

# [Politics essays - fundamental principles of legitimate power](https://assignbuster.com/politics-essays-fundamental-principles-of-legitimate-power/)

## There are various theories about what can make power legitimate. Doyou think that one theory is more convincing than others?

To understand thefundamental principles of legitimate power and governance one must look at theperiod surrounding the Enlightenment because this is the time when theindividual became an important entity, no longer was the individual part of aclass on a hierarchical structure, with power relating to that class. Thenatural rights theorists aim was to show that man was born in a state ofnature, and given the right to do as he/she wished, but this was sacrificed tothe governance of the land, i. e. that the rational man would give up thestate of freedom, for the security and safety of law, governance andsovereignty.

Locke, said instead of giving up the right to do absolutely anythingto the sovereign entity, the rational man would put these rights in the handsof a government that holds the good of the people as supreme. Locke did notbelieve that man gives up all these natural rights, but each person retainedrights that were regulated by a political government, to ensure a person wouldnot use their rights in a way that would harm the rights of others. Locke’sversion of rights was one of the first models of inherent rightsto life, liberty, freedom and property, where the king was there at the will ofthe people and benevolent in nature.

Theinfluence of John-Jacques Rousseau is also important, although not strictlyspeaking a natural law theorist, in the sense of earlier theorists. The mostimportant difference that Rousseau discussed in his works was that governmentand reason has not protected man but enslaved man , whereas in thestate of nature these rights were upheld in a paradisiacal state. One ofRousseau’s most interesting critiques of government and law was in the SocialContract where man was originally free but in society ‘ everywhere inchains’. Therefore he believed instead of giving up one’s freedom to agoverning body, it needs to be reclaimed by man but this did not meanreclaiming the paradise of Rousseau’s state of nature. Instead these rightsshould be inherent to each man and that the government created is not only forthe good of the people but should be determined by the will of the people. Rousseau believed people should bepart of the regulation of the government and law; otherwise the government thatis essentially corrupt will take away these rights. Popular involvement makesit impossible for these rights to be taken away by the government. There wasan assumption of equality between men and basis rights to life, liberty, freedom, and protection from the corruption of absolute government (i. e. rightsto freedom of speech and assembly) and the right to a fair trial and independentCourt of law. This argument stems from the authors of the AmericanConstitution where the rights embodied in the text were self-evident becauseall men were created equal and given certain inalienable rights, which areafforded to all persons of the globe, state borders have no impact on theserights. The writers claimed these rights came from God. Other theorists haveargued we have these rights merely because we are human. This argument is stillone used in the 20 th /21 st Century as it is the easiest topass off, however there is no real moral justification for upholding theserights, therefore how can one say we must keeps these rights in the face of abreach or dissolution of them.

Hobbes’ state of nature sets up that; Men by nature [are]equal: Nature hath made men so equal, in faculties of the body, and mind Foras to the strength of body, the weakest has strength enough to kill thestrongest, either by secret, machination, or by confederacy with others, thatare in the same danger with himself; henceall are equal in fear of death. Therefore if this fear was set forth by themonarch then this first law of nature legitimizes the citizens to revolt andset up a form of governance that ensures this equality and that their basicrights are upheld. Therefore if the citizens of Hobbes’ state are able to gettogether to give the power of law and governance to a single individual theybelieve will uphold the common good; then in the same coalition they can deposethis individual if in fact their powers of governance and over the law aremisused. This state of nature is hypothetical in order to provide a theoryjustify the fair governance of a small section of society, or as Hobbes prefersa monarch. It is the equality of fear, the individual’s right to everything inaddition to subsequent laws of nature which provides the conditions for asocial contract to ensure security and equality of mankind. There are some problemswith Hobbes’ social contract which is giving the power of rule and governanceto a single individual; this is arguably giving this individual uncheckedpower. Therefore if every man has the right to everything and then ifthe state of nature’s equality is no longer the case because the power of lawlays in an individual’s hands – where this individual has the wants and desiresto obtain everything. Hence there will be a tyrannical government, rather thana government for the common good.

Utilitarianismis not a theory of individual rights, instead it views that the good of thecommunity was a more important aim for the law and government ruled by thepeople. Theorists such as Edmund Burke believed that rights werenatural, including life, liberty and freedom but this theory was in theabstract, therefore they should be given by society for the good of its people, because these rights cannot be universal otherwise there is no place forcultural diversity. Burke is one of the first theorists with the culturalrelativism argument; the critics of universaljustice have further advanced this in the 20 th and 21 st centuries. Burke’s move to reject universalism was the first chip in theseinherent rights that ensured legitimate power; how canrights be inherent if they not available for everyone, because a culture deniesthem. Jeremy Bentham advanced this. His theory held that were no naturalrights – the government for the good of society – a form of utilitarianism, afforded rights. Therefore Bentham’srights were legal rights where one can do whatever one wants as long as the lawdoes not prohibit it i. e., rights are not stemming from the individual but thestates and the powers of governance (Positivism). The problem with positivismor this early form of rights from utility is that the law/governance are thebasis of rights and because there is no greater principle of just andlegitimate governance.

Themodel of Marxism states that it does not regard the individual as having anyhuman rights, instead it is for the state to set theneeds of the individuals, i. e., it is not the good of the individual that thestate upholds but the good and the needs of the state. Marx considered law, justice, freedom and democracy as ideas and concepts that are determined byhistorical and sociological circumstances and irrelevant. Instead a person’sessence was the potential to use one’s ability to the fullest and satisfy one’sneeds’, thereforepromoting fundamental rights as rights of well-being and satisfaction of theindividual. These rights would involve social and economic rights, which isthe only way to ensure legitimate power and justice. Marx’s vision turned outto be idealistic and failed in reality.

Themost legitimate version of power and governance seems to be a mixture oftraditional utilitarianism that affords a method of human rights. Modern utilitarian theorists have extended the theory of Bentham, but have put it in more modern terms. Instead of maximising the pleasuresand desires of the individual the government would be maximising thegeneral welfare of individuals therefore minimising frustration of wantsand preferences. Therefore what one cansee is that the governing bodies must put the general welfare first, yetminimise the individual’s needs – therefore causing a conflict of rightsbetween what is in the name of the society and what the individual wants. Theproblems with this theory is it is socially constructed, there is no autonomyof being and no argument for universal rights that transcend all cultures andreligions, therefore falling short of what is needed for an all-encompassinghuman rights theory, as the general welfare can be different fordiffering cultures. Rawl’s in his thesis for engendering human rights statesthat justice is the prime basis ofall government and to ensure justice human rights are the obvious means and endto ensure justice is fulfilled. Rawl’s theory is based on a few key ideas, which are the rights and duties of government/institution of society andthe burdens and benefits of citizens co-operating. Rawls bases histheory that each individual has an inherent and inviolable being set in justice- this being cannot be overridden for the welfare of the society. This theorydoes not fall foul to the arguments against modern utilitarianism. Rawl’s doesuse the social contract fiction of Hobbes and Locke, however the basis ofmoving from ignorance (state of nature) is reason and this reason set up onprinciples of justice that his social contract is based upon. These principlesare; 1) that each person has basic rights and liberties in accordance withfreedom; and 2) there is distributive justice, where inequalities arerestrained by the greatest benefit of least advantaged and each personhas the condition of fair equality of opportunity. These principlescannot be derogated for the public good and liberty is the supreme principle. Rawl’s theory is very important when looking at human rights theories becauseit begins to tackle the universality of human rights based on justice, as wellas the inequalities apparent in society. The theory does have flaws but it oneof the more comprehensive theories setting up basis rights and freedoms andensuring legitimate power because it protects the individual’s democraticrights, because it is a more complex analysis of the nation-state and asAndrews and Sayward argue:

The modern Western approach to political legitimacy links it withthe opportunities for democratic participation, so that democracy is now seenas a necessary condition of political legitimacy In theories of politicallegitimacy a stereotype of a domestic state with its ‘ own’ domestic populationcan easily emerge. Yet the actual histories of state are much more complicatedthan that.

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