View metadata, citation and similar papers at core.ac.uk

brought to you by CORE

provided by York University, Osgoode Hall Law School

Osgoode Hall Law School of York University

Osgoode Digital Commons

Articles & Book Chapters

Faculty Scholarship

2006

Connecting Economy, Gender, and Citizenship

Mary G. Condon
Osgoode Hall Law School of York University, mcondon@osgoode.yorku.ca

Lisa C. Philipps
Osgoode Hall Law School of York University, lphilipps@osgoode.yorku.ca

Follow this and additional works at: https://digitalcommons.osgoode.yorku.ca/scholarly_works

Part of the Securities Law Commons

Recommended Citation

Condon, Mary G. "Connecting Economy, Gender and Citizenship: Possibilities and Limits" in Law Commission of Canada (ed) Law and Citizenship UBC Press (with Lisa Philipps), 2006.

This Book Chapter is brought to you for free and open access by the Faculty Scholarship at Osgoode Digital Commons. It has been accepted for inclusion in Articles & Book Chapters by an authorized administrator of Osgoode Digital Commons.

7
Connecting Economy, Gender, and Citizenship

Mary Condon and Lisa Philipps

Theoretical Challenges of Economic Citizenship

This chapter explores emerging discourses of economic citizenship and considers how they might illuminate developments in taxation and securities law and policy. In previous work, we have discussed how different fields of business and commercial law help to construct and regulate a gendered and classed economic order (Condon 2000, 2001, 2002; Philipps 1996, 2002, 2003). Here we draw upon theories of citizenship as a possible source of new insights about the formation and governance of an increasingly market-oriented social order and law's role in that process. First, we focus on the significant theoretical challenges posed by emergent notions of economic citizenship, specifically the need to redefine the role of states, citizens, and law in this new context. Second, we map out four substantive elements that together comprise the developing discourse of economic citizenship:

1 economic liberty, defined as the right to access markets;
2 economic security;
3 responsibilities of economic citizenship; and
4 participation in economic decision making.

Each of these is analyzed to reveal the diverse meanings being attached to economic citizenship, and particularly how gender is (or is not) addressed within different strands of the discourse. Third, we apply this framework in a discussion of two contemporary case studies, the first on the formation of tax law through fiscal policy and budget processes, the second on the governance of investment funds. An overriding objective of the chapter is to assess the progressive potential of economic citizenship discourse to achieve enhanced accountability and social justice in the economic domain. Our concluding section observes that any such potential depends upon recognition that markets and market institutions are subject to public norms of equality and justice. This study suggests that the possibilities for advancing

such a version of economic citizenship may be more limited in the context of investment fund governance than in the field of fiscal policy.

Some introductory comments are called for as to how citizenship theory might contribute to an understanding of the link between economic governance and gender orders. Citizenship is an appealing lens through which to consider law because both speak to the relationships among states, legal systems, and individual subjects. A major, though not the only, constitutive idea of citizenship is that of people participating in some fashion in their own governance, the same idea that confers legitimating power on constructs such as parliamentary supremacy and the rule of law. Moreover, citizenship theory offers critical perspectives that are helpful to feminist thinking about law and governance. A body of feminist citizenship literature has analyzed the gendered character of the state-subject relationship so as to call into question the promise of citizenship as a means of enhancing women's material conditions of life. In addition, post-colonial and critical race scholars have called attention to the normative presuppositions of Western concepts of citizenship, and the denial of citizenship privileges to racialized, colonized, and foreign others. Bearing these critiques in mind, we suggest that the issue to be addressed is whether citizenship theory might have anything useful to say about the realm of markets and the economy.

Despite the thoroughgoing critiques of citizenship and its exclusionary tendencies historically, it has enjoyed renewed interest since the mid-1990s as a powerful expression of claims for political recognition and substantive rights, by a variety of groups (Isin 2002; Isin and Turner 2002; Lister 2000). As one navigates this literature, it is important to keep in mind the distinction between citizenship as status and citizenship as practice. For lawyers what counts is often the former, and law is a device for policing the boundaries of citizenship status. Citizens have rights: for example, they may enter and leave a country as they please, obtain a passport, and vote in elections. On the other hand, the idea of citizenship as practice, or as a set of practices, is that a particular normative content can or should be ascribed to the indicia of citizenship and claims made on that basis. Thus, for T.H. Marshall, for example, "social citizenship" implied a right to a minimum level of economic security sufficient to permit meaningful participation in the life of a society (Marshall 1963). As Bryan S. Turner (1993, 2) puts it, "it seems to be important to emphasize the idea of *practices* in order to avoid a state and juridical definition of citizenship as merely a collection of rights and obligations. The word 'practices' should help us to understand the dynamic social construction of citizenship which changes historically as a consequence of political struggles."

Despite the revitalization of citizenship studies over the past decade, however, it has largely avoided the realm of markets and the economy. Debates about citizenship have traditionally deferred to the liberal separation of

political and economic affairs. Since Marshall's groundbreaking work, they have addressed economic affairs primarily through the concept of social citizenship, the achievement of which has been understood as a function of state social policies in areas such as health, housing, welfare, and education. Feminist and other critical discussions of social citizenship have revealed the ways in which existing social policies fall short of Marshall's inclusive ideal. To these failures can be added another type of criticism, that social citizenship focuses too heavily on state-provided benefits as the means to redress inequalities, to the exclusion of markets and market actors. It is important here to avoid any false dichotomization of "social" versus "economic" regulation: social policy is clearly economic, in that it addresses the distribution of resources and the adjustment of market outcomes to accommodate norms of equality and democracy. Yet claims for better social policy do not directly address the operation of markets or the governance of market relations.

Recent literature has begun, albeit barely, to address the issue of how concepts of citizenship might apply to the domain of markets. This nascent theoretical development is rendered significant by a political and policy shift toward neo-liberalism, characterized by a pronounced reliance on markets as a means of social ordering, and market discourse as the primary legitimating framework for state policy choices. Barry Hindess (2002, 140) explains the consequences of neo-liberalism for both the political and the social aspects of citizenship: "the political rights (such as they are) may remain but their scope is restricted as market regulation takes over from direct regulation by state agencies and the judgement of the market is brought to bear on the conduct of states, while the social rights of citizenship (where they exist) are pared back as provision through the market replaces provision directly or indirectly through the state." Accordingly, citizenship claims will rest on shrinking ground unless they can be extended to those areas of social life understood to be governed by market forces.

New attempts are thus being made to reimagine the nature of citizenship in this changing political context. Far from offering a coherent framework, the literature spans a wide array of perspectives that are more or less celebratory or critical of the neo-liberal turn. Catchphrases such as neo-liberal citizenship, market citizenship, economic citizenship, corporate citizenship, and business citizenship sit in tension with each other, reflecting disparate visions of the social order. The term "economic citizenship discourse" is used here to capture this emerging field as a whole. The chapter's objective is not to propose a single definition or ideal version of economic citizenship but rather to analyze how different elements of this discourse are at play in, or provide perspective on, the governance of economic affairs and, specifically, fiscal policy and investment vehicles. Thus, we hope to shed some light on the question of whether ideas of economic citizenship

are inherently neo-liberal or whether they could be imagined as congruent with broader norms of social citizenship.

Developing the concept of citizenship to encompass markets presents several major theoretical and political challenges. The very notion of economic citizenship implies there is some public aspect to private market relations, challenging the basic premise within liberal thought that politics should intrude as little as possible on economic choices and freedoms (Bowles and Gintis 1986, 16-17; Hutchinson 1990). A key issue is to redefine the role of the nation-state, the socially constructed object of citizenship claims. In principle the liberal state's role is to be tightly circumscribed in the market, and this is especially reinforced within neo-liberal discourse in which states are subject to the discipline of global markets. How are we to understand the position of the state, or the appropriate location of claim making, in economic citizenship discourse? If the welfare state of social citizenship is obsolete or radically hollowed out, will another institution or set of institutions take its place?

A postnationalist literature focuses on how supranational institutions, either public or private, might deliver or enforce citizenship rights (Held and McGrew 2003, 11-14; Muetzelfeldt and Smith 2002). Indeed, some argue that, as states have limited capacity to enforce human rights norms, enlightened corporations should take on significant responsibility for defining and enforcing citizenship rights of the populations affected by their activities (Logsdon and Wood 2002). Alternatively, a transformationist school contests the demise of the nation-state, viewing it as altered but not diminished by discourses of globalization and neo-liberalism. This latter approach opens the possibility that citizens can pressure or work through national states to make global market actors more accountable (Sassen 2003). Both of these political economic approaches to understanding the changing role of the state are congruent with the Foucauldian idea of "governance," which de-emphasizes the role of the state as the source of social norms or the preeminent site of governance.

In addition to that of reconceptualizing the role of the state, a second challenge is to redefine the citizen as a creature of markets. Significant critical work has been done to analyze the realities of differential economic citizenship for individuals in varied social locations (Scott 1996). This literature argues that discourses of market freedom and market discipline are reshaping the gender, class, and racial orders of citizenship, both within nation-states and on an international scale (Brodie 1996; Bakker 1996). Alternatively, the discourse of economic citizenship is sometimes invoked to celebrate the power of individuals to harness and shape the market through their own choices, whether as entrepreneurs, consumers, or investors (Schumacher and Hutchinson 2003). The collective rights and power of labour are often strikingly absent from such pro-market versions of economic citizenship.

Imagining the economic citizen also involves looking beyond individuals to consider whether the corporate actors that now dominate markets globally are to carry any of the rights or responsibilities of citizenship (Post 2002). Skeptics have raised doubts as to whether corporations as currently structured and governed are likely to assume such responsibilities voluntarily, and whether giving citizenship rights to corporate actors will correspondingly diminish the rights of other citizens (Wheeler 1998).

A third fundamental question is what role law plays in framing or constituting different aspects of economic citizenship. It has been noted in the literature on neo-liberalism that, despite the rhetorical claims about deregulation, intensive legal activity has been needed to implement the shift to market ordering (Cossman and Fudge 2002). Lourdes Beneria (2003) argues that, just as in the previous transformation to industrial capitalism, states have actively engineered the global expansion and liberalization of markets. Much of this engineering takes distinctly legal forms, including international trade and investment treaties, domestic legislative and constitutional amendments, and executive orders and litigation, often designed to lock in neo-liberal policy choices (Schneiderman 2000). It remains important, however, to examine the type and intensity of legal intervention that is chosen in particular contexts. Forms of intervention can be ranged along a continuum of measures, from facilitative (such as requiring disclosure of information) to coercive (such as imposing monetary or penal sanctions for failure to comply). For example, the third part of this chapter describes a noticeable international trend toward transparency-based rules in the areas of both fiscal policy and investment fund governance. Although such rules may be presented as a means of improving accountability generally, they tend to focus on the transparency concerns of investors or credit-rating agencies, not those of less powerful constituencies. Moreover, transparency rules reflect a choice not to impose more direct commands or limits as to acceptable economic behaviour (Braithwaite and Drahos 2000, 57-65).

These questions about the objects, subjects, and mechanisms of economic citizenship are pervasive and contested in the literature. The next part of our discussion turns to the additional, daunting task of defining the substantive content of economic citizenship.

What Is the Content of Economic Citizenship Claims?

There is not yet a fully articulated debate about the appropriate content of economic citizenship, either as to its normative aspirations or any associated legal rights and obligations. Instead, widely differing versions of economic citizenship co-exist within the discourse but tend not to engage with one another, and in many cases their substantive content remains implicit. For analytical purposes, it is helpful to identify four substantive elements within the current discourse, which admittedly overlap and interact with

each other: these are economic liberty, interpreted as the right to access markets; economic security; responsibilities of economic citizenship; and participation in economic decision making. Each of these elements is examined below with a view to mapping the terrain of economic citizenship discourse, and how the theoretical and political questions suggested above come into play at each turn.

Economic Liberty: Access to Markets

Marshall saw the historical progression from civil to political and finally social citizenship rights as necessary to secure the fullest possible participation of citizens in the life and governance of society. His theory said little about participation in markets, with the important exception of articulating a right to pursue an occupation of one's choice in the labour market. A focal point of feminist citizenship theory has been to expose the gendered and heavily qualified implementation of this particular economic freedom. Alice Kessler-Harris (2003), for example, argues that the right to access paid labour was taken seriously only for men in the US, and was always qualified for women by a range of labour laws and other public policies which placed importance upon their familial responsibilities. This two-tiered labour market in turn generated a two-tiered form of social citizenship in which women accessed pensions, unemployment insurance, paid vacations, and so on indirectly through dependence on a male breadwinner, or else settled for second-class benefits in the form of welfare (also Orloff 1993; O'Connor 1993). Kessler-Harris (2003, 164-67) observes that this not only created a deeply class- and racially divided system of social citizenship, depending on who enjoyed well-paid employment, but also had the effect of dividing women against each other since they obtained different citizenship rights depending on how they interacted with the labour market. This point has particular salience for developing a theory of economic citizenship that addresses gender, as it points to the vast differences among women in terms of their engagement with, and privilege in, a variety of markets. In fact, class polarization among women may be increasing as a few attain the highest tiers of the employment market, while many more have increasingly precarious jobs in the "flexible" labour markets promoted by neo-liberal policies (Vosko 2000; Walby 2000).

As in many other strands of feminist theory, those concerned to enhance women's citizenship rights have often advocated measures to improve women's access to paid labour. This enthusiasm for labour market access has been increasingly tempered, however, by a recognition of the oppressive work conditions faced by many lower-income and racialized women, the false equality of paid work in the face of women's continuing responsibility for the bulk of social reproductive labour, and the need to recognize unpaid caregiving as a valuable form of participation in society and the

economy. Thus, feminist scholars have criticized a neo-liberal trend toward associating citizenship rights *only* with the control of market income, denying both social supports and political voice to those deemed overly dependent (Lister 1990; Pateman 1998; Philipps 2002, 60).

Beyond labour market access is the question of liberalized capital, consumer, and credit markets and how these relate to the nature of citizenship. Allowing private actors to trade and invest more freely across borders has been advocated in terms of efficiency, but also sometimes in terms of promoting equal economic citizenship (Howse 1992). Others take issue with this version of formal equality, arguing that international trade and investment agreements, and the legal measures needed to implement and enforce them locally, have either formally or informally constitutionalized a model of economic citizenship that privileges the property rights of investors over the democratic choices of local states and populations (Sassen 2003; Schneiderman 1995, 2000). The principle of open markets has also been criticized on the basis that it applies unequally to rich and poor nations. Hindess (2002) argues that Western citizenship norms have been foisted upon developing countries as a condition of accessing international markets for goods, services, capital, and credit, as well as international financial aid. Whereas previously, developing countries were disciplined by the denial of citizenship rights, now they are disciplined by development regimes that attempt to promote citizenship as a set of good governance practices that will create political stability and secure (or manufacture) consent to market reforms.

Economic Security

The notion of access to minimum levels of economic security so as to ensure participation in public life is, as was mentioned earlier, closely associated with Marshall, and expressed by him as the post–Second World War idea of "social citizenship." In this view, "the state should provide the social and educational resources for the making of citizens" (Crouch, Eder, and Tambini 2001, 5). Marshall's idea of social citizenship has been critiqued from a number of perspectives: for example, scholars have pointed out its neglect of gender and of "the role of struggle and social movements in the development of rights" (*ibid.,* 6). Revisionist historians might also argue that Marshall's ideal was not represented in the reality of how welfare states operated, especially in the North American context (Esping-Andersen 1990; Kessler-Harris 2001; Siltanen 2002). For example, Anne Marie Smith (2001) has documented the coercive and racialized sexual regulation of poor women accomplished by recent reforms to welfare legislation in the US. Other feminist research has documented the relations of dependency implicated in the delivery of state benefits to women (Orloff 1993; Sohrab 1996).

Other problems revolve around the fact that Marshall saw the state as the primary guarantor of these social rights. In the current era of state retrenchment and reformulation, this role for the state has been considerably eroded, at least in relation to individuals who rely on public services (Cossman 2002), though arguably states have taken on a new role in guaranteeing economic security to corporate interests protected under international agreements. For example, Janine Brodie argues that the welfare arm of the state is now required to act more like the market in its activities (Brodie 1997), with, in some cases, the actual delivery of state-provided benefits being accomplished by private corporations and religious organizations (Smith 2001; Hindess 2002; Condon 2002). The state delivery of benefits is now considered less legitimate than the provision of such benefits by private market transactions (Ericson, Barry, and Doyle 2000). One example of this phenomenon is recent reforms to the funding arrangements of the Canada Pension Plan (CPP) (Condon 2002).

However, if economic security is now less likely to be provided directly by the state, tying the provision of specific benefits to participation in labour markets, as, for example, is the case in Canada in relation to employment insurance or much pension provision, can also be problematic. One reason is that this system can have the effect of perpetuating inequalities, especially gender inequalities, given the equivocal relationship to the full-time labour market of women who engage in caregiving (Condon 2002; Kessler-Harris 2001; Orloff 1993; Sohrab 1996). Added to the adverse material consequences is the discursive effect of this – that eligibility for such benefits is not tied to more encompassing notions of political citizenship, but rather to narrower thresholds of labour market participation, or even employment with specific employers. Public-sector benefits, such as those for maternity and parental leave, tend to be more generous than their private-sector equivalents.

Nonetheless, as the state continues to retrench or reshape (Braithwaite 2000), we argue that it is time to consider more specifically the potentially fractured, uneven, and gendered provision of benefits by the market, and the implications of the neo-liberal approach to economic security for particular versions of economic citizenship (Bourdieu 1998). As Janet Siltanen (2002, 407) puts it, "we must see social citizenship as an issue within the 'market,' not just outside of it ... responsibility for the delivery of social citizenship is broader than a state-individual relationship ... It is to insist that our claims for a decent life are as relevant in our relationships with employers, banks, insurance companies, retailers, service providers, family members and neighbours ... as they are in our relationships with national, provincial and municipal governments." At the very least, paying attention to this issue might help to solve the conundrum of some feminist academics and activists about whether efforts to reinvigorate equality-seeking claims

against the state are or are not misplaced in current political economic climates.

Some of these issues are currently being considered in the debate about using employer-sponsored pension funds for socially responsible ends (Blackburn 2002). Such pensions, of course, represent private market benefits as a consequence of specific types of labour market participation. Thus, it is proposed that employees should use their pension funds to create the "opportunity to shape the pattern of investment and business practice in their region and in the wider economy of which it is a part" (*ibid.,* 498-99). Proponents of socially responsible activity by pension funds are more or less radical in the goals they seek to achieve with such a program, ranging from modest insertions of ethical awareness or "screening" into the decision making of pension funds all the way to Robin Blackburn's more generalized strategies of using "self-managed social funds" to "complement other progressive anti-capitalist strategies" (*ibid.,* 524). Blackburn suggests that, by "employing large assets in a responsible way," responsible pension funds could "complement and complete that 'socialisation of the market' argued for by Diane Elson" (*ibid.,* 524). He asserts that "the workers and citizens should, collectively, take over capitalist institutions and not only run them but subordinate them to new rules of management and investment" (*ibid.,* 526).

An important issue here is the framing and regulating role played by law in this debate about whether socially responsible activity of pension funds is descriptively possible or normatively desirable. The constitutive role of law is accomplished, for example, by employing particular meanings of fiduciary duty, the "prudent person" rule, and other constraints on the formulation of investment policies (Kodar 2002). Another factor is the significance of prevailing norms of financial risk management, which militate against the recognition of forms of "value" other than those immediately quantifiable in financial profit terms (*ibid.;* Blackburn 2002, 497). Advocates of a more progressive approach by employer-sponsored funds to investment decision making also need to address the policy question of whether their goals are best accomplished by having pension funds pressure their investment targets to act in a certain way, or by utilizing regulation more directly to set standards for the activities of commercial corporations.

We have argued elsewhere that even within the realm of the "private market," there can be a continuum from collective to individual approaches to benefit delivery (Condon 2002). For example, within the pensions area, there has been a shift from collective pension plans, which provide plan members with "defined benefits," to more individualized plans, which provide only "defined contributions," allowing individuals greater choice regarding the ultimate investment of their contributions. The shift has also seen an increased reliance on the tax-based RRSP system to fund individual

retirement plans. This latter trend is a good example of how the choice of instruments for delivering economic security has consequences for the gender and class order in Canada. RRSPs are used primarily by higher-income earners, many of whom are women without access to employer-sponsored plans. This policy shift to more individualized approaches to pension saving, which is in part governed by apparent legal disincentives to creating employer-based pension plans and employer unwillingness to be exposed to open-ended obligations, has in turn fuelled the increasing popularity of the mutual fund as an investment vehicle. As will be discussed in more detail below, this development brings with it a set of concerns about the legal governance of, and opportunities for citizen participation in, the operation of such funds.

Responsibilities of Economic Citizenship

A number of commentators have noted that neo-liberal discourse emphasizes citizens as bearers of obligations rather than rights. Thus, Ruth Lister (1990, 453-54) points out, in relation to "current meanings of citizenship," that "heavily influenced by the New Right in the United States, the emphasis is on replacing the language of entitlement with that of obligation" or a "softer version" which stresses "responsibility discharged through neighbourliness, voluntary action and charity." Market citizens are gender-neutral creatures who are as self-reliant and entrepreneurial as possible (Scott 1996; Rose 1999; Philipps 2002), and who participate in their own self-governance via norms of risk management (Ericson and Haggerty 1997, 93-94). That this picture of the market citizen is inherently gendered is a point that has been made in our previous work (Philipps 2002; Condon 2002).

However, attention is also needed to the ways in which economic citizenship discourse is expanding the notion of the citizen beyond the individual. Ideas of corporate citizenship are increasingly invoked, both by corporations themselves and by those who would reform corporate "behaviour," to convey a sense of the obligations that should be undertaken by corporate actors. Thus, James Boyd White (1985, 1418) argued that "The corporation is and always has been a collective citizen. It serves not only its shareholders, but its bondholders and creditors of other kinds, as well as its employees and future employees, its suppliers and its customers. It has the proper aim not only of making money but of maintaining the conditions that make meaningful economic and social activity possible, for itself and for others." Interestingly, L. Whitehouse (2003) argues that there has been a historical shift away from the concept of "corporate social responsibility" (CSR), which had its heyday in the 1970s, toward a more modern recourse to ideas of corporate citizenship. She argues that corporate citizenship should not be viewed as a substitute for older notions of CSR precisely because the newer set of ideas emphasizes the use of voluntary initiatives by economic actors

rather than the more coercive regimes of regulation advocated by those promoting a corporate social responsibility agenda (*ibid.,* 300). This argument resonates with more generalized claims about the shift away from command and control types of legal regulation toward more "decentred" forms of regulation that emphasize strategies of self-regulation, best practices, and voluntary codes (Black 2001; Condon 2004).

On the other hand, M. Power (2003, 146) suggests that though the critical discourse of CSR has been transformed or even diluted by large corporate organizations, "somewhere between corporate fears of loss in the face of legal liability and hope in the form of enhanced reputation," its internalization within these large organizations has become more possible. This is because of the rise in risk management discourses within corporations represented by the more fine-grained management of "the routines and habits of organizational life" which are capable of including CSR objectives in their ambit (*ibid.,* 147). At the same time, it must be acknowledged that the impact of globalization on corporate activity has been to loosen traditional forms of domestic legal regulation, with the implication that corporations are increasingly free to choose the intensity of the citizenship obligations they are prepared to undertake. Indeed, the increased "hollowing out" of Canadian corporations has had a detrimental effect on the extent to which they assume local citizenship responsibilities, such as in the form of charitable donations (Arthurs 2001).

Again, as with the management of pension benefits in socially responsible ways, a key issue is whether the "responsibilities" of corporate citizenship, however robust, should be voluntarily implemented by organizations themselves (Davis 2004; Logsdon and Wood 2002, 158) or should be impressed on corporations by more traditional forms of legal regulation. In practice the compromise has often been for the state to regulate, but only to the extent of requiring transparency of corporate decisions (Braithwaite and Drahos 2000, 56). For example, securities commissions have recently revamped their disclosure requirements for so-called reporting issuers (issuers of securities to public investors) by way of a national rule, NI 51-102. All publicly traded issuers are required to provide annual information forms (AIFs) to investors. An AIF is a disclosure document intended to provide material information about issuers and their businesses at a specific point in time in the context of their historical and possible future development. As the National Instrument puts it when addressing issuers, "Your AIF describes your company, its operations and prospects, risks and other external factors that impact your company specifically" (NI 51-102, Form 51-102F2). Although a policy of providing an AIF to investors has been around for some time, reporting issuers are now required by this rule to include information about "social or environmental policies." Thus, the instructions for

preparing an AIF indicate that "if your company has implemented social or environmental policies that are fundamental to your operation, such as policies regarding your company's relationship with the environment or with the communities in which it does business, or human rights policies, describe them and the steps your company has taken to implement them." Although the legal implications of failure to provide this type of information to investors are still somewhat unclear, it is nonetheless interesting that securities regulators have used their power to require corporations to disclose information, in order to provide more transparency with respect to these social and environmental issues.

A contrast can be observed, then, between the disciplining effect of individual market citizenship and the more voluntary and transparency-oriented tone of corporate citizenship discourses (Wood 2003). This contrast hearkens back to the continuum noted earlier between facilitative and coercive versions of the legal constitution of economic citizenship.

Participation in Economic Decision Making

The final element at play in economic citizenship discourse is the question of how and when citizens are to participate in the governance of markets. A key aspect of neo-liberalism is the discourse of inevitability, the notion that "economic forces cannot be resisted" (Bourdieu 1998, 31). The question is how this can be accommodated to, or challenged by, the concept of citizenship, a predominant version of which entails some form of participation or choice in how one's society is governed. Participation in economic governance is critical precisely because so many more policy choices are being characterized as economic in nature, or constrained by economic imperatives.

The quality of political citizenship in relation to economic governance has long been notoriously thin. Many have commented on the political imperviousness of economic branches of government to input from all but those who are seen to represent the interests of capital. One strand of the literature on economic regulation would propose that administrative agencies and economic policy makers more generally are particularly susceptible to various forms of "capture" by vested interests. This becomes possible in part because of the heightened incentives and abilities of organized interests to use resources to lobby more effectively and to participate in prevailing technocratic discourses of economic policy. By contrast it has been easy to sideline social justice advocacy groups whose material interests are not as concentrated and whose members adopt other economic rationalities and have other forms of expertise outside the orthodox frameworks. Thus, securities commissions and finance departments frequently solicit input on proposed new rules and policies, yet the response is invariably dominated by professionals and established organizational interests. In the first case study

below, we examine the challenges that women's equality organizations face in bringing feminist expertise to bear on the formation of tax and fiscal policy. This raises a general issue of identifying the preconditions for effective economic citizenship, such as sufficient levels of economic literacy to engage in detailed reform debates and fully understand the distributive implications of technical proposals. It also illustrates for social justice advocacy groups the tension between working within dominant discourses or attempting to advance alternative understandings of the economy.

Those branches of government responsible for crafting and implementing economic policy have gained power within the state as greater emphasis has been placed on accommodating the demands of private market actors and justifying all state policy as consistent with goals of competitiveness (Sassen 2003). This helps to explain why in the 1990s the budget became the primary means of announcing social policy change in Canada, and the Finance Department came to dominate the spending ministries as the main driver of social policy reform (Day and Brodsky 1998, 1-11). At the same time, feminist and other advocacy groups experienced a loss of voice and greater barriers to participation, in part because these budgets largely defunded their advocacy functions, but also because of the gender-blind analytic frameworks that dominate economic policy making, and the resistance of officials in finance, trade, and other economic portfolios to equality-oriented lobbying. Until gender gains more visibility and legitimacy as a critical variable in economic planning and policy design, it will be difficult to get these issues on the table, let alone debate the merits of different policy responses or resource allocations (Boyd and Young 2004). A further challenge is to design modes of political action and participation that are not dominated by class-privileged women and their concerns. This once again highlights the importance of developing concepts of economic citizenship that take account of gender, race, and class, and at the same time enhancing the economic literacy, informational resources, and advocacy tools of equality-seeking groups.

In differentiating various approaches to participation in economic governance, a basic distinction can be drawn between those which emphasize markets or market institutions themselves as a potential tool for increasing accountability, and those which focus on the need for political action to limit the exercise of economic power, whether through grassroots campaigns, democratically elected governments, or supranational governance institutions such as the United Nations. Some versions of economic citizenship resolve the questions of participation and self-governance by construing market choice as the new politics. That is, simply by expressing preferences in the market, individuals will contribute to the best possible allocation of resources to meet human needs. Thus, Ute Schumacher and Gladstone

Hutchinson (2003) use the phrase "economic citizenship" to refer generally to the enhanced autonomy and capacity of individuals to participate in free enterprise. Similarly, Braithwaite and Drahos (2000, 60) describe middle-class investors as a "mass public" that has forced corporations to become more transparent and accountable through informed decision making about which shares or mutual funds will provide the best return, or which investment advisors to trust with its savings. More progressive versions of this argument emphasize the responsibilities of consumers and investors to exert market pressure on corporations to change unjust or harmful business practices. Blackburn's work (discussed above) on pension fund activism by employees is a good example of this approach, as is other work that advocates the use of consumer boycotts, targeted consumption of "fair trade" goods, shareholder activism, and ethical investing (OXFAM 2002). Although such strategies may be quite effective to alter corporate behaviour in particular cases (Logsdon and Wood 2002, 168-69), their overall potential as a means of subjecting economic power to democratic control is less clear. Some have argued that these approaches are inherently limited by a lack of coordination, the difficulty of sustaining high levels of public awareness of corporate misbehaviour in myriad locations around the world, and the fact that they can be effectively employed only by those with some measure of resources, such as middle-class consumers in developed countries (Wheeler 1998, 7-8).

In contrast to those who focus on market-based inputs to economic decision making, other commentators examine instead how more traditional forms of political citizenship could be developed to boost democratic participation in the governance of economic affairs at national and international levels. At the most general level, Beneria (2003) identifies the need for a worldwide democratic debate about the proper goals of economic policy, suggesting that although feminists have been effective in certain local struggles, they have yet to translate their role to the global level. Sassen (2003) makes the case that, notwithstanding the effects of globalization, participation in economic governance might be most effectively pursued through nation-states. Since states have shown a capacity to adjust their practices and policies to global pressures and neo-liberal discourses, she argues, this same capacity might potentially be developed to provide national-level channels and bridges for people to hold global economic actors accountable. By working through states, citizens may democratize economic governance without the need to wait for a global state or set of supranational citizenship institutions. Yet as Schneiderman (2000) points out, states have often acted as the frontline defenders of market reforms in the face of popular democratic resistance. The solution to this conundrum may lie in avoiding monolithic reliance on any one institution, and instead promoting

cooperative action and networking among different state and civil society agencies interested in promoting democratization of economic governance, at both national and supranational levels (Muetzelfeldt and Smith 2002).

Case Studies in Economic Citizenship

In this section we consider recent developments in two concrete areas of economic governance. First, we examine the formation of tax and fiscal policy through budget processes. Second, we discuss the regulation of mutual funds. These case studies provide a focus for further assessing how different elements of economic citizenship discourse are at play in current legal and policy debates, and whether the discourse is helpful in envisioning more democratic and gender-inclusive modes of economic governance.

Case Study 1: Economic Citizenship and Fiscal Policy Making

The need for democratic control over fiscal policy is a fundamental premise of liberal societies, reflected in the principle of "no taxation without representation" (Bottomley, Gunningham, and Parker 1994, 14; *Re Eurig Estate* (1998), 13). In Westminster-style parliamentary systems, this has been interpreted to require approval of the government's tax and expenditure plans in the legislature. By convention, budget votes are matters of confidence, meaning the government falls if its fiscal plan does not have the support of a majority of elected representatives. Traditionally this has also defined the limit of democratic participation in the budget process. Given the historical importance of taxes, especially in provoking revolutionary movements for democratization, one might assume that citizens and their representatives would have a high level of active engagement with executive governments in the deliberation of budget policy. Yet in practice quite the opposite is true.

The budget process has been one of the most cloistered policy-making exercises in government. It is tightly controlled by the finance minister, working with the premier or prime minister as well as civil servants in the Finance Department, to the exclusion even of other Cabinet ministers and government members. Moreover, once the budget has been tabled in Parliament, party discipline insulates it from public criticism by backbench members of the governing party. Any backtracking on the budget is viewed as a major political embarrassment, so that even private opposition from within government ranks is highly unlikely to result in changes. Though opposition parties may speak and vote against it, where the government has a majority the budget is passed without amendment as a matter of course.

The tradition of budget secrecy has been justified in the past as necessary to prevent unfair exploitation of advance knowledge regarding, for example, a proposed change in import/export tariffs (Doern, Maslove, and Prince 1991). However, many tax and expenditure changes create no opportunities for

such pre-budget avoidance, or where they do it may be possible to sanction them after the fact. The more credible explanation for continued secrecy of the budget is that governments wish to maximize the political impact of this agenda-setting measure, and prefer to control what proposals are leaked to the media in order to test public opinion. But what explains the public's willingness to tolerate such an insular model of politics in relation to a key instrument of governmental power? A major contributing factor is the construction of fiscal policy as economic in nature, and the proper domain of technocratic expertise rather than political analysis and advocacy. This is an area where the discourse of economic citizenship might serve a strategic purpose as a way of framing demands for increased participation and accountability. In the context of the budget process, economic citizenship need not imply the assertion of market power by consumers or investors, but rather may express the claim for a more robust political citizenship that encompasses all aspects of governmental activity, even those characterized as economic. Indeed, the case of fiscal policy affirms the continuing importance of the state as a site of citizenship claims.

Budgets have been the central and most obvious mechanism by which governments have implemented neo-liberal policies at the domestic level. Many trends in Canadian tax policy over the last fifteen years can be understood in terms of a shift to norms of market citizenship (Philipps 2002). A central figure in the discourse of market citizenship is the "taxpayer," a self-reliant and morally virtuous citizen who earns her own market income and deserves to keep more of it to spend on goods and services of her own choosing. This taxpayer is also thought to deserve more fiscal accountability from governments, reflected in the enactment of balanced budget laws in several provinces and tax referendum laws in a few (Philipps 1996). The prominence of market citizenship discourse is reflected in the extraordinary influence of anti-tax organizations such as the Canadian Taxpayers Federation (CTF). Despite having a tiny membership in Ontario, this group "convinced media that [it] is a legitimate spokesperson for the beleaguered taxpayer" (Urquhart 2004), such that its public blessing was thought necessary to secure a Liberal Party victory in the 2003 provincial election. The party's leader, Dalton McGuinty, signed a CTF pledge that if elected his government would honour the *Balanced Budget Act* (BBA) and *Taxpayer Protection Act* (TPA) introduced by the incumbent Conservatives, the latter of which prohibits any new tax or tax increase unless approved by referendum. The Liberal government has since felt compelled to backtrack on these promises in order to manage the provincial deficit and its other election promises to reinvest in public services. The CTF responded by launching a civil action attempting to force the government to hold a referendum on the new health care premium proposed in the May 2004 provincial budget.

This aggressive form of fiscal populism, as well as other demands for greater fiscal discipline from government, may be understood as one form of economic citizenship, focused on the claim that states should be more efficient and ultimately subordinate to markets. Though far less visible, pressures have also grown for governments to account for the impact of budgets on individuals who are excluded from or disadvantaged in markets, and who rely more heavily than others on public services funded through redistributive taxation. Social advocacy groups have become acutely aware of the budget's importance since the watershed social-spending cuts of 1995 (Scarth 2004). Yet avenues for participating in the budget process are still few. The remainder of this case study examines some recent innovations in Canadian budget processes and assesses what form and degree of economic citizenship they may promote.

The Federal Budget Process

Perhaps attempting to counteract a perception of privileged insider access to budget decision makers, the federal government in 1993 created a formal consultation process by assigning to the House of Commons Standing Committee on Finance the task of holding pre-budget hearings each year, to which any individual or group can make submissions in person and/or in writing. The committee need not communicate individual submissions to the minister of finance, but considers them in preparing its pre-budget report to the minister.

The pre-budget hearings have been praised by some for educating the public about the budget (Dobell and Ulrich 2002). However, from the perspective of women's organizations and other social advocacy groups, the process is seriously deficient. While all are invited to participate, there are gross disparities in the level of resources brought to the table. The briefs submitted by different groups reflect the amount of time, expertise, and money they have to prepare or commission detailed research on the impacts of specific tax and expenditure policies. Many a group has had the experience of spending precious staff or volunteer time on a submission to the finance committee only to feel that it has been ignored, and in fact coopted in an exercise to give the committee's report and the budget itself a superficial claim to democratic legitimacy. Moreover, equality-seeking groups are often scheduled to appear together on one day, and there is an almost total lack of direct engagement among witnesses presenting different points of view (McDonnell 1995).

Despite these shortcomings, the budget process received little attention in the package of reforms tabled in the fall of 2003 to address the so-called democratic deficit (Canada, Privy Council Office 2004). As a matter of confidence, the budget is entirely excluded from the most high-profile part of this package, the proposal to loosen party discipline and allow MPs to vote

against some government bills (*ibid.,* 4). Thus, the reforms are unlikely to improve the quality of legislative debate on the budget after it is tabled. On the other hand, the government's promise to increase committee budgets could be used to create a more meaningful pre-budget process (*ibid.,* 6). In particular, it pledges to give "more resources to Committees to conduct independent studies in areas of concern with the right to commission such work, subject to an allocated yearly budget," and "greater authority to allocate their budgets" *(ibid.)*. Rather than spending these new resources to obtain more advice from conventional public finance and tax experts, the Standing Committee on Finance should consider how it can use this opportunity to promote a broader and more inclusive fiscal citizenship among Canadians.

The committee could take a far more active role in soliciting the participation of diverse organizations and experts who would bring a wider range of viewpoints to bear on the budget. Perhaps most importantly, it should look for ways to make the playing field less uneven among those who do participate. It could do so by funding "pre-consultation" sessions that would aim to make individuals and social-action groups more effective participants in the budget process by allowing them time and resources to educate themselves about fiscal policy concepts and terminology, and by facilitating intergroup dialogue about common concerns and strategies in relation to the budget. Tax professionals find this sort of networking and coordination invaluable to make their policy advocacy more effective, but others in society usually lack resources for it.

A possibly useful approach would be for the finance committee to conduct hearings that are focused on one or two major public policy issues each year (such as homelessness, assistance to the low-income self-employed, and costs of post-secondary education), and to make special efforts to seek out a full range of viewpoints and expertise on that topic. Besides using the limited resources of equality-seeking groups more efficiently, such an approach may help to expand the understanding of expertise to include not just traditional fiscal and economic discourse, but also less orthodox knowledges that are needed to comprehend and address a variety of concrete social problems. It may also encourage industry groups and fiscal policy experts to address these pressing issues in their own submissions.

The Ontario Budget Process

Ontario has witnessed a series of renovations to its fiscal policy process in recent years, and more have been promised by the Liberal government elected in 2003 (Ontario, Ministry of Finance 2004). This chapter can refer to only one recent initiative, the government's proposal to enact the *Fiscal Transparency and Accountability Act* (FTAA). This legislation would replace the *Balanced Budget Act, 1999* with a set of more flexible fiscal policy principles,

accompanied by extensive transparency provisions requiring the government to disclose specific fiscal results at regular intervals during the year. It is consistent with a growing international trend toward rules that encourage fiscal prudence but allow room for governments to respond to cyclical economic changes, and that emphasize transparency and credibility of fiscal information over the achievement of fixed spending or deficit targets (Foster and Miller 2000, 214; New Zealand Treasury 2003; OECD 2002, 126-28; Peters 2003, 2).

The proposed FTAA provides that the following principles shall govern Ontario's fiscal policy (Bill 83: section 2):

1 Responsibility: Ontario's fiscal policy should be based on cautious assumptions.
2 Flexibility: it should recognize the need to respond to changing circumstances.
3 Equity: its impact on different groups within the population and on future generations should be considered.
4 Transparency: it should be clearly articulated and information about it should be readily available for inspection by the public without charge.

The second and third of these principles in particular open the way for broader debate about the appropriate goals of fiscal policy. The bill's explicit reference to equity as a guiding principle has few international precedents (one example is the UK *Code of Fiscal Stability*) and in this sense is a bold gesture toward a more inclusive model of economic citizenship. However, it will be critical for the government in implementing the legislation to give substance to this principle, as the bill does not yet do so. It does include numerous requirements aimed at monitoring fiscal discipline. For example, the government must maintain a prudent ratio of debt to GDP (section 3) and must produce a recovery plan to indicate how and when any deficit will be eliminated (section 4[3]). Moreover, the information to be disclosed under transparency provisions focuses on the aggregate level of revenues, expenses, deficits, and debt (section 5). There are no equivalent requirements to disclose the distributive impact of tax or expenditure measures, or the ways in which equity issues have been addressed in the budget. This points back to our earlier observation that transparency measures are not substantively neutral but tend to address themselves to the concerns of credit-rating agencies, investors, and other constituencies for fiscal conservativism.

The FTAA would be much improved by adding more detailed transparency rules in relation to the equity principle. Alternatively, implementation mechanisms should be designed that will ensure this principle is interpreted

carefully and carries equal weight in the formation and evaluation of fiscal policy. In particular it will be important to ensure that gender is considered as a central dimension of fiscal equity. The achievement of horizontal and vertical equity has long been accepted by fiscal policy analysts as an objective of a good tax system, but such concepts have been framed primarily in terms of income groups and how the tax burden is distributed among them. Less attention has been given to the impact of fiscal policy on gender or racial inequalities. This conventional gender-blind approach to fiscal policy making has been challenged by a new literature on gender-responsive budgeting (Bakker 2005; Barnett and Grown 2004; Elson 1999; Rake 2002). Governments now have available to them not only a body of academic work, but also a number of policy experiments internationally attempting in various ways to incorporate gender analysis into the budget process (Bakker 2002; Budlender et al. 2002). Some of these experiments have been conducted inside government (Sawer 2002), while others have been led by women's NGOs who have successfully lobbied or advised governments on how to make tax or expenditure policies more equitable for women (Budlender, Hicks, and Vetten 2002). One of the challenges of such work is to ensure it is more than a cosmetic public relations exercise for governments. Another is the difficulty of connecting the diverse concerns of grassroots women's politics with the formal expertise of feminist economists, lawyers, and social policy analysts who can engage fiscal policy makers inside government about the technical details of tax and spending measures (St. Hill 2002). Once again, this underlines the particular challenges of securing democratic participation in matters of economic governance.

Though a full discussion of gender-responsive budgeting is beyond the scope of this chapter, three of its key principles are worth highlighting in the context of thinking through the meaning and implementation of the FTAA's equity principle:

1 Governments should gather and disclose gender-disaggregated data on the impact of budget measures. For example, as part of its commitment to transparency, the Ontario government should disclose how much of the burden of its new health care premium will be borne by women and men in varying income brackets, and the extent to which women and men benefit from planned expenditures in areas such as home care, whether as patients, professional home care providers, or unpaid family caregivers.
2 The government should assess the impact of its policies not only on households but on individuals. It should not assume that tax cuts, transfer payments, and tax expenditures are shared by all members of a household but should investigate how such benefits can be delivered most

directly to their intended recipients. This may require, for example, changing the design of a tax cut so that, instead of reducing the middle or top tax rate, it increases the basic personal credit; another example would be making a tax credit (such as the caregiver credit) refundable so that it can be claimed directly by someone with little market income.

3 The household sector should be included as part of the economy for purposes of fiscal policy analysis. Thus, the government should consider whether an expenditure cut will transfer costs to households by requiring family members to increase their unpaid caregiving or volunteer work, and how this will impact on labour market access and other opportunities, particularly of women. For example, the failure to fund educational assistants in kindergarten classrooms may be based on assumptions that parents (primarily mothers) will make themselves available as volunteers. Such assumptions should be made explicit and their costs taken into account in formulating budgets.

Provided they give substantial attention to equity issues, including the less visible impacts of policy as suggested above, transparency-based approaches to economic governance such as that adopted in Ontario's proposed FTAA, may have some potential to promote more progressive forms of economic citizenship. However, a close look at existing fiscal transparency rules often reveals a strong implicit agenda of forcing governments to adhere to a market model of citizenship.

Case Study 2: Governing Mutual Funds through Economic Citizenship

If the discourse of economic citizenship is to have any cogency in a neoliberal context, it needs to be useful to an understanding of individuals' interactions with non-state economic actors, institutions, or processes (Siltanen 2002). It appears that this project of looking at interactions among market actors and processes through a lens of economic citizenship has not yet been well advanced in the literature. For this reason, we have chosen the issue of the governance of mutual funds for exploratory consideration. Governance issues are now being widely debated in relation to all manner of private and public actors, especially commercial corporations operating in a post-Enron world. Our focus on mutual funds reflects the significance of that sector to a broad-based community of retail investors. The question to be addressed is whether aspects of a lively current debate in Canada about mutual fund governance norms can be understood in terms of ideas of economic citizenship, and whether proposals emanating from these debates have any prospect of enhancing efforts to achieve particular visions of economic citizenship in this market sector.

We have noted that these particular investment vehicles have become increasingly popular in Canada, in part as a method of funding privatized

retirement provision. Approximately two thousand mutual funds currently offer investment opportunities to Canadians, with over $400 billion of assets under administration by the industry. Participants in the industry vary greatly in size, with the major banks in Canada, along with subsidiaries of US mutual fund organizations, running significant mutual fund arms. A mutual fund is a vehicle for pooling investment by an open-ended number of investors. The value of each person's investment is computed by reference to a proportionate interest in the entire portfolio of investments made by the fund. The investor devolves the responsibility for investing to the expertise of the fund's managers, and because her capital is pooled with others, she is able to take advantage of diversification and other risk management strategies that might be less feasible individually. The fund is in some sense a collective endeavour, but without the commonality of employment that characterizes the employer-sponsored pension fund. It is therefore a form of providing for retirement that is more congruent with the flexibilization and mobility of employment that is a feature of the "new economy" (Castells 2000). In Canada, unlike in the US, mutual funds tend to be legally organized as trusts rather than as corporations. They typically charge management fees for the expertise they bring to the task of investing the funds provided to them.

Connections among Gender, Mutual Funds, and Economic Citizenship Debates

How and why would one link debates about gender and economic citizenship with the issue of how mutual funds do or should operate? First, the growing popularity of mutual funds is being driven largely by the need for increased individual self-reliance with respect to post-retirement economic security, especially for women workers who do not have access to employer-sponsored plans. This is an obvious link to the nature of benefit provision in the neo-liberal economy. Contemporary retirement-related benefits are less likely to be funded by the state or even employers, which makes questions of how these significant pools of investor capital are invested or operate internally more pressing. Thus, issues of investment strategy and internal accountability for mutual funds are similar to those for employer-sponsored funds, with the crucial exceptions that the element of collectivity is diluted considerably and the structure of legal regulation provided by securities and trust law is different.

In terms of the relationship between gender and the privatized provision of retirement security through mutual funds, empirical information that tracks the use by Canadian women of RRSP tax deductions is relevant. RRSP programs facilitate the investment of income in mutual funds by providing favourable tax treatment for money sheltered therein. Recent data show that while the overall RRSP participation rate of men continues to be higher than that of women (45 percent of taxpayers as opposed to 35 percent), this

discrepancy is largely accounted for by the increased presence of men at the highest income levels (over $80,000). However, a comparison of the participation rate among men and women in other income groups shows that "the propensity for women to contribute is actually higher" (Tal 2004). As middle- and upper-class women stream into this market sector, will the type of economic citizenship claims that are made on mutual funds change in frequency and intensity?

Thus, discourses of economic citizenship in relation to participation in the governance of markets or market institutions are increasingly relevant. Given the important role that mutual funds play as institutional investors in the economy (Harmes 2001), attention has recently begun to be paid to the levels of transparency and accountability exhibited or required of mutual funds in Canada. Should individuals who invest in such funds have a voice in their management or investment strategy? Here the economic starting point is traditionally that individuals invest in such funds largely to delegate such decision making. This argument, for example, was articulated by the Investment Funds Institute of Canada (IFIC) – the most prominent lobby group for the mutual fund industry – in response to a 2002 version of the mutual fund governance proposals. The IFIC suggested that "Mutual fund investors, by conscious choice, pay to have management issues competently addressed on their behalf. They will thus be ill-motivated and disinclined to become involved in precisely the types of matters that they have already paid to have dealt with and resolved for them" (IFIC 2002).

This argument proposes an understanding of economic citizenship equating individual participation in the governance of mutual funds with the exercise of market choices. Thus, one could choose funds based on the sector or investment strategy advertised by the fund, with no further need or desire for ongoing involvement in the activities of the funds. The presumption would be that the most effective and rational way to practise economic citizenship is to operate as a sovereign consumer, exercising entry and exit options accordingly. But the cogency of the so-called rational apathy argument would be enhanced by empirical evidence revealing that investors in mutual funds actually are indifferent to the internal governance or external investment practices of their funds. This project is still in its infancy, especially in Canada (Stabile 2002; Alexander, Jones, and Nigro 1996). In the UK, Russell Sparkes (2002) has commented on available empirical evidence about investor interest in so-called socially responsible investing (SRI), engaged in by pension funds or mutual funds. He suggests that the level of support for SRI among retail investors varies according to whether investment in unit trusts or mutual funds represents a small or significant component of an investor's overall retirement planning, including any employer-sponsored plans.

Normatively, the mutual fund rational apathy argument expressed above is an extension of its more general equivalent in the corporate context. In the context of debate about shareholder monitoring of corporate governance, law and economics posit rational apathy as an appropriate response to the so-called free rider problem and the inefficiencies and uncertainties of monitoring. However, there is a well-established feminist critique of the rational apathy stance in the corporate context. Thus, for example, T.A. Gabaldon (1992, 1424) points out that the "key difference between economic and feminist reasoning on this point is ... the feminist belief that interest in monitoring is a social good, rather than a duplicative waste" (see also Condon 2000; Kahn 2001).

A key component of a full exploration of these issues also requires an examination of what might constitute economic or financial literacy in the mutual fund investment context. The opportunity to exercise market choice raises normative and empirical questions about the nature of the economic rationality guiding investment decision making. Research on individual investment decision-making practices, especially the issue of whether these practices are gendered, still remains underdeveloped (Barber and Odean 2001). In the UK, Sparkes sees a measurable link between the growing mass of women investors in private investment vehicles and the popularity of SRI practices. His review of the available data in the UK suggests to him that "female financial empowerment among younger women may prove to be a driving force behind the growth of SRI" (Sparkes 2002, 77). The legal framework of mutual fund operation is clearly relevant, in the sense that, as with pension funds, liability concerns for failure to maximize the returns to the fund are part of the context for debate about the scope and desirability of investor participation in governance (Davis 2004). This latter discussion shades easily into the issue of the responsibilities of economic citizenship, to be fulfilled both by individuals and funds. We have noted that individuals are increasingly governed by the need to self-manage their retirement well-being. Are governance requirements for the funds in which they invest being similarly intensified? Again it is hard to escape the framing of this subject provided by the current state of the legal regulation of such funds. It is to this issue that we now briefly turn.

Current Issues in Mutual Fund Governance

Aspects of mutual fund operation are legally regulated in Canada by provincial securities commissions along with a self-regulatory organization, the Mutual Fund Dealers Association (MFDA). Over the last several years, regulatory attention paid to disclosure and sales practices of mutual funds has been heightened.[1] There are two recent reform debates which implicate mutual fund governance issues: the first involves a proposal to establish

"independent review committees" (IRCs) to deal with the potential for conflict of interest in mutual fund investment transactions; the second concerns new requirements that mutual funds disclose their proxy voting policies in connection with the governing corporations in which they invest. These two innovations will be briefly discussed in turn.

Internal Governance of Mutual Funds In January 2004, the provincial securities commissions released a proposed rule which would require the establishment of IRCs for mutual funds. Although this still-evolving rulemaking process could be examined from the perspective of the role of established interest groups in shaping the regulatory agenda, our concern here is rather to assess the possibility that this unfolding debate could contain elements of a progressive revisioning of economic citizenship for retail investors in mutual funds.

One of the main regulatory problems provoking this debate was the possibility of conflict of interest in transactions undertaken by mutual funds with related parties. A concept proposal on mutual fund governance was disseminated in 2002, following from consideration of this issue by a legal expert (Erlichman 2000). The 2002 proposal introduced the notion of an independent governance committee for mutual funds, intended to operate in tandem with the maintenance of the existing prohibitions on related party transactions. In the early 2004 version of the rule, following sustained criticism from the mutual fund industry, the quid pro quo for acceptance of the new governance model was the removal of the existing conflict of interest rules. Thus, the Canadian Securities Administrators (CSA) request for comments on the 2004 proposed rules indicated that "The existing self-dealing and conflict of interest prohibitions in the Securities Act and NI 81-102 would be repealed, and the discretion of the IRC would effectively replace the prohibitions." Thus, "conflicts of interest would be regulated through a governance regime rather than restrictive rules and wide-ranging prohibitions" (Canadian Securities Administrators 2004c, 469). In other words, the IRC would monitor on a discretionary basis whether or not the fund was engaging in self-interested transactions to the detriment of the value of the fund. The 2002 version of the proposal had also envisaged a more robust role for the IRC, in that it would have been responsible to "oversee performance, monitor fees, and act as audit committee" (*ibid.,* 468). Yet on 22 September 2004, the *Toronto Globe and Mail* reported that Ontario Securities Commission (OSC) chair David Brown had indicated that this quid pro quo was being re-evaluated in light of both public criticism of it and the recent OSC investigations of the mutual fund industry.

The economic citizenship issue that is raised here is how the proposed IRCs would affect the level of funds' accountability to their investors and the possibilities for those investors to influence internal fund decision making.

Does the focus on governance in the sense of avoiding related party transactions preclude broader debates about recasting the investment activities of mutual funds in more radical ways, such as by introducing ideas of socially responsible investing? A further dimension is that IRCs are to have three members, who are to be "independent" of the fund.[2] Members of IRCs would have fiduciary duties and duties of care in respect of the fund. Could unitholders of the fund comprise one or more of the members of the IRC? How will the members be chosen? OSC chair David Brown has said that it is "unlikely that unitholders would be given the power to elect the committee members that would be entrusted with protecting their rights" ("Report on Business," *Toronto Globe and Mail,* 22 September 2004). Thus, it is as yet unclear if internal governance of mutual funds will remain subject to substantive prohibitions on conflict of interest transactions. However, it seems unlikely that retail investors will play a significant role in this decision making, as members of IRCs. The framing of this debate also indicates a reluctance to engage in a broader reassessment of legal principles relating to the governance of investment objectives and risk management of mutual funds.

Proxy Voting by Mutual Funds Another initiative recently implemented requires mutual funds to disclose proxy voting policies (and on request, actual proxy voting decisions) concerning the corporations of which they are securityholders (Larsen 2004). This aspect of revised rule NI 81-106 was implemented in June 2005. The innovation is an interesting counterpoint to the debate about internal accountability of mutual funds to investors in the form of IRCs, in that this rule may have the effect of imposing enhanced corporate monitoring and disclosure requirements on the funds themselves. It is therefore part of a broader intense debate about the value of institutional investors as engaged monitors of corporate governance. Regulators in Canada have clearly positioned themselves on the side of the debate that suggests there is a salutary role for investment funds to play as monitors of corporate conduct. More specifically, however, the CSA "believes that transparency of voting information would facilitate accountability on the part of fund managers in voting proxies in the best interest of fund shareholders ... Investors, we believe, have a fundamental right to know how their fund has voted proxies on shareholders' behalf" (Canadian Securities Administrators 2004b, 5193). Interestingly, when the CSA published an earlier version of this rule for comment in September 2002, it received "the largest number of comments from individual investors on this one issue [of proxy voting]. Most who commented believed that the Rule did not go far enough, whereas most members of the fund industry felt the contrary to be the case" *(ibid.)*. In discussing the substance of the rule, however, it is noteworthy that the CSA commented that the "intent of the Rule

is to promote transparency with respect to proxy voting, not mandate the content of fund policies and procedures" *(ibid.).*

Two main arguments against the innovation were articulated by mutual funds and their lobby group, the IFIC. One was the now familiar claim about rational apathy of mutual fund investors, and the other was the possibility that funds would be "subject to orchestrated campaigns by special interest groups with social or political agendas different from those of fund shareholders" (IFIC 2002). The CSA's response to the former argument rested in part on the intensity of interest expressed by individual investor commentators regarding the proposal, and in part on the results of a survey of mutual fund investors commissioned by the CSA in May 2003. This survey reported that "21 percent indicated interest in knowing how their funds vote on all issues, 48 percent indicated interest in knowing how their funds vote on major issues and only 24 percent stated that funds should be free not to report how they vote" (Canadian Securities Administrators 2004b, 5194). With respect to the "special interest group" argument, the regulators indicated that they were not persuaded "at this time that this [interest group pressure on funds] will in fact be the case or that it will occur to such a degree as to negate the benefits this disclosure would provide" *(ibid.).*

All this suggests some level of interest among retail investors in becoming active monitors of the corporate governance practices conducted on their behalf. It also suggests, however, a further reliance on disclosure as the regulatory strategy of choice, with little direction as to the role securities regulation might play in shaping the corporate governance preferences expressed by funds on behalf of investors.

Conclusion

In this chapter, we sought to achieve three interrelated objectives. The first was to map the contours of the emerging field of "economic citizenship studies," in the sense of searching out common themes and concerns from a fractured and normatively diverse literature. Our research suggested at least four separate, though related, dimensions to the discourse of economic citizenship. We also considered the extent to which the discourse of economic citizenship is distinguishable from, or consistent with, Marshall's idea of social citizenship. Here we highlighted how powerful interpretations of economic citizenship have been correlated with political shifts to neo-liberal policies. Our second objective was to examine empirically the extent to which economic-citizenship-type claims have infused policy debates in two discrete economic areas, those of fiscal policy making and the governance of mutual funds. Our findings here suggest that discourses of economic citizenship have somewhat more progressive potential in the fiscal policy area. This is partly connected to the more explicitly governmental nature of the enterprise of fiscal policy making, as well as to the endurance

of traditional legal understandings of the fiduciary responsibilities of mutual funds to maximize financial return to investors, according to logics of expert risk management. Our final goal was to consider the normative promise of economic citizenship discourse to contribute to improved levels of accountability and transparency in the operation of markets and of economic decision making. Our conclusions on this front are quite tentative, not least because we take seriously the general critique of the exclusory tendencies of citizenship discourse. Ultimately, we conclude that progressive economic citizenship practices are susceptible to a number of problems of implementation. These problems include the differential economic power of organized market actors, the constraints imposed by the need to frame interventions and practices in terms of technocratic concepts and expert knowledges, and in particular the voluntary nature of economic citizenship interventions. This suggests that robust economic citizenship practices will need to be combined with more traditional legal mechanisms for ensuring the accountability and transparency of economic and market governance. In this regard, there appears to be a heightened recognition in legal discourse of the need for greater disclosure of information, if not of the need to establish more robust thresholds of appropriate market behaviour so as to encourage economic democracy and participation.

Notes

1 Recently, Canadian regulators have followed suit with the US and launched investigations into various market practices of mutual funds, such as, inter alia, late trading and market timing. These practices, which arguably advantage institutional holders of mutual fund units at the expense of retail investor holders, revolve around issues related to when and how the underlying assets of mutual funds are valued.

2 This is defined as the absence of "a direct or indirect material relationship with the manager, the mutual fund, or an entity related to the manager" which a "reasonable person would consider might interfere with the exercise of the member's independent judgment" (Canadian Securities Administrators 2004c, 531).

Bibliography

Articles, Books, and Monographs

Alexander, Gordon, Jonathan D. Jones, and Peter J. Nigro. 1998. "Mutual Fund Shareholders: Characteristics, Investor Knowledge, and Sources of Information." *Financial Services Review* 7: 301-16.

Arthurs, Harry W. 2001. "The Hollowing Out of Corporate Canada?" In *Globalizing Institutions: Case Studies in Social Regulation and Innovation.* Edited by J. Jenson and B. Santos, 29-52. London: Ashgate Press.

Bakker, Isabella. 1996. "Introduction: The Gendered Foundations of Restructuring in Canada." In *Rethinking Restructuring: Gender and Change in Canada*. Edited by Isabella Bakker, 3-28. Toronto: University of Toronto Press.

–. 1998. *Unpaid Work and Macroeconomics: New Discourses, New Tools for Action.* Ottawa: Status of Women Canada.

–. 2002. *Fiscal Policy, Accountability and Voice: The Example of Gender Responsive Budget Initiatives*. Background Paper for HDR 2002. United Nations Development Programme, Human Development Report Office. http://hdr.undp.org/docs/publications/background_papers/2002/Bakker_2002.pdf.

–. 2005. *Gender Budget Initiatives: Why They Matter in Canada.* Ottawa: Canadian Centre for Policy Alternatives.
Barber, Brad, and Terrence Odean. 2001. "Boys Will Be Boys: Gender, Overconfidence and Common Stock Investment." *Quarterly Journal of Economics* 116: 261-92.
Barnett, Kathleen, and Caren Grown. 2004. *Gender Impacts of Government Revenue Collection: The Case of Taxation.* London: Commonwealth Secretariat.
Beneria, Lourdes. 2003. "Economic Rationality and Globalization: A Feminist Perspective." In *Feminist Economics Today: Beyond Economic Man.* Edited by M.A. Ferber and J.A. Nelson, 115-33. Chicago and London: University of Chicago Press.
Black, J. 2001. "Decentring Regulation: Understanding the Role of Regulation and Self-Regulation in a 'Post-regulatory World.'" *Current Legal Problems* 54: 103-46.
Blackburn, Robin. 2002. *Banking on Death: Or Investing in Life: The History and Future of Pensions*. London: Verso.
Bottomley, Stuart, Neil Gunningham, and Stephen Parker. 1994. *Law in Context.* Leichardt, NSW, Australia: Gaunt.
Bourdieu, Pierre. 1998. *Acts of Resistance: Against Tyranny of the Market.* New York: New Press.
Bowles, Samuel, and Herbert Gintis. 1986. *Democracy and Capitalism.* New York: Basic Books.
Boyd, Claire F.L., and Susan B. Young. 2004. "Feminism, Law and Public Policy: Family Feuds and Taxing Times." Twelfth Barbara Betcherman Memorial Lecture, Osgoode Hall Law School, Toronto, 29 April.
Braithwaite, J. 2000. "The New Regulatory State and the Transformation of Criminology." *Brit J Crim* 40: 222-38.
Braithwaite, John, and Peter Drahos. 2000. *Global Business Regulation.* Cambridge: Cambridge University Press.
Brodie, Janine. 1995. *Politics on the Margins: Restructuring and the Canadian Women's Movement.* Halifax: Fernwood.
–. 1996. "Restructuring and the New Citizenship." In *Rethinking Restructuring: Gender and Change in Canada.* Edited by Isabella Bakker, 126-40. Toronto: University of Toronto Press.
Budlender, Debbie, Diane Elson, Guy Hewitt, and Tanni Mukhopadhyay. 2002. *Gender Budgets Make Cents: Understanding Gender Responsive Budgets*. London: Commonwealth Secretariat.
Budlender, Debbie, Janine Hicks, and Lisa Vetten. 2002. "South Africa: Expanding into Diverse Initiatives." In *Gender Budgets Make More Cents: Country Studies and Good Practice.* Edited by Debbie Budlender and Guy Hewitt, 152-70. London: Commonwealth Secretariat.
Castells, Manuel. 2000. *The Information Age: Economy, Society and Culture*. Vol. 1, *The Rise of the Network Society.* 2nd ed. Malden, MA: Blackwell Publishers.
Condon, Mary. 2000. "Limited by Law? Gender, Corporate Law and the Family Firm." In *Law as a Gendering Practice.* Edited by D. Chunn and D. Lacombe, 181-98. Toronto: Oxford University Press.
–. 2001. "Gendering the Pension Promise in Canada: Risk, Financial Markets and Neoliberalism." *Social and Legal Studies* 10, 1: 83-103.
–. 2002. "Privatizing Pension Risk: Gender, Law and Financial Markets." In *Privatization, Law, and the Challenge of Feminism.* Edited by Brenda Cossman and Judy Fudge, 128-65. Toronto: University of Toronto Press.
–. 2004. "Technologies of Risk? Regulating Online Investing in Canada." *Law and Policy* 26, 3-4: 411-37.
Cossman, Brenda. 2002. "Family Feuds: Neo-liberal and Neo-conservative Visions of the Reprivatization Project." In *Privatization, Law, and the Challenge of Feminism.* Edited by Brenda Cossman and Judy Fudge, 169-217. Toronto: University of Toronto Press.
Cossman, Brenda, and Judy Fudge, eds. 2002. *Privatization, Law, and the Challenge of Feminism.* Toronto: University of Toronto Press.
Crouch, Colin, Klaus Eder, and Damian Tambini. 2001. *Citizenship, Markets and the State.* Toronto: Oxford University Press.
Davis, Ronald B. 2004. "In Whose Interests? Democracy and Accountability for Corporate Governance Activity by Pension Funds." S.J.D. thesis, Faculty of Law, University of Toronto.

Day, Shelagh, and Gwen Brodsky. 1998. *Women and the Equality Deficit: The Impact of Restructuring Canada's Social Programs*. Ottawa: Status of Women Canada.
Dobell, Peter, and Martin Ulrich. 2002. *Parliament's Performance in the Budget Process: A Case Study*. Montreal: Institute for Research on Public Policy.
Doern, G. Bruce, Allan Maslove, and Michael J. Prince. 1991. *Public Budgeting in Canada: Politics, Economics and Management*. Ottawa: Carleton University Press.
Elson, Diane. 1999. *Gender Budget Initiative: Background Papers*. London: Commonwealth Secretariat.
Ericson, R., D. Barry, and A. Doyle. 2000. "The Moral Hazards of Neo-liberalism: Lessons from the Private Insurance Industry." *Economy and Society* 29, 4: 532-58.
Ericson, Richard V., and Kevin D. Haggerty. 1997. *Policing the Risk Society*. Toronto: University of Toronto Press.
Erlichman, Stephen. 2000. "Making It Mutual: Aligning the Interests of Investors and Managers – Recommendations for a Mutual Fund Governance Regime for Canada." June. Ontario Securities Commission. http://www.osc.gov.on.ca/About/Publications/op_20000727_makingitmutual.pdf.
Esping-Andersen, Gøsta. 1990. *Three Worlds of Welfare Capitalism*. Princeton: Princeton University Press.
Foster, J.D., and James C. Miller III. 2000. "The Tyranny of Budget Forecasts." *Journal of Economic Perspectives* 14, 3: 205-15.
Gabaldon, T.A. 1992. "The Lemonade Stand: Feminist and Other Reflections on the Limited Liability of Corporate Shareholders." *Vand. L. Rev.* 45: 1387-1456.
Harmes, Adam. 2000. "Mass Investment: Mutual Funds, Pension Funds and the Politics of Economic Restructuring." PhD diss., York University.
–. 2001. *Unseen Power: How Mutual Funds Threaten the Political and Economic Wealth of Nations*. Toronto: Stoddart.
Held, David, and Anthony McGrew, eds. 2003. *The Global Transformations Reader*. 2nd ed. Cambridge: Polity Press.
Hindess, Barry. 2002. "Neo-liberal Citizenship." *Citizenship Studies* 6, 2: 127-43.
Howse, Robert. 1992. *Economic Union, Social Justice, and Constitutional Reform: Towards a High but Level Playing Field*. North York: York University Centre for Public Law and Public Policy.
Hutchinson, Allan. 1990. "Mice under a Chair: Democracy, Courts and the Administrative State." *U.T.L.J.* 40, 3: 374-404.
Isin, Engin F. 2002. *Being Political: Genealogies of Citizenship*. Minneapolis and London: University of Minnesota Press.
Isin, Engin F., and Bryan S. Turner, eds. 2002. *Handbook of Citizenship Studies*. London: Sage.
Kahn, Faith Stevelman. 2001. "Feminism, Corporations and Capitalism: A Research Agenda." Paper presented to the Feminism, Corporations, and Capitalism: Policy and Protest Conference at the State University of New York at Buffalo Law School, 21 April.
Kessler-Harris, Alice. 2001. *In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in 20th-Century America*. New York: Oxford University Press.
–. 2003. "In Pursuit of Economic Citizenship." *Social Politics* 10, 2: 157-75.
Kodar, Freya. 2002. "The Transformative Potential of Pension Fund Investment Activism." LLM thesis, Osgoode Hall Law School.
Larsen, Jeffrey. 2004. "Institutional Investors, Corporate Governance and Proxy Voting Disclosure." In *Corporate Governance and Securities Regulation in the 21st Century*. Edited by Poonam Puri and Jeffrey Larsen. Markham: LexisNexis Butterworths.
Lister, Ruth. 1990. "Women, Economic Dependency and Citizenship." *Journal of Social Policy* 19, 4: 445-67.
–. 2000. "Inclusion/Exclusion: The Janus Face of Citizenship." In *Towards a Gendered Political Economy*. Edited by Joanne Cook, Jennifer Roberts, and Georgina Waylen, 98-120. London: Macmillan Press.
Logsdon, Jeanne M., and Donna J. Wood. 2002. "Business Citizenship: From Domestic to Global Level of Analysis." *Bus. Ethics Quar.* 12, 2: 155-87.
McDonnell, Thomas E. 1995. "Toward Getting It Right: Reflections on 50 Years of the Tax Legislative Process in Canada." *Canadian Tax Journal* 95, 5: 1131-43.

Marshall, Thomas Humphrey. 1963. "Citizenship and Social Class." In *Sociology at the Crossroads and Other Essays,* 67-127. London: Heinemann. (Orig. pub. 1949.)

Muetzelfeldt, Michael, and Gary Smith. 2002. "Civil Society and Global Governance: The Possibilities for Global Citizenship." *Citizenship Studies* 6, 1: 55-75.

Nolté, Judith, Judith Maxwell, and Mary Pat Mackinnon. 2004. *Trust and Balance: Citizens' Dialogue on the Ontario Budget Strategy 2004-2008.* Ottawa: Canadian Policy Research Networks. http://www.cprn.org/en/doc.cfm?doc=572.

O'Connor, Julia. 1993. "Gender, Class and Citizenship in the Comparative Analysis of Welfare State Regimes: Theoretical and Methodological Issues." *British Journal of Sociology* 44, 3: 501-18.

OECD. 2002. "Fiscal Sustainability: The Contribution of Fiscal Rules." In *OECD Economic Outlook 2002.* Paris: OECD.

Orloff, Ann Shola. 1993. "Gender and the Social Rights of Citizenship: The Comparative Analysis of Gender Relations and Welfare States." *American Sociological Review* 58: 303-28.

OXFAM. 2002. *Rigged Rules and Double Standards: Trade, Globalization and the Fight against Poverty.* Oxford: OXFAM.

Pateman, Carole. 1998. "Contributing to Democracy." *Review of Constitutional Studies* 4, 2: 191-212.

Peters, Erik. 2003. *Report on the Review of the 2003-04 Fiscal Outlook.* 29 October. http://www.premier.gov.on.ca/english/erikpeters/PetersReport.pdf.

Philipps, Lisa C. 1996. "The Rise of Balanced Budget Laws in Canada: Legislating Fiscal (Ir)responsibility." *Osgoode Hall Law Journal* 34, 4: 681-740.

–. 2002. "Tax Law and Social Reproduction: The Gender of Fiscal Policy in an Age of Privatization." In *Privatization, Law, and the Challenge of Feminism.* Edited by Brenda Cossman and Judy Fudge, 41-85. Toronto: University of Toronto Press.

–. 2003. "There's Only One Worker: Toward the Legal Integration of Paid Employment and Unpaid Caregiving." In *New Perspectives on the Public-Private Divide.* Edited by the Law Commission of Canada, 3-39. Vancouver and Toronto: UBC Press.

Post, James E. 2002. "Global Corporate Citizenship: Principles to Live and Work By." *Bus. Ethics Quar.* 12, 2: 143-53.

Power, M. 2003. "Risk Management and the Responsible Organization." In *Risk and Morality.* Edited by R. Ericson and A. Doyle, 145-64. Toronto: University of Toronto Press.

Puri, Poonam, and Jeffrey Larsen, eds. 2004. *Corporate Governance and Securities Regulation in the 21st Century.* Markham: LexisNexis-Butterworths.

Rake, Katherine. 2002. "Gender Budgets: The Experience of the UK Women's Budget Group." Paper prepared for the conference Gender Balance – Equal Finance, Basel, Switzerland. http://www.wbg.org.uk/GBA_Present.htm.

Rose, Nikolas S. 1999. *Powers of Freedom: Reframing Political Thought.* New York: Cambridge University Press.

St. Hill, Donna. 2002. "The United Kingdom: A Focus on Taxes and Benefits." In *Gender Budgets Make More Cents: Country Studies and Good Practice.* Edited by Debbie Budlender and Guy Hewitt, 171-92. London: Commonwealth Secretariat.

Sassen, Saskia. 2003. "The Participation of States and Citizens in Global Governance." *Indiana Journal of Global Legal Studies* 10, 1: 5-28.

Sawer, Marian. 2002. "Australia: The Mandarin Approach to Gender Budgets." In *Gender Budgets Make More Cents: Country Studies and Good Practice.* Edited by Debbie Budlender and Guy Hewitt, 43-64. London: Commonwealth Secretariat.

Scarth, Todd, ed. 2004. *Hell and High Water: An Assessment of Paul Martin's Record and Implications for the Future.* Ottawa: Canadian Centre for Policy Alternatives.

Schneiderman, David. 1995. "Economic Citizenship and Deliberative Democracy: An Inquiry into Constitutional Limitations on Economic Regulation." *Queen's Law Journal* 21: 125-71.

–. 2000. "Investment Rules and the New Constitutionalism." *Law and Social Inquiry* 25, 3: 757-87.

Schumacher, Ute, and Gladstone Hutchinson. 2003. "William E. Simon's Capacities' Approach to Liberty: An Essay in Economic Citizenship." *Atlantic Economic Journal* 31, 3: 283-88.

Scott, Katherine. 1996. "The Dilemma of Liberal Citizenship: Women and Social Assistance in the 1990s." *Studies in Political Economy* 50: 7-36.

Siltanen, Janet. 2002. "Paradise Paved? Reflections on the Fate of Social Citizenship in Canada." *Citizenship Studies* 6, 4: 395-414.

Smith, Anne Marie. 2001. "The Sexual Regulation Dimension of Contemporary Welfare Reform: A Fifty State Overview." *Michigan Journal of Gender and Law* 8, 2: 121-218.

Sohrab, Julia. 1996. *Sexing the Benefit: Women, Social Security and Financial Independence.* Dartmouth: Aldershot.

Sparkes, Russell. 2002. *Socially Responsible Investment: A Global Revolution.* New York: John Wiley and Sons.

Stabile, Susan J. 2002. "The Behavior of Defined Contribution Plan Participants." *N.Y.U.L. Rev.* 77: 71-105.

Tal, Benjamin. 2004. "RRSPs: Are Canadians Saving Enough?" 23 January 2004. CIBC World Markets. http://www.cibc.com/ca/pdf/RRSP-012004-cibc.pdf.

Turner, Bryan S., ed. 1993. *Citizenship and Social Theory.* London: Sage.

Urquhart, Ian. 2004. "Memo to Premier McGuinty: Break Taxpayers' Pledge." *Toronto Star,* 17 May, A21.

Vosko, Leah F. 2000. *Temporary Work: The Gendered Rise of a Precarious Employment Relationship.* Toronto: University of Toronto Press.

Walby, Sylvia. 2000. "The Restructuring of the Gendered Political Economy: Transformation in Women's Employment." In *Towards a Gendered Political Economy.* Edited by Joanne Cook, Jennifer Roberts, and Georgina Waylen, 165-87. London: Macmillan Press.

Wheeler, Sally. 1998. "Inclusive Communities and Dialogical Stakeholders: A Methodology for an Authentic Corporate Citizen." *Australian J. of Corporate L.* 9, 1: 1-20.

White, J.B. 1985. "How Should We Talk about Corporations? The Languages of Economics and of Citizenship." *Yale Law Journal* 94: 1416-25.

Whitehouse, L. 2003. "Corporate Social Responsibility, Corporate Citizenship and the Global Compact: A New Approach to Regulating Corporate Social Power." *Global Social Policy* 3, 3: 299-318.

Wood, Stepan. 2003. "Green Revolution or Greenwash? Voluntary Environmental Standards, Public Law, and Private Authority in Canada." In *New Perspectives on the Public-Private Divide.* Edited by the Law Commission of Canada, 123-65. Vancouver and Toronto: UBC Press.

Legislation, Policy Documents, and Regulations

Balanced Budget Act, S.O. 1999, c. 7, Sch. B.

Canada. Privy Council Office. 2004. *Ethics, Responsibility, Accountability: An Action Plan for Democratic Reform.* 4 February. Ottawa: Government of Canada.

Canadian Securities Administrators. 2004a. "National Instrument 51-102 – Continuous Disclosure Obligations." *Ontario Securities Commission Bulletin* 27: 3439-554.

–. 2004b. "Notice of Request for Comments: Proposed National Instrument 81-106 and Companion Policy 81-106CP Investment Fund Continuous Disclosure and Proposed OSC Rule 81-801 and Companion Policy 81-801CP Implementing National Instrument 81-106 Investment Fund Continuous Disclosure." *Ontario Securities Commission Bulletin* 27 (28 May): 5157-234.

–. 2004c. "Notice of Request for Comments: Proposed National Instrument 81-107 Independent Review Committee for Mutual Funds." *Ontario Securities Commission Bulletin* 27 (9 January): 465-549.

Fiscal Transparency and Accountability Act (Bill 83), Ontario.

New Zealand Treasury. 2003. *The New Zealand Fiscal Management Approach: An Explanation of Recent Changes*. January.

Ontario. Ministry of Finance. 2004. "Budget Paper E, A More Transparent and Accountable Budget." In *Ontario Budget 2004.* May. Toronto: Queen's Printer.

Taxpayer Protection Act, S.O. 1999.

Case

Re Eurig Estate (1998), 165 D.L.R. (4th) 1 (SCC).

Contributors

Kim Barry (1969-2004) was the Furman Fellow at New York University School of Law. Her research interests included citizenship and immigration, human rights and refugee law, conflict of law, and family law.

Mary G. Condon is an Associate Professor in the Osgoode Hall Law School at York University. Her research interests include the regulation of securities markets, mutual funds, and pensions, and she has published books and articles in these areas.

Michel Coutu is an Associate Professor in the School of Industrial Relations at the Université de Montréal, where he teaches labour and employment law. He is also a researcher at the Inter-University Research Centre on Globalization and Work (CRIMT).

Richard Devlin is Professor of Law and University Research Professor at Dalhousie University. He is co-editor of *Critical Disability Theory: Essays in Philosophy, Politics, Policy, and Law* and has published more than fifty articles in various Canadian, American, and British journals.

Siobhan Harty is an Assistant Director in social policy at Human Resources and Social Development Canada. She has published in the areas of nationalism, citizenship, and liberal theory.

Jane Jenson is a Canada Research Chair in Citizenship and Governance at the Université de Montréal where she is a professor of Political Science. She was elected a Fellow of the Royal Society of Canada in 1989 and named a Fellow of the Trudeau Foundation in 2005.

Audrey Macklin is an Associate Professor in the Faculty of Law at the University of Toronto. Her teaching and research focus on legal issues relating to migration, citizenship, gender, and culture. She has published widely on these topics, and is currently co-authoring a book on the regulation of transnational enterprises in conflict zones.

Michael Murphy is the Canada Research Chair in Comparative Indigenous-State Relations at the University of Northern British Columbia. His research interests include indigenous rights and governance, nationalism and democratization, citizenship theory, legal norms, and constitutionalism.

Lisa Philipps is an Associate Professor at Osgoode Hall Law School of York University. Her research examines tax law and fiscal policy through the lenses of legal and social theory. Her published work covers topics such as balanced budget laws, tax referendum laws, the gender impact of tax cuts, the tax treatment of unpaid caregiving work, charitable tax incentives, wealth taxation, the taxation of child support, judicial interpretation of tax statutes, and the tax treatment of disability.

Dianne Pothier is Professor of Law at Dalhousie University. She has taught, written, and been involved in litigation respecting equality and disability issues. She is co-editor of *Critical Disability Theory: Essays in Philosophy, Politics, Policy, and Law.*

This page intentionally left blank

Index

Aboriginal and Torres Strait Islanders Commission (ATSIC), 93, 112n9
Aboriginal peoples: and the franchise, 13, 113n23, 168n59; and liberal nationalism, 92; Maori, 104, 114n34; and multinational citizenship, 94, 96; and Quebec, 106, 115n48; in Saskatchewan, 102; and self-determination, 48, 93, 98-99, 103, 107-8, 112n5
al Qaeda, 22, 25, 26, 27, 29, 31, 32, 36, 46
An Act Respecting Citizenship, 50n24
Anti-terrorism Act, 31, 47
Arar, Maher, 36-37, 39, 40, 46, 48
Arthurs, Harry, 135-36
assistance publique. See social assistance
ATSIC. *See* Aboriginal and Torres Strait Islanders Commission (ATSIC)
Auton v. British Columbia (Attorney General), 159-63, 170n111, 170n113

Basque Country, 101, 108, 109, 111, 112n10, 114n28
Belgium, 91, 104
Belmarsh case, 47
Bendix, Reinhard, 5
Beneria, Lourdes, 180, 189
Bill C-18, 50n24
bin Laden, Osama, 10, 22, 25, 26, 32
Black, Conrad, 30-31, 45, 46
Blackburn, Robin, 184, 189
Bliss v. Attorney General of Canada, 162
Bodin, Jean, 4-5
Bosniak, Linda, 22-23, 24, 76n13
Breuer, Stefan, 134
Brown, David, 200, 201
Brown v. Board of Education, 139n71
budgets, 16, 17, 125, 156, 170n99, 188, 190-93, 194, 195

Cairns, Alan, 4, 145
Canadian Association of the Deaf, 152
Canadian Charter of Rights and Freedoms: and Abdurahman Khadr, 46, 48; and Aboriginal rights, 99; and disability, 14-15, 144, 153, 155, 157, 159, 160, 161, 162, 170n99; and Omar Khadr, 39, 40-41, 42, 43, 48, 52n70; and Quebec, 106, 137n27
Canadian Passport Order, 43, 44, 45-46, 52n71
Canadian Securities Administrators (CSA), 200, 201-2
Canadian Taxpayers Federation (CTF), 191-92
citizens: "bad," 24, 28, 30, 31, 33, 34, 35-36; competent abled, 14-15, 146, 152; guaranteed income, 172n151; market, 16, 34, 179-80, 185; and responsibilities, 5-6, 7, 8, 152; and rights, 4, 5, 6-8, 13, 26, 47, 48, 58-59, 152, 177, 185; second-class, 14, 24, 28, 55-56, 144, 153
citizenship: and borders, 3-4, 7, 9, 10-11, 12-13, 18n8, 60, 67, 73, 91; and boundaries, 3, 4, 7, 9, 13, 15, 17, 22-23, 48, 146, 177; civil, 33, 35; corporate, 185-87; definition of, 4-9, 49n2, 57-58, 76n13, 94, 119-20, 122-24, 137n13, 145-46, 165; development of, 5-6, 123, 144, 164, 181; and disability, 14-15, 17, 20n40, 144, 145, 146, 153, 154; economic, 16, 176-77, 178-81, 182, 185-87, 188-89, 190-91, 194, 196, 197-98, 202-3; and exclusion, 5, 13-14, 24, 48, 56, 58-60, 146, 158, 177, 182, 203; external, 60-63, 73; and health care, 34-35, 50n36; industrial, 135-36; legal, 22-23, 24-25, 28, 29-30, 31-32, 35-36, 42, 47-48,

49n18, 57-59, 66-69; multinational, 12, 92-93, 94-96, 97-99, 101-2, 103, 107-9, 110-11, 115n43; and neo-liberalism, 178-80, 182, 183, 185, 187; political, 121, 129, 132, 134, 135, 152, 178, 183, 187, 189, 191; postnational, 22, 24, 49, 91, 95, 112n1, 158, 179; regimes, 7, 8-9, 10, 11, 12-16, 17, 19nn27-28; as shared fate, 100; study of, 23-24, 56-57, 73, 76n11, 82n78, 123, 136n11, 144-45, 146, 158, 177-78; substantive, 22, 23, 24-25, 28, 29, 33, 48, 49n18. *See also* social citizenship
class, 120, 129-30, 176, 179, 181, 185, 188, 189, 198
clientelism, 125, 126, 127, 128
communication, 56, 60-61, 63, 75nn6-7, 78n31
consociationalism, 98, 103-4, 114n31
constitutions: and disability, 155, 157, 159, 160, 161; and law, 124, 135; and multinational citizenship, 93-94, 99, 100, 102, 103-7, 108-9, 110-11, 114n34, 115n41; and the state, 121. *See also* *Canadian Charter of Rights and Freedoms*
consular assistance. *See* state, the, and consular assistance
corporate social responsibility (CSR), 185-87
corporations, 179, 180, 183, 184, 185-87, 189, 196, 197, 199, 201
Crown prerogative, 44, 45, 46-47, 48
CSA. *See* Canadian Securities Administrators (CSA)
CSR. *See* corporate social responsibility (CSR)
CTF. *See* Canadian Taxpayers Federation (CTF)

deaf, the, 15, 152-53, 155, 157, 169n68
democracy, 4, 91; and budgets, 190, 192-93, 195; and citizenship, 5, 9, 123-24, 138n51, 145; and economic citizenship, 16, 17; and multinational citizenship, 12, 95-96, 97, 110; and social policy, 178; and welfare state, 119, 126, 127-28, 129, 133, 135
Department of Foreign Affairs and International Trade Act, 39-40
depoliticization, 121, 127, 129, 131, 132, 134, 138n51
devolution, 91, 103, 104
Dicey, A.V., 45
disabled, the. *See* persons with disabilities
dis-citizenship, 144, 146, 151, 153, 157, 158, 159, 160, 162, 163-65, 172n158
Dominican Republic, 71, 72, 77n28, 78n34, 85n99, 86nn116-17
dual nationality: acceptance of, 11, 63, 67, 82n78, 83nn80-81, 83n89, 84n96; and the franchise, 70, 71-72; and Mexico, 67-69, 71-72, 83n89, 84nn92-93; and multinational citizenship, 99

economic liberty, 176, 181-82
economic security, 176, 181, 182-85
Eldridge v. British Columbia (Attorney General), 153, 162, 167n29
11 September 2001, 3, 10, 25, 26, 36, 43, 47, 50n24
Elsamnah, Maha. *See* Khadr, Maha Elsamnah
emigrants: and borders, 12, 60; and home country, 11, 12, 55, 57, 58, 59-61, 63, 72, 75n3; legal anomalies, 57; and political participation, 55, 56, 63, 67-68, 69-72, 85nn98-99, 85nn105-6, 85n108, 86n110, 86n114; and remittances, 61-62, 63, 64-66, 79n48
equality: and citizenship, 4-5, 17, 33, 97, 103, 124, 138n51, 166n11, 182; claims for, 14, 183-84; and disability, 144, 146, 153, 155, 157, 158, 159, 160, 161-63, 164; and Khadr family, 30; and liberal neutrality, 91-92; and markets, 176, 178, 182; and welfare state, 120, 121, 123, 126-27, 128-29, 133, 135; and women, 15-16, 187-88
Eritrea, 65-66, 81n68, 82n69
Estonia and Latvia, 109
European Union, 30, 69, 74n1, 85n100, 95
evenhandedness, 171n150

Federal Elections Institute (IFE), 71, 85n108, 86n109
Federal Task Force on Disability Issues, 156, 157
federalism, 91, 103, 110, 115n41, 167n33
First Nations Governance Initiative, 102
fiscal policy. *See* tax and fiscal policy
Fiscal Transparency and Accountability Act (FTAA), 193-94, 195-96
Ford v. Quebec (Attorney General), 109, 115n46
Four Motors of Europe, 95, 113n12
franchise, the: and Aboriginal peoples, 13, 113n23, 168n59; and disability, 151; and emigrants, 11, 19n31, 56, 68, 69, 70-72, 85n98, 85nn105-6, 85n108, 86n116; and republican citizenship, 5; as a right, 23, 154, 177; and women, 13, 168n59

French Revolution, 5-6, 122
FTAA. *See Fiscal Transparency and Accountability Act* (FTAA)

gender: and budgets, 188, 190, 195; and economic citizenship, 176, 177, 179, 188, 190; and labour, 181, 183; and mutual funds, 197-98, 199; and neoliberalism, 20n42; and RRSPs, 185; and T.H. Marshall, 15-16, 167n26, 182; and welfare state, 14, 124
Granovsky v. Canada (Minister of Employment and Immigration), 160
Greschner, Donna, 159-60

Habermas, Jürgen, 126, 127, 131, 133, 139nn66-67, 140n75, 163, 164
Harris, John, 7
Hassenteufel, Patrick, 137n13, 137n25
Heraclides, Alex, 112n10
Hindess, Barry, 178, 182
Hobhouse, L.T., 6
House of Commons Standing Committee on Finance, 192, 193
human rights: and Abdurahman Khadr, 44, 77n18; and citizenship, 3, 136, 158, 159; and disability, 15, 146, 147, 158-63, 168n49; and National Instrument 51-102, 187; and Omar Khadr, 37-38, 42; and the state, 59, 77n19, 77n24, 133, 134, 179

IFE. *See* Federal Elections Institute (IFE)
IFIC. *See* Investment Funds Institute of Canada (IFIC)
In Unison: A Canadian Approach to Disability Issues, 15, 146-47, 151, 152, 153, 156, 157, 158, 162, 167n33
independent review committees (IRCs), 200-1, 203n2
India, 64, 66, 69, 71, 78n40, 79n44, 82nn71-72, 82n74, 97
International Covenant on Civil and Political Rights, 44-45
investment funds. *See* mutual funds
Investment Funds Institute of Canada (IFIC), 198, 202
IRCs. *See* independent review committees (IRCs)
Isin, Engin, 146

Jessop, Bob, 139n66
jus sanguinis, 10, 23, 29, 32, 49n7, 67, 77n22
jus soli, 10, 23, 29, 67, 77n22

Kabeer, Naila, 145, 154, 164
Kazemi, Zahra, 48, 52n89
Keating, Michael, 97, 112n10
Kessler-Harris, Alice, 181
Khadr, Abdullah, 36
Khadr, Abdurahman, 25-26, 32, 36, 43-48
Khadr, Ahmed Said, 25, 26, 30, 32
Khadr, Karim, 25, 26, 27-28, 29, 32-33, 34
Khadr, Maha Elsamnah, 25, 26, 27-28, 29, 30, 32-33, 34
Khadr, Omar, 25, 30, 36, 37-43, 48, 51nn47-48, 51n51
Khadr, Zaynab, 26, 32
Kircheimer, Otto, 119
Kymlicka, Will, 3, 12, 19n34

labour, 6-7, 121, 130-32, 134, 148-49, 179-80, 181, 183, 184, 197. *See also* unemployment
Lahey, William, 161
Latvia and Estonia, 109
Law Society of Upper Canada, 155, 156, 169n88
Lewis, Stephen, 159-60
liberal nationalism, 92, 95-96
Lindh, John Walker, 30
Lister, Ruth, 18n6, 20n43, 154, 185
Lovaas, 170n113

Maori, 104, 114n34
Marshall, T.H., 3, 15, 123, 128, 146, 167n27; citizenship, definition, 6, 17, 33, 124, 166n11; and class, 129-30, 163; critique of, 50n30, 167n26, 182-83; and Dominique Schnapper, 121, 126; and rights, 50n29, 147, 153-54, 166n11, 169n73; and social citizenship, 23-24, 33, 121, 134, 177-78, 181, 182, 202; and the state, 6-7, 183
Martin, Paul (prime minister), 27, 35
Martin, Paul, Sr., 8, 165
Mexico, 74n1, 77n28, 83n82; and dual nationality, 11, 56, 67-69, 83n84, 83nn88-89, 84nn91-94; and the franchise, 19n33, 56, 68, 69, 70, 71-72, 85n99, 85n108, 86nn109-10; and neoliberalism, 67; and remittances, 55, 72, 74n2, 75n8, 78n39, 79nn47-48, 81n59
Millar, John, 8
multinational states, 12-13, 19n34, 91-92, 94-95, 96-98, 99-100
Mutual Fund Dealers Association (MFDA), 199
mutual funds, 16-17, 176-77, 178, 180, 185, 189, 190, 196-203, 203nn1-2

National Instrument 51-102 (NI 51-102), 186-87
national security, 43-44, 45, 46-47
neo-liberalism, 20n42; and budgets, 191; characteristics, 178, 185; criticism of, 182; and economic citizenship, 16-17; and "flexible" labour, 181, 197; and law, 180, 186; and inevitability, 187; in Mexico, 67; and rights, 4, 6; and social citizenship, 34, 123, 178-79; and the state, 125-26, 127, 179, 183, 189, 191
NI 51-102. *See* National Instrument 51-102 (NI 51-102)
Nisga'a Final Agreement, 107-8
Norman, Wayne, 3
Nova Scotia Barristers' Society, 15, 149-51, 168n50, 168n52, 168n55, 168n57

Parizeau, Jacques, 101, 114n27
participation, 23; caregiving as, 181-82; and economic citizenship, 16; in economic decision making, 176, 181, 187-90, 191, 193, 198-99, 202, 203; and Khadr family, 29; in labour markets, 130-32, 148-49, 181, 183, 184; as obligation, 5; political, of emigrants, 55, 56, 63, 67-68, 69-72, 85nn98-99, 85nn105-6, 85n108, 86n110, 86n114; and rights, 123-24, 163, 181; and social citizenship, 33, 177; in state governance, 57-58, 59-60, 69, 99-100, 145. *See also* franchise, the
passports, 7, 8, 9, 19n29, 26, 27, 36, 43-44, 45-47, 48, 177
pensions, 7, 33, 154, 181, 183, 184-85, 186, 189, 197, 198, 199
persons with disabilities: and citizenship, 14-15, 17, 20n40, 144, 145, 146-47, 157, 160, 164, 166n5; and collective action, 164-65; deaf, the, 15, 152-53, 155, 157, 169n68; and differential needs, 144, 149, 151, 152-53, 157, 158, 161-63, 164, 168n48; and the franchise, 151-52, 168n61; and justice, 163; and Law Society of Upper Canada, 155, 156, 169n88; and prisons, 147-48. *See also* Simser, Scott
Philippines, 69, 71, 79n44, 79n47, 81n66, 85nn105-6
plural nationality. *See* dual nationality
Poor Laws, 18n22, 124, 137n23
Porter, John, 6
proxy voting policies, 200, 201
"prudent person" rule, 184

Quebec, 121, 137n26; and Dominique Schnapper, 14, 120, 132-33; and *In Unison,* 167n33; and industrial citizenship, 136; and multinational citizenship, 99, 101, 102, 103-4, 105-7, 108, 109-10, 114n27, 115n40, 115n48; and welfare state, 133
Quebec Charter of Human Rights and Freedoms, 99, 137nn26-27
Quebec Secession Reference, 110, 115n48

***R.** v. Cook,* 41-42
Reference re Secession of Quebec, 110, 115n48
remittances: amounts of, 79n48, 80n49, 80n52, 85n99; and emigrant states, 11, 55, 61-62, 64-65, 70, 78n39, 79nn44-45, 79n47, 80n50, 80n53; fees for, 56, 65, 75n8; literature on, 74n2; and migration loans, 63, 81n59
Resurgent India Bonds, 66, 82n76
rights: citizenship, 59, 145, 146, 147, 154, 158, 166n11, 177, 179, 181; civil, 5, 6, 15, 33-34, 123, 147-49, 151, 154, 163, 181; to consular assistance, 59; and disability, 15, 144, 146, 148, 154, 163-65; economic, 176, 181; of entry, 35, 36, 47-48, 58; exclusion from, 13; John Millar on, 8; and multinational citizenship, 94, 99-100, 109; and neo-liberalism, 6, 16, 34, 182, 185; political, 151-53, 154, 163, 181; social, 6-7, 124, 134-35, 153-58, 163, 178, 181, 182-83; and social citizenship, 120, 124-25, 131, 137n25; and the state, 23, 59-60, 70-71, 128; and T.H. Marshall, 6-7, 50n29, 124, 147, 153-54, 166n11, 169n73; and women, 13, 181. *See also* human rights
risk, 7, 125, 165, 169n73, 184, 185, 186, 197, 201, 203
Roberts, Julian, 147-48
RRSPs, 185, 197-98

Schnapper, Dominique, 13-14, 119-21, 126-28, 129, 130, 131-33, 134-35, 136n3-4
secession, 94, 95, 97, 101, 104, 110, 112n10
self-determination, 146; Aboriginal, 93, 96, 98-99, 112n5; and constitutions, 104, 105-6, 108, 110-11; and democracy, 91, 96; as liberal value, 92; and Quebec, 110; and the state, 94-95; and territory, 96-97, 103
sign language interpretation, 151, 152, 153, 155, 156, 169n68, 169n85
Siltanen, Janet, 183
Simser, Scott, 155-58, 170n99

social assistance, 7, 18n22, 33, 34, 124, 126, 127, 130, 132, 137n23, 137n26
social citizenship: critique of, 181, 182; definition of, 120, 124-25, 137n25; and disability, 147, 164; French, 7; and “investing in children,” 16, 20n42; and the market, 183; and neo-liberalism, 33-34, 123, 178-79; and T.H. Marshall, 33, 121, 124-25, 177-78, 181, 182, 202; and welfare state, 13-14, 119, 126, 129-30, 131-32, 134-35, 182
socially responsible investing (SRI), 198, 199, 201
SOG. *See* Special Opportunities Grant (SOG)
South Korea, 65, 81n65-66
Soysal, Yasemin, 158, 159
Spain, 91, 92, 93, 101, 104, 105, 107, 108, 109, 110-11, 115n41
Sparkes, Russell, 198, 199
Special Opportunities Grant (SOG), 155, 156-57, 169n83, 169n85, 170n99
SRI. *See* socially responsible investing (SRI)
Standing Committee on Finance, 192, 193
state, the: and citizenship, 24, 56, 66-67, 73, 77n16, 132, 144, 145, 154, 158, 191; consular assistance, 38-40, 42-43, 48, 58-59, 77n20; decline of, 179, 183; and disability, 147, 148, 151, 159-63, 164-65, 170n91; and economic governance, 189-90, 192; and emigrants, 11, 12, 19n30, 55, 57, 59-61, 63-66, 69-72, 74n1, 76n10; and multinational citizenship, 12, 91-92, 94, 97-100, 111, 112n2; and neo-liberalism, 16, 176, 178, 179, 180, 182, 189, 197; and remittances, 61-62, 63, 64-66, 70; and rights, 153-58, 183, 184; and social citizenship, 178, 182-83. *See also* welfare state
statelessness, 3, 32, 49, 77n23, 91, 95

Taliban, 22, 29, 30
tax and fiscal policy, 16-17, 176-77, 178, 180, 188, 190-96, 202
terrorism, ix, 31, 32, 37, 43, 47, 112n10
Tilly, Charles, 11
transparency, 180, 186-87, 189, 194-96, 198, 202, 203
transportation, 56, 60-61, 63, 75n6-7, 78n31
Turkey, 69, 70, 71, 75n6, 79n47
Turner, Bryan S., 177

unemployment, 119, 120, 125, 126, 127, 131-32. *See also* labour

Varon Levy, Eddie, 55, 72, 86n114
Verdun-Jones, Simon, 147-48
Vienna Convention on Consular Relations, 38, 40
Vriend v. Alberta, 162

Weber, Max: and disenchantment, 131, 133; and Dominique Schnapper, 126, 130, 133; and ideal type, 120; and Jürgen Habermas, 139n67; on law, 121, 134, 135, 136n9, 139n71; and the state, 61, 123; and theodicy, 129
Weimar Republic, 119, 129
welfare state: Beveridgean model, 121, 129, 135; crisis of, 14, 17, 119, 120-21, 125-28, 129, 130-32, 135, 137n28; decline of, 125, 179; development of, 128-29, 132, 135; and law, 121-22, 130, 131, 132-33, 134-35; and rights, 123, 125, 154; and social citizenship, 33-34, 131, 132, 135, 182; terminology, 136n3
Wilton, Robert, 149

Young, I.M., 112n5