

Politics essays - fundamental principles of legitimate power



**ASSIGN
BUSTER**

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

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

Locke, said instead of giving up the right to do absolutely anything to the sovereign entity, the rational man would put these rights in the hands of a government that holds the good of the people as supreme. Locke did not believe that man gives up all these natural rights, but each person retained rights that were regulated by a political government, to ensure a person would not use their rights in a way that would harm the rights of others. Locke's version of rights was one of the first models of inherent rights to life, liberty, freedom and property, where the king was there at the will of the people and benevolent in nature.

The influence of John-Jacques Rousseau is also important, although not strictly speaking a natural law theorist, in the sense of earlier theorists. The most important difference that Rousseau discussed in his works was that government and reason has not protected *man* but enslaved *man*, whereas

<https://assignbuster.com/politics-essays-fundamental-principles-of-legitimate-power/>

in the state of nature these rights were upheld in a paradisiacal state. One of Rousseau's most interesting critiques of government and law was in the Social Contract where man was originally free but in society 'everywhere in chains'. Therefore he believed instead of giving up one's freedom to a governing body, it needs to be reclaimed by man but this did not mean reclaiming the paradise of Rousseau's state of nature. Instead these rights should be inherent to each man and that the government created is not only for the good of the people but should be determined by the will of the people. Rousseau believed people should be part of the regulation of the government and law; otherwise the government that is essentially corrupt will take away these rights. Popular involvement makes it impossible for these rights to be taken away by the government. There was an assumption of equality between *men* and basic rights to life, liberty, freedom, and protection from the corruption of absolute government (i. e. rights to freedom of speech and assembly) and the right to a fair trial and independent Court of law. This argument stems from the authors of the American Constitution where the rights embodied in the text were self-evident because all men were created equal and given certain inalienable rights, which are afforded to all persons of the globe, state borders have no impact on these rights. The writers claimed these rights came from God. Other theorists have argued we have these rights merely because we are human. This argument is still one used in the 20th / 21st Century as it is the easiest to pass off, however there is no real moral justification for upholding these rights, therefore how can one say we must keep these rights in the face of a breach 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 the people. Theorists such as Edmund Burke believed that rights were natural, including life, liberty and freedom but this theory was in the abstract, therefore they should be given by society for the good of its people, because these rights cannot be universal otherwise there is no place for cultural diversity. Burke is one of the first theorists with the cultural relativism argument; the critics of universal justice have further advanced this in the 20th and 21st centuries. Burke's move to reject universalism was the first chip in these inherent rights that ensured legitimate power; how can rights be inherent if they are not available for everyone, because a culture denies them. Jeremy Bentham advanced this. His theory held that there were no natural rights - the government for the good of society - a form of utilitarianism, afforded rights. Therefore Bentham's rights were legal rights where one can do whatever one wants as long as the law does not prohibit it i. e., rights are not stemming from the individual but the state and the powers of governance (Positivism). The problem with positivism or this early form of rights from utility is that the law/governance are the basis of rights and because there is no greater principle of just and legitimate governance.

The model of Marxism states that it does not regard the individual as having any human rights, instead it is for the state to set the needs of the individuals, i. e., it is not the good of the individual that the state upholds but the good and the needs of the state. Marx considered law, justice, freedom and democracy as ideas and concepts that are determined by historical and sociological circumstances and irrelevant. Instead a person's essence was the potential to use one's ability to the fullest and satisfy one's needs',

<https://assignbuster.com/politics-essays-fundamental-principles-of-legitimate-power/>

therefore promoting fundamental rights as rights of well-being and satisfaction of the individual. These rights would involve social and economic rights, which is the only way to ensure legitimate power and justice. Marx's vision turned out to be idealistic and failed in reality.

The most legitimate version of power and governance seems to be a mixture of traditional 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 pleasures and desires of the individual the government would be maximising the general welfare of individuals therefore minimising frustration of wants and preferences.

Therefore what one can see is that the governing bodies must put the general welfare first, yet minimise the individual's needs - therefore causing a conflict of rights between what is in the name of the society and what the individual wants. The problems with this theory is it is socially constructed, there is no autonomy of being and no argument for universal rights that transcend all cultures and religions, therefore falling short of what is needed for an all-encompassing human rights theory, as the general welfare can be different for differing cultures. Rawls in his thesis for engendering human rights states that justice is the prime basis of all government and to ensure justice human rights are the obvious means and end to ensure justice is fulfilled. Rawls's theory is based on a few key ideas, which are the rights and duties of government/institution of society and the burdens and benefits of citizens co-operating. Rawls bases his theory that each individual has an inherent and inviolable being set in justice - this being cannot be overridden for the welfare of the society. This theory does not fall foul to the arguments

against modern utilitarianism. Rawls does use the social contract fiction of Hobbes and Locke, however the basis of moving from ignorance (state of nature) is reason and this reason set up on principles of justice that his social contract is based upon. These principles are; 1) that each person has basic rights and liberties in accordance with freedom; and 2) there is distributive justice, where inequalities are restrained by the greatest benefit of least advantaged and each person has the condition of fair equality of opportunity. These principles cannot be derogated for the public good and liberty is the supreme principle. Rawls's theory is very important when looking at human rights theories because it begins to tackle the universality of human rights based on justice, as well as the inequalities apparent in society. The theory does have flaws but it is one of the more comprehensive theories setting up basic rights and freedoms and ensuring legitimate power because it protects the individual's democratic rights, because it is a more complex analysis of the nation-state and as Andrews and Saward argue:

The modern Western approach to political legitimacy links it with the opportunities for democratic participation, so that democracy is now seen as a necessary condition of political legitimacy. In theories of political legitimacy a stereotype of a domestic state with its 'own' domestic population can easily emerge. Yet the actual histories of state are much more complicated than that.

Bibliography:

Andrews & Saward, 2005, Living Political Ideas, Edinburgh University Press

<https://assignbuster.com/politics-essays-fundamental-principles-of-legitimate-power/>

Edmund Burke, Reflections on the Revolution in France, (Hackett, Indianapolis, 1987) ed. J. G. A. Pocock

Thomas Hobbes, Leviathan, Of the First and Second Natural Laws, and of Contracts excerpts from Ed. Joseph Losco & Leonard Williams, Political Theory: Classical Writings, Contemporary Views, (St. Martins Press, New York, 1992)

Peter Jones, Rights: Issues in Political Theory, (Palgrave, Basingstoke, 1994)

John Locke, The Second Treatise of Government, excerpts from Ed. Joseph Losco & Leonard Williams, Political Theory: Classical Writings, Contemporary Views, (St. Martins Press, New York, 1992)

Ed. Joseph Losco & Leonard Williams, Political Theory: Classical Writings, Contemporary Views, (St. Martins Press, New York, 1992)

Marx & Engels, 1952 edition, The Communist Manifesto, Moscow, Progress Publishers

John-Jacques Rousseau, Social Contract, Discourse on the Origins and Foundations of Inequality Among Men excerpts from Ed. Joseph Losco & Leonard Williams, Political Theory: Classical Writings, Contemporary Views, (St. Martins Press, New York, 1992)

Shestack, The Philosophical Foundations of Human Rights from Ed. Janusz Symonides, Human Rights: Concepts and Standards, (UNESCO Publishing, Aldershot, 2000)

John Rawls, *The Theory of Justice* (Oxford University Press, Oxford, 1971)