

## Index

- accountability, 101, 108–9, 192, 200  
 Aeschines, 87, 88, 108, 139, 221, 224, 227  
 Aeschylus, 90, 222  
 Afghanistan, 1, 170, 175, 243  
 Alcibiades, 87–88, 89, 94, 98, 103, 135  
 Alexander, Michelle, 57, 190, 192  
 Allen, Danielle, 108, 218, 224  
 American law  
   African-Americans and, 6, 30, 32, 39, 57, 110, 153, 164, 190–95  
   big data and, 190  
   criminal justice and, 6, 56, 153, 190–92, 195  
   eminent domain in, 14  
   franchise and, 42–47, 140, 164, 191, 195  
   judicial review and, 4, 121, 157, 160  
   Latinos and, 190, 191, 246  
   military contractors and, 190  
   police accountability and, 1, 6, 55–56, 153, 173, 190–92  
   prison populations and, 54, 190–95  
 anarchy, 9, 56, 57, 90, 146, 150–51, 154  
 Anderson, Elizabeth, 34  
 Andocides, 80, 81, 87–88, 135, 221  
 antebellum South, 52  
 Anti-Terrorism, Crime and Security Act 2001, 128  
 Arab Spring, 190, 245  
 arbitrary violence, 24, 193  
 Aristotle, 82, 89–90, 198, 216, 218, 223, 224  
 Athenian law  
   amnesty in, 78, 81, 95–109, 145  
   *boule*, 79–82  
   *dikasteria*, 79  
   *eisangelia*, 83  
   *ekklesia*, 91–92, 223, 249  
   *euthynai*, 83, 99, 226  
   *graphe*, 79, 81–84, 88–94, 219  
   *graphe paranomon*, 79, 82–83, 88–94  
   *hetaireiai*, 98, 105  
   *hybris*, 102, 108  
   *isegoria*, 86, 222  
   *isonomia*, 84, 85, 90, 93, 101  
   mass juries in, 60, 67, 86, 97, 106, 107, 118, 155  
   *nomothetai*, 79  
   *psephismata*, 79  
   *syngrapheis*, 98  
 at-will imprisonment. *See* imprisonment without trial  
 audience costs, 61–62, 211  
 autonomy, 12, 20, 43, 68, 69, 73–75, 141, 183, 201, 209, 214, 216  
  
 Baltimore, Maryland, 153–54, 192–93, 246  
 bills of attainder, 13, 14, 25, 31, 121, 122, 203  
 Black Panthers, 152  
 Bracton treatise, 129, 233, 234, 251  
 bribery, 1, 105, 161–63, 165, 229, 239, 241  
 British law  
   absence of judicial review in, 120  
   Crown and, 132, 137, 146, 148 (*see also specific monarchs*)  
   Five Knights Case in, 130, 134, 140, 235  
   House of Commons in, 121, 136  
   House of Lords in, 121, 126  
   judicial review, 155  
   parliamentary sovereignty in, 120, 125  
   royal veto in, 121  
   status of villeins in, 128, 129, 134, 136, 137, 138, 233, 234, 235, 236  
*Brown v. Board of Education*, 110  
 Brown, Michael, 192  
  
 Caligula, 18, 27, 64, 67, 69  
 capitalism, 3, 4, 169, 197  
 Carawan, Edwin, 82, 217, 223, 225, 226  
 Carothers, Thomas, 171, 197, 242, 243  
 Charles I, 125, 126, 130, 134, 140

- Chile, 124, 197  
 citizens, 202, 211, 214, 220, 229, 236, 237, 238  
 civic trust, 102, 103, 104, 108, 243  
 civil disputes, 49, 175  
 civil rights, 56, 152, 153, 192, 208  
 civil war (UK), 129  
 classical Athens, 4, 5, 10, 23–24, 54, 78–120, 122, 128,  
 134, 140, 144, 146–47, 149, 155, 160, 161, 201, 217,  
 219, 220, 221, 222, 224, 226, 227, 228, 235  
 Coke, Sir Edward, 130–41  
 commitment to rule of law, 4–6, 10, 52, 69, 74–76,  
 97, 100, 102, 106–9, 112–13, 118, 144–47, 149–60,  
 163–67, 168–71, 173–78, 189, 194, 203, 218, 226,  
 227, 228, 229, 231, 239  
 computational modeling, 162  
 Condorcet jury theorem, 43  
*Constitution of the Athenians*, 81, 89  
 Constitution (US)  
   Equal Protection Clause in, 28  
   freedom of speech in, 63  
   Privileges and Immunities Clause in, 28  
 constitutionalism, 91–92  
 constructivism, 37  
 control of violence, 1, 9, 10, 12, 20, 21, 24, 25, 41,  
 53–75, 99, 100, 123, 129, 153, 172, 174, 176–81,  
 192, 193, 195, 198, 201, 211, 214, 215, 217, 243,  
 245, 248  
 corruption, 61, 177, 182, 212, 244  
 courts  
   as authoritative steward, 111  
   as signaling mechanism, 60, 76, 102, 105–19,  
   125–27, 150–58, 172–73, 191, 226, 229, 230, 243  
   as source of power, 16, 56, 62, 78–79, 82–88, 95,  
   98–101, 107, 126–34, 140–42, 173–80, 192–93,  
   203, 217, 219, 226, 230, 232, 233, 234, 235, 236,  
   247, 248  
 Crawford, John, 192  
 Cresheld, Richard, 136  
 crime  
   explanation for arrest and, 14, 30, 54, 102, 109, 128  
   of hubris, 79, 82  
   of status, 46, 49, 55, 192  
   punishment and, 22, 81, 99, 100, 125  
   rates, 2, 176, 178–80  
   state malfeasance and, 100–10, 127, 194  
   status in, 194  
 Davidson, Donald, 36, 37, 206  
 Demosthenes, 87, 88, 217, 218, 219, 220, 221, 224, 227  
 Diallo, Amadou, 192  
 Dicey, Albert Venn, 91, 92, 124, 125, 155, 203,  
 222, 231  
 dictatorship, 64, 148, 149, 150  
 Digges, Sir John, 138  
 disability  
   constraint of, 62, 80  
   vertical equality and, 30, 32, 45  
 discrimination, 29, 40, 172, 182, 183, 190, 204, 246  
 disenfranchisement, 11, 42–47, 93, 98, 106–10, 117,  
 118, 124, 135, 137–38, 140, 164, 191, 195, 208,  
 231, 235  
 distribution of wealth, 149  
 diversity of population, 84, 124, 150, 160, 161  
 domination. *See* neorepublicanism  
 drone (unmanned aerial vehicle), 128, 190  
 due process, 130, 234, 236  
 Duvalier, François, 1, 12  
 Dworkin, Ronald, 2, 15, 26, 73, 197, 199, 202, 215, 216  
 Eliot, Sir John, 139, 235, 236  
 equality  
   “equality thesis” in, 58, 71, 74, 134  
   Greek translation of, 85  
   rights and, 84, 113, 178, 222  
 equality thesis. *See* legal systems, equality and  
 Euripides, 90, 222  
 European Convention on Human Rights, 127, 128  
 Euryptolemus, 93, 111  
 extrajudicial actions  
   assassination and, 98, 149, 189, 217  
   detention and, 128, 149, 203, 230  
   evidence and, 101, 103  
*Federalist* No. 57 (James Madison), 212  
 felon disenfranchisement, 195  
 Ferguson, Missouri, 153, 192–93, 247  
 force, monopoly of, 9, 51–57, 72, 123, 206  
 Ford, Ezell, 192  
 Four Hundred, 95–111  
 France, Anatole, 45  
 France, Ancien Régime, 26  
 Freedom House, 183, 212  
 freemen (*see also liber homo*), 131–36, 236, 237  
 Fuller, Lon, 1, 27, 74–77, 203, 207, 208, 216  
 game theory  
   common knowledge in, 113, 115  
   conditions in, 113, 115, 116, 117, 118  
   costs in, 41, 48, 61–63, 110–17, 145, 149, 157, 174,  
   208, 211, 229, 230  
   model of analysis, 17, 58, 59, 60, 97, 101, 107, 109,  
   111, 113, 114, 161, 197, 232  
 Garner, Eric, 192  
 generality development, 26–56, 73, 75, 84, 112, 132,  
 144, 147, 148, 150, 151, 158, 161, 168, 175, 181–83,  
 189, 191, 203, 204, 205, 207, 208, 209, 242  
 Germany, 214  
 globalization, 169

- Grant, Oscar, 192  
 gross domestic product (GDP), 183  
 Gurley, Akai, 192  
 Guttman scale, 181
- habeas corpus, 26, 134  
 Habermas, Jürgen, 75, 203, 216  
 Hadfield, Gillian, 111, 114, 227, 229, 238  
 Haiti, 1, 12  
 Hansen, Mogens, 85, 86, 93, 216, 217, 219, 220, 221, 222, 223  
 Hart, H.L.A., 29, 64, 153, 199, 201, 203, 204, 231, 235, 239  
 Hayek, Friedrich, 1, 4, 29, 31, 62, 70, 73, 203, 204, 207, 212, 214, 215, 216, 218, 220  
 Herms/Mysteries, 94, 96, 98, 103, 104  
 Herodotus, 90, 216, 222  
 Hobbes, Thomas, 10, 21, 53, 55, 56, 57, 80, 123, 146, 151, 154, 206, 209, 215, 228  
 homelessness, 46, 57  
 Howard, Willie James, 54  
 hubris, 8, 12, 18–19, 20, 22–24, 28, 50, 53, 57, 75, 79, 82, 84–91, 95, 101, 108, 130, 135, 140, 146, 194, 201  
 Human Rights Act 1998 (UK), 127
- illegal prosecution, 81, 83  
 imprisonment  
   immunity from, 137  
   as punishment, 20, 59, 88, 136, 192, 235, 236, 246  
   without trial, 127, 128, 130, 134, 136, 138, 140, 149  
 incentives argument, 58, 62, 63, 71, 81, 123, 124, 129, 143, 149, 151, 162, 213  
 India, 172  
 Internal Revenue Code, 67  
 international law, 2, 59, 170, 176–79, 222, 243  
 Islamic law, 62, 243  
 Islamic states, 40, 171  
 Isocrates, 87  
 item response theory (IRT), 180
- Jackson, Mississippi, 56  
 Jackson, Robert (US Supreme Court Justice), 63  
 James I, 125–26, 140  
 Jim Crow, 42, 45, 51–57, 146, 154, 205  
 judicial power  
   agency relationship and, 12, 20, 67, 76, 159  
   impartiality and, 1, 13, 29, 104, 135, 222  
   independence and, 14, 16, 17, 26, 50, 92, 120, 121, 122, 126, 143–46, 155, 158, 178, 180, 238, 239  
 judicial review, 4, 79, 120, 121, 126, 157, 158, 160
- Kant, Immanuel, 48, 68, 203, 206  
 KGB, 1, 13, 21
- King, Martin Luther, Jr., 152, 154  
 King, Rodney, 153, 192  
 Kleinfeld, Rachel, 171, 175, 242  
 Krygier, Martin, 169, 241, 260  
 Ku Klux Klan, 43, 54, 55, 57
- Lanni, Adriaan, 82, 100, 102, 109, 160  
 Latin America, 169  
 legal status  
   hereditary, 84, 148  
   subordinate classes and, 4–5, 8, 10, 18, 19, 20, 23, 24, 33–34, 38, 39, 46, 49, 53–55, 56–57, 65, 71, 75, 76, 82, 84, 85, 86, 87, 88, 90, 94, 95, 114, 115, 117, 145, 151, 152, 154, 162, 163, 199, 201, 203, 209, 216, 221, 234, 235, 236, 237, 240  
 legal systems  
   castes and, 1, 2, 7, 16, 39, 40, 54, 62, 78, 80, 82, 90, 95, 101–6, 112, 124, 126, 133, 136, 146, 153–68, 172–73, 190, 192, 207, 213, 227, 238, 239, 240, 241, 244  
   constraint and, 18, 40, 55, 62, 67, 95, 125, 127, 138, 144, 155, 199, 232  
   equality and, 4, 5–12, 18, 19, 22, 23, 24, 28, 29, 30, 33, 34, 38, 40, 42, 45, 48, 50, 51, 54, 58, 71, 74, 75, 78, 85–95, 101, 119, 132–35, 139–42, 144–61, 167, 168, 172, 180, 181, 189, 198, 201, 203, 204, 216, 219, 220, 221, 222  
   stability and, 1, 4, 6, 17, 25, 31, 64, 69, 71, 76, 92–93, 98, 101, 109–12, 119, 144–60, 161, 164, 165, 167, 172, 194, 197, 213, 221, 222, 230  
 letter from Birmingham jail (Martin Luther King Jr.), 154  
 Levellers, 50, 154, 209, 236  
*Leviathan*. See Hobbes, Thomas  
*liber homo*. See Magna Carta  
 liberal-democratic states, 22, 73, 101, 151, 160  
 liberty  
   autonomy and, 12, 20, 43, 67, 68–70, 74, 141, 150–56, 159, 183  
   individual, 3, 4, 30, 58, 62–77, 129, 130, 131–37, 139, 140, 145, 146, 168, 212, 213, 233, 234, 235, 236, 237  
   nondomination and. See neorepublicanism  
   planning and, 70, 74  
   thesis of, 73  
 literacy tests, 42–47  
 Locke, John, 29, 209  
 Long Parliament (UK), 122, 129, 233  
 Louima, Abner, 192  
 lynch mobs, 54, 56  
 Lysias, 104, 216, 218
- Machiavelli, Niccolò, 59, 211  
 Magna Carta, 121, 129–46, 234, 235, 252

- Malcolm X, 152, 153  
 mass adjudication, 173  
 Massachusetts Bay Colony, 140  
 Mill, John Stuart, 43  
 Milsom, S.F.C., 132–33, 234  
 Mokken scale, 181  
 More, Sir Thomas, 102, 103
- NAACP, 190, 246  
 Napoleonic Code, 104  
 Nazis, 27, 53, 210, 214  
 neorepublicanism, 70, 71, 130  
 nondemocratic states, 22, 61, 73, 76, 151, 158  
 North, Douglass C., 67  
 New York Police Department, 193, 246, 247
- Ober, Josiah, 80, 85, 107, 216, 217, 218, 220, 226, 227  
 Occupy movement, 169  
 oligarchy, 5, 23, 53–54, 78–113, 118, 135, 137, 149, 217, 225, 226, 227  
 open access states. *See* liberal-democratic states  
 open threats, 47, 57, 67, 71, 160, 199, 247  
 Ostwald, Martin, 85, 89, 91–92, 100, 216, 220, 222, 223, 224, 225, 226
- panchayats*, 172, 242  
 parliamentary debates of 1628, 134–41  
 Patriot Act, 149  
 Peisander, 98  
 Peloponnesian War, Persian alliances in, 99, 226  
 Pericles, 82, 89, 228  
 Petition of Right (UK), 129, 130, 134, 140  
 Pettit, Philip, 70, 71, 130, 200, 215, 246  
 Pinochet, Augusto, 69, 124, 169, 197, 215  
 Plato, 9, 27, 90, 216, 221, 222, 223, 226, 228  
 police  
   brutality (US), 1, 6, 55–57, 153–54, 173, 176, 190, 191, 192–95  
   justification for use of discretion in, 51  
   open threats and, 13, 71  
   racial disparities in arrests and (US), 190, 191, 192, 193, 194, 195  
 Postema, Gerald, 51, 209  
 poverty  
   criminalization of, 45–47  
   cycle of, 45–49, 57, 171, 191, 209, 246, 247  
 power  
   abuse of, 7, 9, 14, 26, 57, 65, 78–83, 135, 169, 193–95, 197  
   coercive, 4, 7–8, 12, 15–26, 28, 49–57, 68, 71–73, 82, 177–78, 198, 200, 204, 214  
   distribution of, 115, 124, 147, 155, 157, 162, 163, 164, 165, 167, 223  
   predictable use of, 1, 65, 68, 70, 167, 214, 218  
   sultanistic authoritarianism and, 65  
   Premchand, Munshi, 12  
   Prevention of Terrorism Act 2005 (UK), 128  
   prohibition against secret law, 16  
 property  
   distribution of goods and, 163, 165  
   expropriated, 99  
   personal, 2, 3, 4, 9, 13, 14, 20, 26, 41, 45, 47–49, 57, 61, 69–71, 74, 84, 99, 104, 115, 117, 121, 122, 129, 131, 132, 136, 172, 176, 177, 179–80, 183, 184, 197, 199, 201, 202, 206, 209, 211, 212, 214, 215, 217, 224, 234, 235, 236, 237, 242, 247  
   rights, 2, 3, 4, 26, 41, 47–49, 57, 61, 69, 129, 136, 176–77, 183, 184, 197, 202, 209, 211, 212, 214, 217, 236, 237  
 Pseudo-Xenophon, 23, 24, 81, 85, 90, 201, 216, 217, 220  
 public reason, 33, 35, 37–42, 43, 50, 73, 191, 204, 205, 207  
 punishment  
   credible threat and, 59  
   deterrence and, 59  
   retroactive, 14, 61, 121, 123, 124, 127, 216, 231, 248  
   sanction and, 15, 25, 61, 107–16, 124, 125, 141, 147, 148, 153, 156, 161, 162, 173, 190, 199, 208, 228, 229, 238, 243
- racism  
   de jure segregation and, 38  
   judicial animus and, 30  
   lynching and, 54, 55, 211  
   policing and, 190–95  
   racial profiling and, 191  
 radical localism, 168, 175, 195  
 Rawls, John, 4, 29, 34, 40, 47, 63, 203, 204, 205, 209, 213, 230  
 Raz, Joseph, 2, 9, 29, 74, 75, 198, 202, 203, 205, 208, 209, 214, 216  
 revolution, 65, 88, 99, 101, 103, 109–10, 148, 158, 176, 190, 230  
 Rice, Tamir, 192  
 right to be confronted by evidence, 16  
 right to free speech, 63, 178, 201  
 right to representation by counsel, 5, 16, 66  
 rioting, 109, 153, 191  
*Roe v. Wade*, 156  
 role of separation, 4, 12, 13, 20, 61, 123, 128, 155, 200, 202  
 Rousseau, Jean-Jacques, 29, 73–74, 203, 206, 215, 230  
 rule of law  
   electoral process and, 183–84  
   GDP and, 183  
   good faith and, 7, 12, 15, 20, 199  
   indicators instruments and, 177–78

- as multidimensional concept, 5, 112, 114, 176–84  
 personal autonomy and, 12, 20, 43, 66–77, 141, 159, 183  
 political pluralism and, 43, 63, 92, 183, 242  
 property rights and, 57  
 publicity and, 7, 11–22, 26, 28, 63, 67–68, 82, 83, 84, 102, 118, 121, 122, 127, 133, 146, 147, 157, 181, 199, 200, 201, 202, 219  
 reason-giving. *See* rule of law, publicity and  
 regularity and, 6–7, 19, 20, 26–29, 47, 50, 57, 63, 70–71, 80–83, 109, 121, 122, 127, 146–48, 155–57, 180–81, 189, 199, 200, 202  
 substantive conception of generality in, 30, 49  
 “treating like cases alike” in, 20
- Rundle, Kristen, 75–76, 208, 216, 266
- Russia, 183, 239
- Scott, Sir Walter, 192, 242
- segregation, 32, 38, 39, 190, 195
- Selden, John, 130, 134, 136, 234, 236, 237
- separation of powers (US), 4
- September 11, 149
- sharia law, 62
- Sicilian expedition, 93, 96, 103
- Simmonds, Nigel, 26, 27, 71, 72, 202, 215
- Singapore, 61, 62, 212
- slavery, 19, 22–25, 28, 42, 44–45, 47, 52, 57, 78, 84, 86, 88, 90, 94, 136, 138, 140, 146, 152, 200, 201, 208, 216, 235, 237, 240
- socialism, 209
- Socrates, 90, 93, 96, 223
- Solon, 86, 89, 92, 228
- Soviet Union, 1, 12, 26, 27, 92, 170, 178
- Sparta, 24, 84, 95–102, 226
- Stalin, Josef, 65, 178, 213
- status hierarchy  
 disrespect and, 19, 40, 74, 86, 153–54, 193, 200, 216  
 hubris and, 22–24, 28, 50, 53  
 subordination and, 19, 21, 42, 110, 154, 158, 194
- Stuarts, the (*see also specific monarchs*), 125, 126, 140
- Supreme Court of the United States, 57, 63, 152, 156
- SWAT teams, 194, 195
- Sweden, 183
- Teegarden, David, 100, 107, 226, 230
- terror  
 enhanced interrogation and, 189  
 state sponsorship of, 55  
 torture and, 21–22, 189  
 vigilantes and, 53–57, 210  
 war on, 6, 189
- Thirty Tyrants, 80, 81, 86, 88–113, 211, 218, 223, 224, 225, 226, 227
- Thompson, E.P., 154, 170, 211, 233, 241
- Thrasylbulus, 99
- Thucydides, 82, 89, 98, 99–108, 216, 222, 225
- Tonton Macoutes, 1, 13, 21
- torture, warrant for, 21, 22, 189, 211
- trial  
 judges and, 13, 18, 20, 26, 79, 80, 81, 82–83, 90, 92–95, 99, 103, 104–6, 111, 121, 122, 127, 128, 132, 133, 134–36, 155, 223, 230, 234, 236  
 by jury, 26, 132  
 trial of the Arginusae generals, 93, 96, 103, 111  
 truth and reconciliation commissions, 109
- TSA no-fly list, 18, 149
- tyranny, 2, 27, 52, 55, 78, 80, 86, 88–92, 100, 104, 145–46, 151, 160, 220, 221, 228
- United Kingdom, 91, 120, 121, 127, 157, (*see also* British law)
- United Nations, 2, 178
- United States, 1, 3, 6, 14, 21, 28, 38, 52, 57, 63, 66, 78–79, 118–19, 122–24, 128, 146, 153, 155–58, 164, 171, 173, 183, 189, 190–95, 203, 206, 207, 208, 210, 211, 213, 214, 219, 230, 232, 239, 243
- unwritten standards, 15, 82, 125, 128, 199, 218, 219, 223
- vagrancy, 46, 47
- vassalage, 133, 138, 140
- voting rights. *See* disenfranchisement
- Waldron, Jeremy, 2, 133, 134, 197, 199, 201, 202, 203, 204, 208, 214, 235
- Washington consensus, 3, 169, 198
- Weber, Max, 9, 10, 53, 55, 57, 71, 72, 80, 206
- Weingast, Barry R., 67, 111, 114, 213, 214, 229, 238
- Wentworth, Henry, 31, 137
- World Bank, 1, 2, 3, 177, 178, 183, 243
- World Justice Project, 2, 177, 179, 181, 183, 245
- Xenophon, 81, 83, 93, 99, 104