

Citizenship in Latin America

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FIELDS OF CITIZENSHIP
(draft version)

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The expansion in the number and diversity of democracies around the world triggered an effort to find new conceptual formulations that could capture the specificity of these regimes. This led to a fast reproduction of “subtypes” of democracy: a movement of “democracy with adjectives” that attained its peak in the 1990s (see Collier and Levitsky 1997). Influenced by a teleological conception of democracy (i.e., a gradualist evolutionary approach that assumes constant incremental change), scholars attached different adjectives to the noun “democracy”: in this way they attempted to differentiate new democracies from well-established ones by specifying missing elements in the new democratic regimes. This effort produced an array of terms—such as “imperfect democracy,” “immature democracy,” “hybrid democracy,” and “illiberal democracy”—which refer to the idea that new democracies are not only vastly different from the democracies in advanced industrial nations, but also “half-baked” regimes whose defining attributes can be construed only in reference to the fully democratic cases (see Diamond 2002; Zakaria 2003).

This approach construes the deficits of new democracies as “pathologies,” that is, deviations from the norm dictated by “benchmark” democracies (particularly, the United States). This is problematic because many of the alleged dysfunctions employed to define “diminished” subtypes are also present in old democracies. The persistent concentration of executive power during Margaret Thatcher’s tenure in office, Enrico Berlusconi’s maneuvers to be granted immunity from criminal probes, the degrading treatment of the Korean “underclass” in Japan, the violations of human rights in French prisons, and the disenfranchisement of African Americans

in the United States illustrate some of the “dysfunctions” that can be found in “mature” democracies (see Armony and Schamis forthcoming).

Rather than approaching the analysis of new democracies according to their relative proximity to benchmark cases, I argue in favor of returning to the study of the *functioning* of democracy, irrespective of any qualifiers. Specifically, I advocate the need to tear down the thick wall that separates the study of democracy in the United States and other highly industrialized countries from the study of democracy elsewhere. This objective requires that we abandon evolutionary assumptions in favor of approaches that capture the paradoxes and contradictions of democracy. To do so, it is necessary to construct a more leveled field for comparative analysis, where understanding will travel from old to new democracies, and vice-versa, enriching the analysis of democracy in a comprehensive way. In this chapter I will show that the lens of citizenship rights is particularly suitable for this undertaking.

Democratic membership in a community is not homogeneous. Poor people, members of racial, ethnic or religious minorities, and others who are powerless and systematically marginalized in their societies are often shut out of the benefits of the rule of law, live shorter and less gratifying lives, suffer the worse of economic decline and seldom enjoy the benefits of economic bonanzas (Walzer 1993: 56). Their experience of democracy is marked by exclusion, injustice, and failure. But their share of democracy’s “deficits” is not randomly distributed. As Michael Walzer put it, “their condition is not in fact the product of a succession of autonomous decisions, but rather of a single systemic decision or of an interconnected set” (p. 58). These people are voters but this right does not fully define, from the perspective of everyday life, their actual connection to democracy. For example, African Americans who kill whites experience democracy very differently from whites who kill whites: the former are two and one-half times

more likely to be sentenced to death than the later (Paternoster and Brame 2003).¹ For many blacks, the discretionary power of local prosecutors has a decisive impact on their democratic citizenship. We cannot ignore the question of excluded groups in the study of democracy because the distribution of exclusion tells us a great deal about the functioning of this form of political order.

The focus on citizenship is not on formal membership in a polity, but on the bundle of political, civil, and social rights available to social groups and the responsibilities associated to the enjoyment of these rights. Formal citizenship status is not directly correlated with substantive citizenship, which can only be fulfilled with the enjoyment of the rights necessary for sustaining agency in the sense of the capacities for meaningful social and political participation (Jones and Gaventa 2002: 5).

The rights of citizenship, which determine the “conditions of belonging to society,” are unevenly distributed across territorial and social lines in all democracies (Holston 1999: 168-69). This chapter attempts to develop a conceptual framework for mapping subnational distributions of rights with a comparative look across old and new democracies. This goal demands that we integrate state-centered and society-centered approaches to democratization and that we compare subnational units across different nations (see Snyder 2001: 103). I will illustrate this analysis with a comparison between African Americans in the United States and shantytown (*favelas*) dwellers in Brazil.

¹ Paternoster and Brame conclude that “black offenders who kill white victims are at greater risk in Maryland=s capital sentencing system even after controlling for numerous case characteristics and the jurisdiction where the crime occurred” (pp. 30-31). Studies in nine other states have also found evidence of racial disparities in the administration of capital punishment (Levine and Montgomery 2003: A1).

Disjunctions and Syncopation

The thick wall that divides the study of old and new democracies is, to an important extent, a result of the failure to recognize that democracy, a form of political order, entails negative and positive valences. This is a failure to understand the *disjunctive* character of democracy, that is, the fact that democracy's functioning is marked by arrhythmic, discrepant, and conflicting processes (Holston and Caldeira 1998; Caldeira and Holston 1999). These processes are not pathologies but features inherent to the institutional design of democracy.

A better way to capture this idea is to think of democracy as a *syncopation*, that is, a musical rhythm accenting a weak beat. As in music, democracy works by shifting occasionally a usually strong beat—e.g., the procedural expectation of horizontal accountability—to a beat that is usually weak—e.g., heightened executive autonomy and discretionary rule. While the institutional layout of democracy is expected to guarantee that no institution evade the control and oversight of other state agencies, impulses toward the concentration of power (a “delegative” form of rule²) entail a setback for open government and for inter-agency supervision. The resulting accountability deficit is not a definitional feature of “diminished” subtypes of democracy. Syncopation expressed in this and other ways is a built-in feature of democracy. As in music (think of ragtime and jazz), occasional syncopation is present in all democracies, though it predominates more in some than in others.

Like accents on the off-beat, undemocratic elements move to the foreground even when they are not expected to do so. This essential characteristic of democracy is most commonly expressed in syncopation of procedures and rights. Procedural syncopations have an impact on rights—and vice versa—but this impact is not uniform across social groups. For example, it is

² On the notion of delegation, see O'Donnell 1994.

usually the powerless who bear the brunt of the accountability deficit resulting from delegative impulses of the executive. While a delegative style of rule injects nondemocratic practices into the policymaking process, its impact on the population travels down in an uneven way, thus working in a different way and to a different extent across social groups.

The Question of Rights

While the notion of democratic citizenship entails a composite of rights and responsibilities which, in theory, cannot be contingent upon privileges based on class, race, ethnicity, gender, age, religion, and other features, in practice some social groups (nonrandomly defined) are *de facto* excluded from the full benefits of citizenship (Holston and Caldeira 1998: 263). This exclusion is expressed, for instance, in extremely weak judicial guarantees, everyday abuse by state agents (such as the police), or systematic exposure to health risks due to deficient regulation by the state of activities involving human-created dangers. Formal inclusion in a political community cannot be conflated with uniformity in the actual experience of citizenship (Yashar forthcoming: 66-70).

The content of democratic citizenship should include not only a political dimension but also civil, social, economic, and cultural aspects because citizenship rights are multidimensional (Caldeira and Holston 1999: 716; Janoski and Gran 2002: 16-17). The bundle of rights available to citizens (at a minimum, political, civil, and social rights) do not move from incomplete to complete stages in the direction of full evolution, but they relentlessly expand and contract in

arrhythmic ways.³ Political, civil, and social rights are interdependent and constantly in flux (O'Donnell 1996: 163-64; Holston and Appadurai 1999: 15; Yashar 1999: 79-80, n. 5).

In most of Latin America, the expansion of political rights in the 1980s was not matched by widespread enforcement of civil and social rights. Some countries experienced a transition “from ‘political’ to ‘criminal’ violence” as the police state loosened its grip on the poor sectors and neoliberal reforms deepened existing inequalities (Scheper-Hughes 1997). In Brazil, for example, the civil rights of the poor, young black men from the favelas suffered a relentless decline in recent years. On occasion, governments in the region responded with constitutional reforms to citizens’ demands for minority rights (e.g., for women and indigenous groups), but often these rights hardly permeated existing socioeconomic stratifications (Yashar 1999: 90).

The capacity of the state to guarantee a bundle of rights for all cannot be detached from existing inequalities and dominant patterns of social interaction; especially those characterized by diverse forms of socioeconomic and cultural exclusion, which are often more resistant to change than political institutions (Vilas 1997: 18). The law and institutions do not guarantee, by themselves, that all those who claim membership in the nation-state will be able to exercise effectively their various rights and responsibilities.

Fields of Citizenship

As argued, the distribution of exclusion is a critical window into the functioning of democracy. The interaction between the state apparatus and social context produces different distributions of rights in different settings. From the perspective of citizenship, the study of exclusion examines the extent and degree to which rights are effective at the subnational level

³ On the definition of political, civil, and social rights, see Janoski and Gran 2002.

and for whom, with attention to the institutional and socioeconomic conditions that shape the distribution of rights. By comparing similar social groups across different countries, it is possible to understand the syncopation of rights in democracy. The cases selected for illustration (the United States and Brazil) are intended to show that the processes that sustain exclusion are comparable across all democracies.

If the content of citizenship is, in practice, not guaranteed by its formal status, then it is necessary to understand how citizenship is made effective for members of a political community. This approach to the functioning of democracy explores how democracy works for different social groups in the realm of rights, that is, how formal rights (“rights-in-principle”) become actual rights (“rights-in-practice”) (Foweraker and Landman 1997: xvii).

The law and institutions are “free-floating forms of empowerment and cultural resources” whose actual value for effective citizenship depends on the social position of groups (i.e., socioeconomic conditions) and specific social interactions (i.e., the relational situation of groups with respect to institutionalized patterns of authority and subordination, constitution of social prestige, and social networks) (Somers 1993: 611). In other words, the laws that prescribe rights and the institutions that protect them cannot be considered independently from social practices and the relational position of social groups (Young 2001: 12-13; Rao and Walton 2002: 2).

The law can be turned into a form of empowerment only if people can access the resources necessary for the transformation of the law into effective rights. Theoretically speaking, the law eliminates “the grounds for thinking that others are not complying with the rules” and sets the boundaries within which people are expected to act (quotation from Rawls 1971: 240). But in practice a series of complementary conditions are necessary—such as unrestricted access to the courts and legal processes that are open, fair and impartial (Raz 1979:

216-19; Krygier 1997: 47;). From the perspective of citizenship, the actual implementation of the law for social groups is dependent on functional access to the legal sphere, cultural resources, and the specific matrix of social, economic, and political relationships that determine an individual's position (as a member of a social group) in the broader socioeconomic context (Somers 1993: 609).

Instead of establishing an ideal parameter against which cases can be assessed (i.e., a sort of golden standard), I suggest to compare subnational distributions of rights across different countries. This approach combines within-nation analysis and between-nation comparisons (Snyder 2001: 97). Thus I advance the concept of “fields of citizenship” (fc), which I define as a given distribution of rights for a certain social group. An fc expresses the extent to which rights are effective for a given social group in relation to other groups. The objective of this approach is to evaluate inequalities in the enjoyment of rights by comparing social groups (see Young 2001: 2-3).⁴ An fc is a tool to operationalize the disjunction of rights in democracies. It can be formally expressed in the following way:

$$fc^i = f_x (pcs.\pi)$$

A field of citizenship for a certain social group (i) is a function in a given country (x) of the coverage (π) of political (p), civil (c), and social rights (s) for that group (the extent and degree to which each right is effective vary within a specific fc). The category *social group* (e.g., African Americans, women, Mayans, or shantytown residents) identifies individuals similarly

⁴ Geographical variations are important to assess the distribution of rights too. This chapter focuses only on social groups.

placed in social structures. These people “frequently experience multiple forms of exclusion, unequal burdens or costs deriving from institutional organization, rules, or decisions, and the cumulative consequences of each”—that is, these structures enable and bound their life choices “in ways largely beyond their individual control” (Young 2001: 6, 8).

The proposed analysis would allow us, first, to map the distribution of fields of citizenship at the subnational level (across social positions at a particular time) and then compare these distributions across nations. Second, the analysis would permit us to explain how the interaction of institutional and social patterns sustains social structures that result in the systematic protection or abridgement of rights for certain social groups.

For the first task we would calculate the vulnerability of social group _ (e.g., shantytown dwellers) in terms of right _ (e.g., the right to physical security from arbitrary state violence) in relation to the rest of the population, and then repeat this computation for other rights in order to obtain a coefficient that would tell us whether this group suffers a disproportionate burden in terms of the violation of rights. In turn, we would compare most vulnerable social groups (i.e., similar subnational units defined by their main category of exclusion—e.g., race in the United States, ethnicity in Guatemala, and religion in Israel) across different countries.⁵ The fact that poor urban residents in the Greater Buenos Aires are more likely to be arbitrarily killed by the police than other social groups has the same theoretical implications for democracy (and the question of exclusion) as the fact that African American offenders who kill white victims in the state of Maryland are more likely to receive the death penalty than whites. Of course, there are important differences in terms of severity in the violation of rights (e.g., the nature of the

⁵ The data currently available for this type of analysis are scarce and fragmented.

arbitrariness committed by the state), but the consequences for the realization of democratic citizenship are comparable.

This methodological approach avoids the propensity toward “whole-nation bias” that characterizes much of the literature on comparative democratization. Rather than relying on “national-level means and aggregate data” (e.g., Freedom House’s national-level means of political and civil rights⁶) the mapping of fields of citizenship would allow us to compare countries with attention to their internal heterogeneity. A good analogy is the comparison of nations in terms of wealth: this requires that we look not only at a nation’s GDP per capita (general level of wealth) but also at its Gini coefficient (internal distribution of wealth). In the study of democracy, the exclusive use of aggregate data on rights does not tell us about a critical dimension of democracy, namely the distribution of rights across social groups.

The second task involves examining how structural disadvantages (socio-historical “handicaps”) that result from belonging to a social group are connected to inequalities in the distribution of rights. The comparison of vulnerable groups across old and new democracies would allow us to investigate how exclusion relates to the syncopated functioning of democracy. The purpose of the analysis is to explain why some groups carry a heavier burden of injustice than other groups. In order to show that there is injustice with regards to a social group, it is necessary to tell a “causal story” that explains why the group is systematically disadvantaged (Young 2001: 16). The story (i.e., a narrative explaining patterned relationships) must show the *process* (i.e., a pattern of structural disempowerment sustained over time) that results in systemic

⁶ Freedom House’s measures neglect the critical category of social rights. As Vandana Shiva (2003) and others have argued, we should avoid the mistake of “dissociating” rights (particularly the right to a minimum living standard) because rights reinforce each other.

disadvantages for members of the group. This chapter explores these processes in the United States and Brazil.⁷

In order to account for the irregular distribution of rights, a causal story must identify the interaction among institutional rules and policies (i.e., the state's administrative and coercive apparatus, and the legal system), socioeconomic conditions (i.e., the additive collective material effects of institutional behavior and social relations), and social interactions (i.e., individual and group actions, relations, and perceptions) (Young 2001: 16; see Somers 1993: 595). As stated, the purpose of a causal story is to explain why some groups are systematically more disadvantaged in the enjoyment of rights than others. As I will show, the patterned relationships that characterize a given fc in an advanced industrial democracy (the United States) are similar to those in a new democracy (Brazil). I trace the causal stories for two "most vulnerable" groups, namely inner-city African Americans and *favelados* (shantytown dwellers) (see Table 1⁸).

TABLE 1 ABOUT HERE

The fact that deficits in various types of capital (economic, cultural, social, and human) are irregularly distributed across social groups indicates that opportunities and potentialities are established "by the ways the positions [of groups] are related to one another to create systematic

⁷ The task of mapping fields of citizenship employing quantitative data is the focus of another study. See Armony forthcoming.

⁸ Even though I have not included the transnational dimension in my model, it is important to acknowledge that the local socio-historical context is shaped by global forces (e.g., movements of capital and labor, transnational communities, and technological innovation). These forces generate "problems that manifest themselves in intensely local forms but have contexts that are anything but local" (quotation from Appadurai 2001: 6; Sassen 1999: 186; see Levitt 2001; Anderson 1994).

constraints or opportunities that reinforce one another *like wires in a cage*” (Young 2001: 12; my emphasis). For example, the “relational setting” of inner-city blacks in the United States (ghetto residents) is patterned by the cumulative collective effects of institutional and societal practices, and expressed in conditions of economic deprivation, disempowerment, and low levels of social and human capital. This setting functions as a “cage” (i.e., a “hostile environment”) that limits people’s life chances (e.g., excess mortality among poor blacks) and their potentiality as agents with capacities, autonomy, and dignity (Carens 2000: 97; Appadurai 2001: 3; see Somers 1993: 595).

As causal stories show, patterns of inequality are not merely economic because institutional and socioeconomic structures intersect with cultural and racial biases. Systematic assaults on the dignity of individuals (e.g., manifested as racism, sexism, and xenophobia) are rooted in discriminatory patterns embedded not only in laws and institutions but also in social practices and structures. The perpetuation of racial stigmas often reveals a “‘fit’ between the belief systems of both more and less powerful groups which lead to behavioral interactions that perpetuate inequality” (Rao and Walton 2002: 4). The resulting “internalization of subordination” generally restricts a group’s accessibility to social networks, its existing stock of constructive “experiences of the relationship of aspirations and outcomes,” and their perceptions about the inherent value of democracy (which lessens the intensity with which they demand their rights) (quotations from Carens 2000: 98-99; Appadurai 2002: 7). As “wires in the cage,” these are important components of a causal story of injustice.

African Americans and Voting Rights

The articulation between structural conditions that burden African Americans (particularly poor urban blacks who reside in city centers⁹) disproportionately and laws and policies designed to fight drug abuse results in a serious restriction to one of the fundamental rights of citizenship: the political right to vote. In the United States, a substantial portion of African Americans has been disenfranchised from this basic form of participation. This truncation of political rights affects African American males considerably more than any other social group in the United States. The causal story that explains this outcome meets the conditions of plausibility and convergence of mutually reinforcing patterns of systematic bias against a social group. Succinctly, the causal story is the following: Race is a key predictor of felony conviction and, in most states, felons cannot vote.

The interaction among the “war on drugs,” social exclusion, and racial stigma result in a high rate of incarceration for African American men. Because of state laws regulating the right to vote for felons and former felons, a disproportionate number of black men are barred from exercising their right to vote. Black disenfranchisement is inherently discriminatory. It is the result of a structural process that exacts a disproportionate burden upon a given sector of the population—and not the result of random factors.

Blacks are more likely to go to prison than any other social group. As of 1999, 48 percent of inmates in the United States were African Americans—a group representing 13 percent of the total population.¹⁰ According to 1995 data, white males had a four percent probability of being

⁹ As of the early 1990s, over 60 percent of African Americans lived in inner-city neighborhoods, where 65 percent of the U.S. poor resided (Oliveira 1996: 77-78).

¹⁰ Nineteen percent were Latinos.

incarcerated at some point in their lifetime, Latinos had a 16 percent chance, and African Americans had almost a 29 percent chance of spending time in prison (Mauer 1999: 124-125). From the late 1980s to the mid-1990s there was a sharp increase in the rate of incarceration of blacks in thirty-eight states and the District of Columbia. As for 2000, the rate of black males serving time in prison was 4,617 per 100,000 population whereas the rate for white males was 630 per 100,000.¹¹ Drug offenses have played a central role in the soaring rates of incarceration of blacks. The number of African Americans sent to state prisons because of drug-related crimes increased 465.5 percent from the mid-1980s to the early 1990s. This increase surpassed that of whites by 4.4 times (while both groups experienced a similar increase in the number of felons convicted for violent crimes) (Sentencing Project [9050]).¹²

Most U.S. states ban felons and former felons from voting. Therefore, the number of convicted African-Americans makes this group the one mostly affected by disenfranchisement laws.¹³ In the early 2000s an estimated 13 percent of adult African-American males were temporarily or permanently banned from voting—a percentage nearly seven times higher than

¹¹ For women, the rates were 375 per 100,000 for African Americans and 53 for white females. Data from The Sentencing Project.

¹² In general, the percentage of inmates in federal and state prisons convicted for drug offenses has increased dramatically since 1970. In 1970 federal prisoners sentenced for drug offenses constituted 16.3 percent of all prison population. This percentage increased to 58.9 in 1998 (Frontline, “Drug Wars,” available at <http://www.pbs.org/wgbh/pages/frontline/shows/drugs/etc/synopsis.html>).

¹³ Imprisonment also has an impact on civil rights and social rights. For instance, incarceration carries a substantial decline in the future income of first-time offenders and male incarceration has a disproportionate impact on the welfare of families when compared with other socioeconomic factors (see Sentencing Project [9050]). Mass incarceration tends to deepen poverty, mainly as a result of lost income and restricted access to social services as well as the extra financial and personal burden that imposes on immediate and extended families (particularly women) (Braman 2002: 117-18, 122-23, 127).

the national average. Disenfranchisement laws vary from state to state. Most states (forty-eight states and the District of Columbia) take away prisoners' voting rights, thirty-two states withdraw the right to vote from felons on parole, twenty-eight states do so with felons on probation, and seven states disenfranchise all ex-felons who have completed their sentences (Mauer 2002: 51).¹⁴ In six of these states, 25 percent of African-American men were barred from voting for life by the end of the 1990s.

Institutional rules and policies interact with structural inequalities, which result from a system that confers important advantages (e.g., better access to jobs, housing, and education) on the basis of a given social trait (Nelson 1996: 358; Young 2001: 14-15). Racial inequalities in the United States are manifested in poverty, lower income, unemployment and informal employment, lower levels of life expectancy, higher levels of infant, maternal and young male mortality, and higher rates of abortions, teenage pregnancy, births to single mothers, children living with one parent, and victimization (homicide, rapes, burglaries, assaults, and domestic violence) (see data in Loury 2002: 175-204; see also Geronimus, Bound, and Waidmann 1999; Geronimus et al. 1996). These indicators reveal a consistent pattern of inequality and social exclusion.

Blacks living in areas of concentrated poverty face social and economic conditions that aggregate to create a "cage" of systematic constraints. Drugs often represent a viable economic activity in this context. The dominant response in the United States is a penal discourse and

¹⁴ Recent policy changes have sought to restore voting rights to ex-felons, but most of these processes are still too intricate to have a real impact on the restitution of rights (Sentencing Project [9080] and updates; Mauer 2002: 57). It is interesting to note that these disenfranchisement rules are much more severe than those in many other democracies (convicted prisoners retain the vote in countries as diverse as Australia, Canada, France, Greece, India, Israel, Peru, Poland, South Africa, and Zimbabwe) (U.K. Parliament 1998).

policies focused on the notion of a “war on drugs.” This policy emphasizes the principle of “addition by subtraction,” namely, it “removes people from their communities, subtracting from those places whatever deficits were exacted by their presence” (Clear 2002: 180). The priority given to law enforcement over treatment and prevention has a disproportionate impact on inner-city communities. They are the target of “criminal justice” practices and count on very limited resources for addressing the social dimension of drug trafficking (Mauer 2002: 53).¹⁵

Laws that determine mandatory sentencing for drug-related offenses and prescribe harsher penalties for drugs that are often used in poor urban communities are an important component of the penal treatment of exclusion. Sentencing policies have a disproportionate impact on racial minorities. While blacks represented only 13 percent of drug users in the mid-1990s, they accounted for 35 percent of arrests for possession, 55 percent of convictions, and 74 percent of prison sentences. Furthermore, if we compare mandatory sentencing regarding two forms of substance abuse—drunk driving and drug abuse—it is clear that sentencing policies are considerably harsher for drug-related offenses. Whereas drunk drivers—who are mainly white males—tend to be charged with misdemeanors and normally receive sentences carrying “fines, license suspension and community service,” drug offenders—predominantly drawn from low-income minorities, mainly blacks—are commonly charged as felons and often sentenced to imprisonment (Sentencing Project [1003]; [9040]; see Mauer 1999: 134-35).

¹⁵ The percentage of the anti-drug budget spent on treatment and prevention has decreased considerably since 1970. In 1970, 58 percent of the anti-drug money was allocated to treatment and prevention; in 2000 the figure was 34 percent (“The Federal Government’s Response to Illegal Drugs, 1969-78,” “National Drug Control Strategy, Budget Summary 1998,” “ONDCP Fact Sheet 172873,” cited in Frontline, “Drug Wars,” available at <http://www.pbs.org/wgbh/pages/frontline/shows/drugs/charts>).

Federal and some state sentencing laws differentiate between crack cocaine and powder cocaine, punishing crack offenses more harshly. These products have the same chemical composition, though “crack is marketed in less expensive quantities and so is more often used in low-income and minority communities” (Sentencing Project [5047]). Therefore, black drug offenders, who tend to deal crack, receive more severe sentences than whites. A conviction of power cocaine possession with intent to distribute mandates “a five year sentence for quantities of 500 grams or more” while a similar conviction for crack mandates “a five year sentence for only 5 grams” and results in compulsory incarceration for first time offenders (Sentencing Project [1003]). By the mid-1990s, African Americans represented only one-third of crack users, but they accounted for almost 85 percent of those convicted of crack possession and 88 percent of those convicted for trafficking (Sentencing Project [1003], [5047]).

As argued, discriminatory patterns embedded in social and institutional practices are important components of a causal story of injustice. While there have been positive changes in attitudes towards blacks in the post-civil rights era, social meanings in U.S. society continue to reinforce a racial stigma, according to which poor African Americans are perceived as more likely to break the law and as carriers of a “spoiled” social identity (Loury 2002: 61). In the causal story of African Americans, racial bias and policy-making have reinforced each other.¹⁶ Public policy has been highly susceptible to social meanings: this is evident in the war on drugs approach, which is rooted in the idea of the corrosive nature of inner-city live (regarded as a source of deviance and violence) and the threat posed by “dangerous” groups to the broader society (Loury 2002: 73). This perception translates into a punitive approach for some (e.g.,

¹⁶ For example, racial discrimination played a key role in structuring the housing and lending industry in the United States, shaping regulatory guidelines, appraisal rating system, lending policies, mortgage insurance, and home building subsidies (Gotham 2000: 301-7).

young dealers in ghettos) and treatment for others (e.g., young drug buyers in the suburbs) (Loury 2002: 70-71; Mauer 2002: 53). An outcome of this approach is that prisons become “the ‘normative’ socializing experience” for a majority of black men (Scheper-Hughes 1997).

The reinforcing relationship among law enforcement strategies, sentencing policies, socioeconomic conditions in inner-city communities, and negative stereotypes accounts for the staggering incarceration rates for African Americans, which results in a *systematic* restriction (in the sense of a patterned process affecting a specific social group) of a core dimension of their political rights: the right to vote. The penal treatment of exclusion and the resulting loss of voting rights are antithetical to the equality of all citizens before the law (see Wacquant 2003). In a context in which rights-in-practice are often effective for most groups, the serious contraction of political rights for African Americans illustrates a form of syncopation in U.S. democracy.

Favelados and Limits to Political Rights

This causal story focuses on shantytown residents in Brazil. Favelas are racially mixed, even though the majority of dwellers are black (see Oliveira 1996). Favelados live under conditions of “structural violence,” namely, structural inequalities that severely restrict access to health care, education, work, urban services, security, and social and economic power (Leeds 1996: 49 n. 5). Favela dwellers’ everyday life is marked by criminal violence. In fact, violence is generally “the mediator of social relations” in these communities (Pinheiro 1996: 2). The state as a guarantor of peace, order and security is hardly present in the favelas. It is usually criminal actors (often drug leaders) who maintain “law and order”—which is done through ruthless practices (Pinheiro 1996: 2; Leeds 1996: 49-51). When the state is present in the shantytowns, it tends to operate as a repressive actor.

The life prospects of favela residents—particularly the youth—are severely impaired by violence. The rates of violent death are very high.¹⁷ National trends show that homicides involving firearms account for nearly 40 percent of total deaths after the age of 11. Most victims are poor, young, black males from the favelas (Zaluar 1995: 97). One study estimates that favelados in São Paulo (which represent 10 percent of the city’s population) are about six times more likely to be killed by the police than the average. Victims of police “trigger happy” practices are generally *perceived* to be criminals: a 1999 report shows that 28 percent of these victims were suspects of criminal activity, 28 percent were not connected to any crime, and only 44 percent were actually involved in the perpetration of a crime (Brinks 2002: 29, 44). In São Paulo, most cases of police violence (about 65 percent) are rapidly dismissed because the prosecution alleges that the evidence is insufficient to demonstrate excessive use of force—this is largely the case when the victim are favela residents (Brinks 2003: 18-19).¹⁸

In the case of Brazil’s shantytown dwellers, two interrelated policies (formal and informal)—the “war on crime” and the “politics of the water tap”—articulate with conditions of structural violence to sustain a re-creation of clientelistic relationships that reinforces the subordinated position of this group. The result of this causal story is not a loss of voting as a *formal* right, but a loss of political autonomy.¹⁹ Clientelism may be seen as a device for the poor

¹⁷ It is important to mention that the rates of violent death for young people in Rio de Janeiro are similar to those in several urban areas in the United States (Scheper-Hughes 1997).

¹⁸ In addition to their disproportionate rate of violent death, black men are more likely to be physically assaulted than white men. This difference is particularly striking when one considers the odds of being assaulted by the police, which were 2.401 times greater for blacks than for whites according to national data from the late 1980s (Mitchell and Wood 1998: 1013).

¹⁹ As in the United States, convicted felons in Brazil lose their voting rights. Brazil’s rate of incarceration has surged over the last three decades. Inmates are largely drawn from the poor

to obtain resources otherwise unavailable. But in the Brazilian context, clientelism entails a degree of political and social domination that severely restricts the autonomy of individuals who belong to underprivileged groups. It also impairs the ability of the urban black and poor to access democratic channels for demand-making and prevents their incorporation into mainstream society (Oliveira 1996: 85; Hadenius 2001: 54).

The “politics of the water tap”—the use of material promises and rewards by politicians as a means to win elections or retain electoral support—plays a central role in defining the conditions for citizenship in the favelas (Leeds 1996: 74-75). This political practice entails a discretionary system of interest intermediation based on highly unequal terms of exchange. Political candidates seek favela votes by negotiating with local leaders the provision of infrastructure and service delivery. The option for clientelism is a rational response for individuals who lack economic resources and the political power needed to obtain them, that is, it is a mechanism that fits the structural conditions of highly vulnerable groups (Gay 1990: 664-65; 1999: 64).

Even if we view clientelism as a defense against unresponsive government and exclusion, developments in the last decades have turned the politics of the water tap into a decisive mechanism of social control and political subordination in the favelas. The most important of these developments has been the presence of powerful drug-dealing rings in the favelas. The alliances between political candidates and drug bosses debilitated the power and influence of local grassroots organizations (Leeds 1996: 75-77; Arias 2002: 11; Goirand 2003: 29, 32-33). As

and black population. The mass imprisonment of the poor has been a key component of this country’s recourse to a punitive approach to law and order. For example, there was an increase of forty-one percent in the rate of incarceration in the second half of the 1990s. Conditions in Brazilian prisons are direful (Wacquant 2003; Salla 2001).

one observer noted, comparing the 1980s to the 1990s, “Neighborhood associations that once enjoyed the support and respect of their communities were now largely deactivated or controlled by drug gangs who commanded tremendous economic and military resources” (Gay 1999: 58).

In this setting, ties among drug traffickers, community leaders, and politicians grew stronger. These ties became the basis for powerful networks of leadership in these communities. For example, in the favelas of Rio de Janeiro, “Distribution and sale of cocaine from these communities to the middle and upper classes have created a complex set of economic and political relationships among the communities, the drug gangs, and the state” (Leeds 1996: 49). The imbrication between criminal networks and networks of public patronage and clientelism has consolidated a system of interest intermediation in which politicians provide protection to drug traffickers, traffickers provide security to the favela and finance political campaigns and community projects, and residents deliver votes to politicians and cooperation to drug groups. Therefore, favelados are forced to accept a discretionary system of decision making (the exchange of goods and services for votes) and, simultaneously, a repressive system of “alternative justice” imposed by criminal groups (Leeds 1996: 61-62; Arias 2002: 13-14, 28-30).

In turn, the “war on crime” represents a form of law enforcement rhetorically presented as an effort to control the detrimental effects of common crime and drug dealing. This war is justified as a rational means of controlling the “dangerousness” of shantytown residents, the “criminal nature” of youths, and the “drug addiction” of street children (Scheper-Hughes 1997). Policies geared toward crime prevention are often less focused on crime control than in lessening the sense of fear and insecurity of middle and upper classes—the “crisis of security” felt by these classes (Pineiro 1996; Scheper-Hughes 1997). The roots of the war on crime reside in “a long-standing tradition of Brazilian police abuse and violence against the lower classes in general and

favela and conjunto residents in particular” (Leeds 1996: 63). The deployment of militarized police forces in cities has resulted in a form of illegal violence oriented to maintain “social order” (an effort to “protect society from ‘marginal elements’ by any means available”), which includes arbitrary detention, torture, and extrajudicial killings, among other practices that violate the rule of law. As explained, victims of police violence tend to be drawn from the poor and black sectors of society. The judicial system’s role in the “war on crime” is focused on prosecuting and sentencing crimes committed by the urban poor—while generally ignoring the crimes of the middle and upper classes (e.g., corruption, tax evasion, exploitation of slave labor) and those of powerful criminal networks (e.g., drug trafficking, black-market operations, and money laundering) (Pinheiro 1996: 1-3, quotation from 4).

Both state and society produce discourses that associate crime with specific spaces that purportedly produce crime, that is, favelas and slums (Caldeira 2000: 78). The state acts both as a producer of “the perception of danger to justify heavy-handed police or military action” (a role in which the media also plays an important part) and as an enforcer of policies designed to protect the well-off from the poor (quotation from Leeds 1996: 77; Pinheiro 1996: 3). Society tends to portray the poor as the source of all social ills. Their lifestyle and behavior are considered aberrant (e.g., having children “like guinea pigs”), backward (e.g., having inferior and irrational consumption habits), tasteless (e.g., no aesthetic perception), deviant (e.g., immoral, drug-addicts, promiscuous), brute (e.g., described as “African beasts”), and dangerous (e.g., violent, infected with evil, prone to criminal behavior) (Caldeira 2000: 56-100; Scheper-Hughes 1997). The opinion that evil must be “repressed, tamed, and controlled” sustains a “strong hand” approach in law and order, which gives police significant leeway in abusing underprivileged groups (Caldeira 1998: 205-11; Zaluar 1995: 104).

Race and class play a large role in the “war against crime.” On one hand, the police act as if there was an actual “war” against criminals and, as explained, they operate on the assumption that the level of threat posed by individuals is proportional to the darkness of their skin and their socioeconomic standing. On the other hand, the criminal justice system places more emphasis on the “perceived attributes of the citizens who commit the crime” than on the nature of the criminal act itself (Mitchell and Wood 1998: 1007-8). In other words, the functioning of the courts is directly related to “the hierarchical and discriminatory practices than mark social relationships” (Goirand 2003: 4). Social stigmas contribute to sustain a form of citizenship that is contingent on social standing—vulnerable groups are denied the possibility to belong to a sphere of equality, be recognized as fellow human beings, and be accepted into “the universe of useful citizens” (Mitchell and Wood 1998: 1015; Goirand 2003: 28, 37 n. 2). During election times, the “politics of the water tap” and the “war on crime” reach a high point of convergence: favelados are treated as potential beneficiaries of state-financed infrastructure and service delivery by candidates for public office while they become the target of the war on crime that rings prominently in campaign promises to the middle and upper classes. Both aspects—political subordination and everyday forms of state violence—mark the boundaries of citizenship for the black and poor.

Lack of economic resources, state-sponsored violence, humiliation at the hand of public officials and privileged private actors, and a belief system that sustains relations of domination and exclusion determine the field of citizenship of the urban poor. In terms of political rights, it becomes evident that these undemocratic social networks and power structures force shantytown residents to accept clientelism as the predominant mechanism supplying protection (Rossetti 1994: 100; Vilas 1997: 60). As in other countries, dense clientelistic networks based on the “distributive capacities” of political brokers, elected officials, criminals, and other individuals in

positions of power are often the only problem-solving devices in a context marked by structural violence and nondemocratic institutional behavior (see Auyero 2001). In this context, vulnerable groups often refuse to accept the political system as a legitimacy source of authority. The act of voting is reduced to a particularistic exchange, thus commodified and perceived as a mockery (similarly to the law, which is regarded as an exclusive tool of the privileged) (Pinheiro 1996: 4). The result is a process that reinforces inequality and discredits the political system (Goirand 2003: 32). Even though we trace this pattern at the local level, its implications are broader: the existence of these patterns of subnational authoritarianism constrains and disrupts regional and national processes of democratization (see Cornelius et al. 1999).

Conclusion

This chapter has focused on the disjunction of rights in democracy, examining the deprivation of a formal right among blacks in the United States and at the inability of the urban poor in Brazil to turn a formal right into a right-in-practice. While African Americans are disproportionately affected by the restriction on the right to vote, shantytown dwellers experience democracy in an environment where voting is a component of “an overall system of tradeoffs between the haves and the have-nots,” sustained by networks of political subordination, corruption, and violence (quotation from Vilas 1997: 62). Whereas there are differences in the degree to which disjunctions of rights are manifested in the United States and Brazil, the comparative analysis of these cases shows an important dimension of democracy’s syncopation.

The restrictions on political rights for these vulnerable groups have implications that go beyond the specific experience of citizenship for these individuals—that is, these restrictions have a direct impact on the broader democratic process. In the United States, some estimations

have calculated the effect of black disenfranchisement in electoral competition. As one study (Uggen and Manza 2002) argues, the political incorporation of disenfranchised African-American males would have altered electoral results in the last three decades, both in congressional and presidential races. Despite the many problems involved in estimating the likely voter turnout and vote choice for disenfranchised felons and ex-felons, the data support the hypothesis that vote restrictions have had a definite impact on national elections.²⁰ Furthermore, the increasing restriction of voting rights for blacks in recent years appears to reverse historical trends toward minority enfranchisement in this country (Uggen and Manza 2002: 794-96). This is another illustration that the process of democratic inclusion is syncopated—rights expand and contract in arrhythmic, unexpected ways. Of course, the massive incarceration of poor blacks is related to several other restrictions in citizenship. For instance, removing men from their communities is not merely the penalization of an individual, but a social process that seriously damages interpersonal attachments and limits the production of pro-democratic social capital and political participation (see Braman 2002).

The kind of “low intensity” voting described in the Brazilian case has an overall impact on democracy. For instance, clientelistic practices in local politics influence state and national electoral outcomes. Following Brazil’s transition to democracy, regional oligarchies reproduced clientelistic networks at federal, state, and local levels. Clientelism has influenced the votes of state congressional delegations on important policy matters. While the progressive loosening of old party bosses’ influence has contributed to the success of the Workers’ Party in the last

²⁰ As Uggen and Manza (2002) argue, “Disenfranchised felons and ex-felons currently make up 2.28 percent of the voting-age population, a figure that we project may rise to 3 percent within 3 years... Because the margin of victory in 3 of the last 10 presidential elections has been 1.1 percent of the voting-age population or less, felon disenfranchisement could be a decisive factor in future presidential races” (p. 794).

presidential race, local bosses and state-level political machines in both rural and urban areas have continued to mobilize votes in enough numbers to shape electoral outcomes at state and local levels (Hagopian 1996: 225-26, 281). In Brazil today, political machines, clientelism, and corruption are not only the trademark of rural regions (which are over-represented in the national legislature), but continue to shape politics in midsized and large cities as well. True proportionality is not likely to alter this scenario, considering the weakness of party discipline in this country. A good illustration is that the majority of deputies accused of corruption in the national scandal that broke out in 1993 were the “scattered-dominant type,” that is, representatives who make deals with local bosses (Ames 2001: 49-52, 56-60, 269). In brief, local-level clientelistic and subordinate interactions between underprivileged groups and government and nongovernment authorities (e.g., drug dealers) have major implications for regional and national politics.

The theme of citizen responsibility merits a final word in the analysis. The problem of the distribution of rights is connected to issues of responsibility in many ways. Drawing from the case studies, one can argue that the consent of average citizens to the exercise of violence against vulnerable groups—the wars on drugs and on crime or the resort to mass imprisonment as part of a penal approach to exclusion—raises important questions about responsibility that cannot be dissociated from the study of rights (Scheper-Hughes 1997). Citizen responsibility also impacts rights when we consider tax evasion, offshore accounts, and other behaviors in the economic realm. This issue is still undertheorized in the field of comparative democratization. It deserves careful attention as we seek to develop a finer understanding of the problem of citizenship in contemporary democracies.

Table 1

Causal Stories: Political Rights

	Institutional Rules and Policies	Socioeconomic Conditions	Social Interactions	Results
United States: African Americans	“War on drugs”	Social exclusion	Racial stigma	Incarceration: Loss of voting rights
Brazil: Shantytown Residents	“Politics of the water tap” “War on crime”	Structural violence	Social stigma	Re-creation of clientelism and patronage: Loss of political autonomy

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