to their own states. Some of the political rights may be described as follows: According to this right, citizens in a state elect their representatives who are to constitute the government. Previously this right was given on the basis of some qualifications of property, education or the like. But now this right has been extended to all adults irrespective of any qualification. The right to vote places sovereign power in the hands of the people in the ultimate sense. Citizens can make or unmake the government through the exercise of this power. Right to be Elected: This is a valuable right of a citizen in a democratic state. It implies that every citizen should have the right to seek election to legislative bodies or other representative organs. People in a democracy have equal opportunities to be elected for any representative body. Nobody should be debarred from contesting elections to any office on account of his birth, class or creed if he is mentally and physically fit. Right to Hold Public Offices: The right to hold public offices is allied to the right to be elected. This means that all are equally eligible for appointment to all state offices, provided they are qualified by virtue of education, experience, ability and character. It means that every citizen have the right to send petitions to the government or the legislature for the redress of his grievances. Right to Permanent Residence: The citizens have the right to permanent residence in the state of their birth. They cannot be deported for any crime. This is a controversial right. Some believe that citizens should be given the right to resist an unjust government while others assert that government will become a plaything in the hands of the people if this right is freely exercised. According to Mahatma Gandhi, however, people should be given the right to resist a bad government.

## Chapter 6 : Gay Politics - Marriage Equality, Gay Rights, Anti-Discrimination

*The Politics of Human Rights provides a systematic introductory overview of the nature and development of human rights. At the same time it offers an engaging argument about human rights and their relationship with politics.*

Foucault and the Politics of Rights Published: As Brown puts it, "That which we cannot not want is also that which ensnares us in the terms of our domination. We are subject to rights precisely because we are subjects of rights. They are thus also always the tools of the state at least the liberal state , and the freedoms and modes of protection rights can offer will therefore always be in support of the state. On the one hand, they can enlarge, expand, or protect the sphere of action of subjects as well as bring new worlds and communities into being. On the other, and simultaneously with the above function, they can constitute those very subjects and communities in particular ways and hence work to reinscribe them within existing forms of power, recuperating and domesticating the political challenges they might pose  As he states directly, this is "a book about Foucault and the politics of rights" 2. This is refreshingly simple, direct, and accurate self-description of a book. True to his word, this is a book about Foucault his thought and his method. This is also book about the politics of rights in the western tradition, rooted in liberal practice and legal theory. In the introduction Golder articulates the motivating problem: He then articulates his own method of textual and historical interpretation, and lastly sketches the central claims of the book. The chapters that follow explore three different qualities that this reading of rights as "critical counter-conduct" implies. That rights are contingent and un-grounded Chapter 2 , that they are ambivalent in their nature Chapter 3 , and that they are embedded in and instances of specific strategic and tactical projects. How then ought we use rights? In his concluding chapter, Golder insists that precisely because they are forms of counter-conduct, they can be remade, reshaped, and redeployed to new ends. That is, Golder shows us that they can and should be used in the same way Foucault used them: In his closing pages, Golder invites us to consider the future of rights, challenging us to reflect on the conditions in which we find ourselves and how the tools of power that dominate us may be strategically used for our liberation and the reformation of selves. Throughout the book, Golder never strays too far from Foucault, and as such his book will primarily be read within the domain of "Foucault studies. Foucault gave us careful studies of modern discourses of madness, punishment, discipline, governmentality, sexuality, etc. He did so while also articulating broader analytics to better understand the operations of power, knowledge, subjectivity, and truth. As Golder puts it, he turns to Foucault not for a final verdict on rights in our current moment, but rather, because "Foucault is current for us in how he approaches his work and hence how we, in his wake, might approach ours"  This is Foucault studies at its best: Golder shows exactly how such a formulation misses the point. Rights are of course a deeply liberal construct, and politics of rights have been historically liberal in nature. Foucault is not simply saying different things in these places, but he is doing different things, and Golder marks these differences in ways that far too many readers of Foucault do not. As Golder puts it, "within any form of conduct, Foucault maintains, there is the immanent possibility of a counter-conduct -- of something which resists, works against, subverts, or avoids the operation of the attempt to govern conduct"  That is, Foucault helps us see that we have met the enemy and it is us, but also that we have resources available to be otherwise, because we are already becoming so. However, I do want more from Golder about specific instances of critical counter-conducts. It is likely that the primary audience for this book, as I noted above, will be those readers of Foucault who are already skeptical of rights themselves, who do not primarily identify as "liberals," or who are not committed to rights especially "human" rights as an effective basis for liberation or as a bulwark against marginalization, oppression, and domination. We counting myself amongst such an audience are typically more than happy to avoid thinking about rights because we do not see them as actually offering what they claim to provide. And yet, we cannot avoid thinking about rights precisely for the reasons that Golder demonstrates in his closing chapter: An engagement with rights is a part of this ongoing permanent critique because they offer us resources even as they continue to bind us: By the end of this book rights appear to be a different kind of thing, a much more Foucauldian kind of thing: Yet even with such transformations, re-deployments, and critical counter-conducts, we still find ourselves stuck with rights. If

liberalism generally and the liberalism of rights specifically is a second-order utopia to which we are resigned, then it is worth asking if there is anything, or anywhere, beyond rights. This is a possibility that Golder only briefly entertains in the form of some "open question[s]": But having given us a way to think about how we might "occupy rights" for strategic purposes, could we not do so precisely to make them obsolete and unnecessary? To not merely take them up for the sake of transformation or strategic pragmatism, but rather for the sake of other spaces; not for another failed utopia, but for the other places -- heterotopias -- that already exist and for alternate horizons that can disrupt the dominant description? To ultimately work toward the positive abolition of the conditions to which rights respond? Golder has surely left me in a better place, but the same question still haunts me:

## Chapter 7 : The Politics of Rights

*The first, the International Covenant on Civil and Political Rights, might have met with Bentham's approval. The rights listed in it, such as the right to vote, the right not to be tortured, and.*

The natural law concept existed long before Locke as a way of expressing the idea that there were certain moral truths that applied to all people, regardless of the particular place where they lived or the agreements they had made. The most important early contrast was between laws that were by nature, and thus generally applicable, and those that were conventional and operated only in those places where the particular convention had been established. This distinction is sometimes formulated as the difference between natural law and positive law. Natural law is also distinct from divine law in that the latter, in the Christian tradition, normally referred to those laws that God had directly revealed through prophets and other inspired writers. Thus some seventeenth-century commentators, Locke included, held that not all of the 10 commandments, much less the rest of the Old Testament law, were binding on all people. Thus there is no problem for Locke if the Bible commands a moral code that is stricter than the one that can be derived from natural law, but there is a real problem if the Bible teaches what is contrary to natural law. In practice, Locke avoided this problem because consistency with natural law was one of the criteria he used when deciding the proper interpretation of Biblical passages. In the century before Locke, the language of natural rights also gained prominence through the writings of such thinkers as Grotius, Hobbes, and Pufendorf. Whereas natural law emphasized duties, natural rights normally emphasized privileges or claims to which an individual was entitled. They point out that Locke defended a hedonist theory of human motivation Essay 2. Locke, they claim, recognizes natural law obligations only in those situations where our own preservation is not in conflict, further emphasizing that our right to preserve ourselves trumps any duties we may have. On the other end of the spectrum, more scholars have adopted the view of Dunn, Tully, and Ashcraft that it is natural law, not natural rights, that is primary. They hold that when Locke emphasized the right to life, liberty, and property he was primarily making a point about the duties we have toward other people: Most scholars also argue that Locke recognized a general duty to assist with the preservation of mankind, including a duty of charity to those who have no other way to procure their subsistence Two Treatises 1. These scholars regard duties as primary in Locke because rights exist to ensure that we are able to fulfill our duties. Simmons takes a position similar to the latter group, but claims that rights are not just the flip side of duties in Locke, nor merely a means to performing our duties. While these choices cannot violate natural law, they are not a mere means to fulfilling natural law either. Brian Tienrey questions whether one needs to prioritize natural law or natural right since both typically function as corollaries. He argues that modern natural rights theories are a development from medieval conceptions of natural law that included permissions to act or not act in certain ways. There have been some attempts to find a compromise between these positions. Adam Seagrave has gone a step further. God created human beings who are capable of having property rights with respect to one another on the basis of owning their labor. Another point of contestation has to do with the extent to which Locke thought natural law could, in fact, be known by reason. In the Essay Concerning Human Understanding, Locke defends a theory of moral knowledge that negates the possibility of innate ideas Essay Book 1 and claims that morality is capable of demonstration in the same way that Mathematics is Essay 3. Yet nowhere in any of his works does Locke make a full deduction of natural law from first premises. More than that, Locke at times seems to appeal to innate ideas in the Second Treatise 2. Strauss infers from this that the contradictions exist to show the attentive reader that Locke does not really believe in natural law at all. Laslett, more conservatively, simply says that Locke the philosopher and Locke the political writer should be kept very separate. Many scholars reject this position. That no one has deduced all of natural law from first principles does not mean that none of it has been deduced. The supposedly contradictory passages in the Two Treatises are far from decisive. While it is true that Locke does not provide a deduction in the Essay, it is not clear that he was trying to. Nonetheless, it must be admitted that Locke did not treat the topic of natural law as systematically as one might like. Attempts to work out his theory in more detail with respect to its ground and its content must try to reconstruct it from

scattered passages in many different texts. Unless these positions are maintained, the voluntarist argues, God becomes superfluous to morality since both the content and the binding force of morality can be explained without reference to God. The intellectualist replies that this understanding makes morality arbitrary and fails to explain why we have an obligation to obey God. With respect to the grounds and content of natural law, Locke is not completely clear. On the one hand, there are many instances where he makes statements that sound voluntarist to the effect that law requires a law giver with authority Essay 1. Locke also repeatedly insists in the Essays on the Law of Nature that created beings have an obligation to obey their creator ELN 6. On the other hand there are statements that seem to imply an external moral standard to which God must conform Two Treatises 2. Locke clearly wants to avoid the implication that the content of natural law is arbitrary. Several solutions have been proposed. One solution suggested by Herzog makes Locke an intellectualist by grounding our obligation to obey God on a prior duty of gratitude that exists independent of God. A second option, suggested by Simmons, is simply to take Locke as a voluntarist since that is where the preponderance of his statements point. A third option, suggested by Tuckness and implied by Grant , is to treat the question of voluntarism as having two different parts, grounds and content. With respect to content, divine reason and human reason must be sufficiently analogous that human beings can reason about what God likely wills. Others, such as Dunn, take Locke to be of only limited relevance to contemporary politics precisely because so many of his arguments depend on religious assumptions that are no longer widely shared. At times, he claims, Locke presents this principle in rule-consequentialist terms: At other times, Locke hints at a more Kantian justification that emphasizes the impropriety of treating our equals as if they were mere means to our ends. Waldron, in his most recent work on Locke, explores the opposite claim: With respect to the specific content of natural law, Locke never provides a comprehensive statement of what it requires. In the Two Treatises, Locke frequently states that the fundamental law of nature is that as much as possible mankind is to be preserved. Simmons argues that in Two Treatises 2. Libertarian interpreters of Locke tend to downplay duties of type 1 and 2. Locke presents a more extensive list in his earlier, and unpublished in his lifetime, Essays on the Law of Nature. Interestingly, Locke here includes praise and honor of the deity as required by natural law as well as what we might call good character qualities. At first glance it seems quite simple. On this account the state of nature is distinct from political society, where a legitimate government exists, and from a state of war where men fail to abide by the law of reason. Simmons presents an important challenge to this view. Simmons points out that the above statement is worded as a sufficient rather than necessary condition. Two individuals might be able, in the state of nature, to authorize a third to settle disputes between them without leaving the state of nature, since the third party would not have, for example, the power to legislate for the public good. Simmons also claims that other interpretations often fail to account for the fact that there are some people who live in states with legitimate governments who are nonetheless in the state of nature: He claims that the state of nature is a relational concept describing a particular set of moral relations that exist between particular people, rather than a description of a particular geographical territory. The state of nature is just the way of describing the moral rights and responsibilities that exist between people who have not consented to the adjudication of their disputes by the same legitimate government. The groups just mentioned either have not or cannot give consent, so they remain in the state of nature. Thus A may be in the state of nature with respect to B, but not with C. According to Simmons, since the state of nature is a moral account, it is compatible with a wide variety of social accounts without contradiction. If we know only that a group of people are in a state of nature, we know only the rights and responsibilities they have toward one another; we know nothing about whether they are rich or poor, peaceful or warlike. Instead, he argued that there are and have been people in the state of nature. How much it matters whether they have been or not will be discussed below under the topic of consent, since the central question is whether a good government can be legitimate even if it does not have the actual consent of the people who live under it; hypothetical contract and actual contract theories will tend to answer this question differently. There are important debates over what exactly Locke was trying to accomplish with his theory. One interpretation, advanced by C. Macpherson, sees Locke as a defender of unrestricted capitalist accumulation. Macpherson claims that as the argument progresses, each of these restrictions is transcended. The spoilage restriction ceases to be a meaningful

restriction with the invention of money because value can be stored in a medium that does not decay 2. The sufficiency restriction is transcended because the creation of private property so increases productivity that even those who no longer have the opportunity to acquire land will have more opportunity to acquire what is necessary for life 2. The third restriction, Macpherson argues, was not one Locke actually held at all. Locke, according to Macpherson, thus clearly recognized that labor can be alienated. He argues that its coherence depends upon the assumption of differential rationality between capitalists and wage-laborers and on the division of society into distinct classes. Because Locke was bound by these constraints, we are to understand him as including only property owners as voting members of society. Alan Ryan argued that since property for Locke includes life and liberty as well as estate Two Treatises 2. The dispute between the two would then turn on whether Locke was using property in the more expansive sense in some of the crucial passages. While this duty is consistent with requiring the poor to work for low wages, it does undermine the claim that those who have wealth have no social duties to others. Previous accounts had focused on the claim that since persons own their own labor, when they mix their labor with that which is unowned it becomes their property. Robert Nozick criticized this argument with his famous example of mixing tomato juice one rightfully owns with the sea. When we mix what we own with what we do not, why should we think we gain property instead of losing it? Human beings are created in the image of God and share with God, though to a much lesser extent, the ability to shape and mold the physical environment in accordance with a rational pattern or plan. Only creating generates an absolute property right, and only God can create, but making is analogous to creating and creates an analogous, though weaker, right. Since Locke begins with the assumption that the world is owned by all, individual property is only justified if it can be shown that no one is made worse off by the appropriation. Where this condition is not met, those who are denied access to the good do have a legitimate objection to appropriation. Once land became scarce, property could only be legitimated by the creation of political society. Waldron claims that, contrary to Macpherson, Tully, and others, Locke did not recognize a sufficiency condition at all. Waldron takes Locke to be making a descriptive statement, not a normative one, about the condition that happens to have initially existed. Waldron thinks that the condition would lead Locke to the absurd conclusion that in circumstances of scarcity everyone must starve to death since no one would be able to obtain universal consent and any appropriation would make others worse off. In particular, it is the only way Locke can be thought to have provided some solution to the fact that the consent of all is needed to justify appropriation in the state of nature. If others are not harmed, they have no grounds to object and can be thought to consent, whereas if they are harmed, it is implausible to think of them as consenting. Sreenivasan does depart from Tully in some important respects. The disadvantage of this interpretation, as Sreenivasan admits, is that it saddles Locke with a flawed argument. Those who merely have the opportunity to labor for others at subsistence wages no longer have the liberty that individuals had before scarcity to benefit from the full surplus of value they create.

## Chapter 8 : Rights - Wikipedia

*The Origins and Politics of the Bill of Rights USE THE NAVIGATION OPTIONS AT THE TOP TO SELECT ONE OR MORE SETS OF DOCUMENTS. ROLL OVER ANY OF THE RIGHTS TO HIGHLIGHT RELATED DOCUMENTS BELOW.*

Recollections of the Civil Rights Movement shape the way we comprehend and respond to a protest that remains sharply contested. The civil rights struggle of the s and s aimed to remove racial barriers that confined, degraded, and marginalized racial minorities, particularly blacks. After half a century, people today recall the movement in different ways for different purposes. The filter of memory is used to contour the politics of the present. It is not unusual nowadays to find celebration of the defeat of Jim Crow in, say, National Review. Of course, things were different when the movement was in the midst of the very battles that we now commemorate. Siding with segregationists in , National Review denounced Brown v. The central question â€¦ is whether the White community in the South is entitled to take such measures as are necessary to prevail, politically and culturally, in areas in which it does not prevail numerically? The sobering answer is Yesâ€”the White community is so entitled because, for the time being, it is the advanced race. There are undoubtedly older conservatives who have sincerely repudiated their earlier opposition to the movement. There are also young conservatives who have never had to reverse course because they grew up after the civil rights revolution. They are closeted racial reactionaries. And occasionally they blurt out what they really think. Had Thurmond prevailed, segregation, racial suppression, denial of the right to vote, and the rest of the Jim Crow system would have persisted. For him, and for a hard-to-determine number of other conservatives, history took a bad turn when the movement came out on top in its struggle against Jim Crow. Johnson and Martin Luther King Jr. We see that in the federal courts. Exhibit A is John Roberts, the chief justice of the U. In Shelby County, Alabama v. It is more likely, however, that the sympathetic historical narrative he posits is merely pretextâ€”a way to sanitize the evisceration of civil rights legislation without appearing racially reactionary. Am I being unduly cynical? Roberts has repeatedly spoken with feeling of his deep admiration for William H. Rehnquist, the justice for whom he clerked and the chief justice he succeeded. Rehnquist was a stubborn opponent of the civil rights revolution. He was also wily and devious. As a law clerk for Justice Robert Jackson when Brown v. Board of Education was argued, Rehnquist favored affirming the constitutionality of legally mandated segregation. He saw nothing fundamentally wrong with Plessy v. Decades later, after Brown had won the day in terms of public opinion, Rehnquist deceitfully denied having argued against Brown when he was a law clerk. He lied during Senate confirmation hearings on his nomination to associate justice in , and then again in hearings on his nomination to be chief justice in  His prevarications constituted an integral part of what Professor Brad Snyder calls the conservative canonization of Brownâ€”the process in which conservatives ceased attacking Brown but worked to restrict its practical reach. Just as the conservative wing of the Court posited exaggerated racial progress to truncate the Voting Rights Act, they pursue the same strategy when it comes to remedies for racial isolation in public schools. This distorted view of history is then used to disallow racial selectivity to maintain racial integration. In Parents Involved in Community Schools v. Seattle School District No. Abjuring the briefs of those who now fill the shoes once filled by Thurgood Marshall, Chief Justice Roberts and the conservative wing ruled that, outside the context of higher education where promotion of diversity may be allowed on very narrow grounds , the aim of ensuring racial integration in classrooms cannot justify race-conscious means of allocating students. The one that permits the continuation of racial separation? Or the one that encourages racial integration? Roberts and his conservative colleagues chose the former. Theoharis notes that when Parks died on October 24, , at the age of 92, she was accorded an extraordinary measure of public recognition. Later, pursuant to legislation, a statue of Parks was placed in the Capitol, the first honoring an African American. But as Theoharis shows, the actions of Rosa Parks were neither apolitical, nor adventitious, nor individualistic. Parks had been an activist long before the day she famously refused to move to the back of the bus. She took pains to register to voteâ€”a difficult undertaking for blacks in the Deep South in the s. She participated in

campaigns to prompt police to investigate rapes of black women by white men. She attended the Highlander Folk School, an interracial, left-wing leadership training school that fell victim to both race-baiting and red-baiting. Although Parks did not seek a confrontation with segregation aboard that bus on December 1, , she was well prepared when the opportunity arose. She continued her activism after her arrest and throughout the subsequent day bus boycott. Moreover, she continued protesting against racism after she moved to Detroit and joined the staff of newly elected Congressman John Conyers. Some have complained that the film slights Johnson by portraying him as a grudging supporter of their movement and even, in some instances, a petty, vindictive adversary. Some defenders of Selma charge that racism is behind much of the criticism of the film. The old saw that history is written by the victors is particularly relevant here, because Selma is the first mainstream movie about this era to raise the question of who, exactly, gets to claim ownership of that victory. To many historians and politicians, the triumph of civil rights is that, after much toil and strife, they were bestowed from above; to many African Americans, however, the victory is that those rights were takenâ€”wrenched, with tremendous will, persistence, and effort, out of a system that was not in an immense hurry to offer them up. The former stance has long been the vantage point offered by most white filmmakers who have tackled this history. Are those who defend LBJ against his portrayal in Selma overreaching? On the one hand, there is reason to be on guard against the propensity to over-praise whites and put them at the center of everything, including struggles for black advancement. Board of Education, paying little heed to the story of the plaintiffs and their supporters, the very people whose perseverance and courage brought to the justices the case that enabled them to become judicial heroes. Cultural entrepreneurs with white audiences in mind have insisted upon interjecting into virtually any setting the obligatory white savior. Aware that the telling of history is itself a projection of power, politically self-conscious observers should be keenly attuned to the ways in which white privilege manifests itself in cultural productionsâ€”plays, novels, monographs, films. They rightly wince upon reading that in directing Selma, DuVernay was unable to have her MLK speak the actual words of the historical MLK because media mogul Steven Spielberg owns the rights to those words having bought them from the notoriously avaricious King estate , and is hoarding them for his own use. Impatience with white narcissism and privilege, however, is no excuse for derogating the important, positive, admirable roles that some whites played in the Civil Rights era. Moreover, no matter how courageous the plaintiffs or brilliant their attorneys, good results would not have been forthcoming in desegregation suits in the absence of white judges who proved themselves willing to listen and to reform the lawâ€”jurists such as Justice William J. Similarly, no matter the bravery and persistence of protesters, their efforts would have been much less successful in the absence of friendly white politicians such as Hubert H. Kennedy, and, most notably, LBJ. Johnson was a committed supporter of the Civil Rights Movement. He contributed mightily to breaking the back of congressional segregationist obstructionism, investing more of his own political capital to furthering the aims of racial justice than any previous or subsequent president thus far. We owe it to ourselves to get that history right. So it was at Lexington and Concord. So it was â€¦ at Appomattox. So it was â€¦ in Selma, Alabama. The most heated one was authored by Joseph Califano Jr. Writing in The Washington Post, Califano seethingly charged that Selma falsely portrays LBJ and urged that the film be denied both patronage and honors. But Califano, too, is excessive. King, moreover, had already shown himself to be a master of just that sort of dramatization. But is his overcharging related to race? If a white person, say Michael Mann or David O. Russell, had been the director of a film impugning LBJ, Califano would likely have responded in a similar fashion. Califano was wrong in his excessive denunciation of Selma. But he was not racistly wrong. That distinction should matter. A realistic understanding of our racial past, present, and future will require a willingness to subject everyone to criticism. The fight over Selma is not only a historiographical dispute; it is also a conflict over the distribution of power now. It is full of reverberations that indicate the ongoing process of desegregation, the contemporary resentments inherited from our tragic past, and the current ways in which racial conflict erupts in even the most privileged sectors of our society. We should recall it with admiration, attentiveness to its limitations, and renewed determination to further social justice. Consider the situation in  In the states of the former Confederacy, officials openly and unapologetically hailed white supremacy as a principle of sound governance. Through fraud, intimidation, and violence, blacks were largely eliminated as

voters, jurors, or anything else associated with civic equality. White supremacists consigned blacks to public institutions, including schools and hospitals, that were separate and ostentatiously inferior. In some domains, blacks were excluded altogether. Louisiana allocated to whites 7, acres of parkland for recreation. Mississippi allocated 10, acres. Those three states allocated to blacks, by contrast, no park facilities. In the Jim Crow South, judges ordered blacks to be seated apart from whites in courtrooms, and directed that blacks be sworn as witnesses on separate Bibles. Legislation mandated racial separation in privately owned places of public accommodation. The legal system allowed employers to organize worksites at which the highest-paid black employee could earn no more than the lowest-paid white employee. The South, moreover, was by no means the only region suffused by anti-black racism; the scourge was national. All of Dixie prohibited marriage across the racial lines. But so, too, did Indiana and Colorado, Utah and Wyoming. Blacks faced violence in Atlanta and Birmingham if they moved into neighborhoods that whites perceived as their exclusive turf.

## Chapter 9 : Midterm Elections | Political News | ABC News - ABC News

*The Politics of Property Rights: Political Instability, Credible Commitments, and Economic Growth in Mexico, (Political Economy of Institutions and Decisions) [Stephen Haber, Armando Razo, Noel Maurer] on blog.quintoapp.com *FREE* shipping on qualifying offers.*

Is it because he did not accept the politicisation of human rights? The French authorities are investigating with seeming vigour, the UN has made noise -but some would say not the right noise. Kompass who was subsequently reinstated by a UN Tribunal. To be clear on this, primary jurisdiction for investigating the alleged crimes by French nationals serving in their military falls to the French government. The UN would have had to refer it to them. The one simple yet unanswered question in the United Nations versus Anders Kompass affair is - why? Why have the UN decided to attack the person who did no more and no less than his function as a human rights official demanded? There are anomalies too which need explanation, including why there was a gap of eight months after Kompass shared the report before the UN took action against him. In reality, the French started an investigation within two days, and there have been no known complaints from the victims of having been subject to retaliation. She raised no alarm re: In the interim, the UN Office of Legal Affairs the body which, inter alia, advises on immunities , was unbelievably slow in responding to a request by the French Prosecutors to speak to the original investigators, thereby holding up the investigation. None of this makes sense. I beg to differ. The UN has been slipping for many many years. Conversely, Mr Kompass is the anomaly, a human rights officer who rose through the ranks and arrived at headquarters after twenty years of working in human rights field missions. But more importantly, they are the representatives of two very different models of how human rights are located in political discourse: Zeid represents the school which has allowed, or indeed promoted, the politicisation of human rights, Kompass - the priority of human rights within politics. Mr Lynch may be right in thinking of Kompass as somewhat unknown, but where it matters he is anything but. Not all OHCHR heads of field offices do so, partly through fear of stepping outside of the mandate or upsetting the host government, or indeed, the UN. Kompass was able to effect mediation and improve the human rights situation simply because there was no unseen political agenda to his actions, he was transparent and honest. He was coherent, consistent and predictable. If a government operated in line with human rights norms and standards - fine. If not, then something needed to change. Victims knew that if their rights were being violated, then he would act to protect them. He was a friend to all involved parties, because he was prepared to tell the truth to each one. This is what human rights can and should do when it is at the core of politics. Sadly, this is not the preferred modality in the current UN malaise. The Department of Peace Keeping Operations now has a core budget of some 9 billion dollars. More than the rest of the UN put together. What does this tell us about prevention and sustainable development? Peace-keeping operations have been in some countries for decades, they are increasingly being criticised as ineffective as well as extremely expensive. What peace are they keeping? Some may indeed have a human rights component, but such departments are subject to the political decisions made by the Special Representatives of the Secretary General - so human rights become yet again politicised. Which leads back to the issue which brought this tension to the fore front: In real life, the opposite is true, and all because of a zero tolerance policy, which is not underpinned by effective legal accountability and the primacy of protecting human rights. Which raises the need to apply human rights within the system itself. Whilst there is a culture of impunity and lack of accountability, when it comes to those who seemingly defy that culture, human rights protections are singularly lacking. It is a basic tenet of law that anyone accused of an offence has the right to representation during proceedings. This has been denied to Mr Kompass. Are there similar investigations into those who have committed the crimes he denounced? This is the reason: By so doing, he became a problem for the rest of the United Nations and to Mr Zeid â€" politician par excellence. For those in the UN system who are prepared to compromise on human rights, and hence on legal obligation, the challenge of Kompass is his success in pursuing the alternative model â€" a model that is actually at the core of the United Nations Charter and subsequent instruments. Instead of attacking him, they should embrace his approach and actually apply it - imagine the difference it

would make!