

University of Mary Washington

Eagle Scholar

Student Research Submissions

4-29-2016

Dahlian Democracy as a Hobbesian State and the Legitimacy of the U.S.

Edward Harold Scheirer

Follow this and additional works at: https://scholar.umw.edu/student_research



Part of the [Political Science Commons](#)

Recommended Citation

Scheirer, Edward Harold, "Dahlian Democracy as a Hobbesian State and the Legitimacy of the U.S." (2016). *Student Research Submissions*. 43.

https://scholar.umw.edu/student_research/43

This Honors Project is brought to you for free and open access by Eagle Scholar. It has been accepted for inclusion in Student Research Submissions by an authorized administrator of Eagle Scholar. For more information, please contact archives@umw.edu.

**DAHLIAN DEMOCRACY AS A HOBBSIAN STATE AND THE LEGITIMACY OF THE
U.S.**

An honors paper submitted to the Department of Political Science and International Affairs
of the University of Mary Washington
in partial fulfillment of the requirements for Departmental Honors

Edward Harold Scheirer

April 2016

By signing your name below, you affirm that this work is the complete and final version of your paper submitted in partial fulfillment of a degree from the University of Mary Washington. You affirm the University of Mary Washington honor pledge: "I hereby declare upon my word of honor that I have neither given nor received unauthorized help on this work."

Edward Harold Scheirer
(digital signature)

04/29/16

Dahlian Democracy as a Hobbesian State and the Legitimacy of the U.S.
PSCI Honors Thesis
Edward Scheirer
Advisor: Emile Lester

Introduction

There is a persistent scholarly and public perception of democracy as the only legitimate form of government among democratic theorists and American citizens. If this perception exists in such a widespread fashion then it risks being accepted dogmatically and not on its merits and is thus deserving of re-analysis. John Dunn has explained this perception on the basis that today all states proclaim to be in the interests of the people.¹ If this is true, then the people in democracies should be better off, as people's interests can only be beneficial for them. However, Dunn is clear in expressing a view which claims that democracy alone does not ensure just outcomes.² Taking this as potentially true, as it is at least the consensus view among modern democratic theorists that democracy does not produce just outcomes one hundred percent of the time, then a critique of democracy would beg the question of how justice relates to the interests of the people. Here the established normative approach would be to examine John Rawls and John Locke. However, a much more influential group of democratic theorists provide a justification for democracy distinctly limited in its normative approach and would not view outcomes of government as the most essential aspect of legitimacy.³

The prolific democratic theorist Robert Dahl and a number of other democratic proceduralist theorists like Amy Gutmann and Dennis Thompson present the modern case for

¹ John Dunn, *Western Political Theory in the Face of the Future* (Cambridge: Cambridge University Press, 1979), 1-3.

² John Dunn, *Setting the People Free* (London: Atlantic Books, 2005), 149.

³ Dunn himself recognizes Robert Dahl as one of the most influential scholars of democracy in the modern era. John Dunn, *Breaking Democracy's Spell* (New Haven: Yale University Press, 2014), 11.

democracy.⁴ They aim to explain the requirements and purposes of democracy. Their viewpoints make up a widely accepted canon of theory pertaining to democracy, and for the purposes of this paper, democracy will mean the form of government Dahl describes and other proceduralists examine. While Dahl is a democratic theorist who focuses on pluralism (the existence of sundry perspectives in a society that help build consensus), proceduralism is a connected concept. Proceduralists argue that the process of democratic decision-making confers legitimacy upon those decisions and their resulting governmental actions. Dahl is in agreement with this assertion and views democracy as an attainable and legitimate form of government.⁵

Voting in a democracy is essential to the expression of interests, and is the main form of political influence most members in a democracy have at their disposal.⁶ It is a preference in the representation of individual interests. In selecting a candidate, a citizen voluntarily devolves decision making power onto another agent. While not author of that representative's ideas the citizen expects that representative to do what is best for the citizen. Dahl expects the citizen to expect this because he assumes humans are rational beings that make decisions on the basis of their personal goals, their self-interest. Through the accurate representation of all of society's sundry interests democracy gives every individual equal power in collective decision making.

A pervasive societal belief in human equality marks this process as fair and just, as it gives everybody equal control of a power which affects all. Democracy is thus a just process for

⁴ I categorize these scholars together because they all emphasize the process of democracy as the most important aspect of legitimacy. Their views on the quality of that process do differ. Dahl is a purist in assuming the skeleton of a participatory democracy is enough while Gutmann and Thompson require enlightened and respectful public discussion. The association is acceptable here because of the dichotomy of process and outcomes, a dichotomy which over the course of the paper is examined more closely.

⁵ Robert Dahl, *Democracy and its Critics* (New Haven: Yale University Press, 1998), 311.

⁶ Robert A. Dahl, *Who Governs? Democracy and Power in an American City* (New Haven: Yale University Press, 1961), 225-8.

collective decision making and conducive to the citizenry's acceptance of coercion in particular societal situations. The acceptance of coercion, meaning an individual's willingness to accept majority rules when that individual is in the minority, is the standard for determining if any state is legitimate. In accepting laws an individual does not agree with, he is silently confirming the right of the state to enact and enforce them. The laws may be wrong to that person, but the state is not wrong for imposing them.⁷ The democratic process creates legitimacy because citizens in certain societies view its emphasis on equal representation of interests as fair, and thus it is conducive to submission.

Proceduralism emphasizes just means and subsequently lacks a stated purpose for government in its ends, or perhaps assumes the end to be self-evident. It cannot be that the purpose of the democratic process is to produce legitimacy since that would equate legitimacy with the democratic process, and thus be self-fulfilling. A more reasonable explanation of purpose, given the modern scholarship on democratic theory, is that which John Rawls proposes for a well-ordered society.⁸ This purpose is dependent upon a positive definition of human freedom whereby environment and the availability of options is key to the existence of genuine liberty. The aim of this state is to achieve public goods by shaping the environment to expand

⁷ While Rawls is primarily concerned with just outcomes, he admits that when governments enact unjust laws civil disobedience is not an appropriate reaction. He claims that individuals have a duty to support just institutions in spite of a few unjust laws. John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), 293 and 308.

⁸ While not focused on John Rawls, this paper argues that his theories concerning the importance of freedom and equality of opportunity fit Robert Dahl's views on property rights and freedom.

human freedom. The role of democracy, is then to achieve optimal utility in working for the interests of the majority.⁹

Within the later literature Dahl produces, like *Democracy and its Critics*, he grants the state vast powers because the state is a means to achieving freedom. His only restrictions are on the subversion of political rights like free speech. This idea clashes with traditional liberal values, which John Locke represents in this paper, of innate human freedom whereby sundry rights (especially those regarding property) protect that freedom from state interference.¹⁰

The power granted to a state in Dahl's proceduralist conceptions of democracy and freedom is closely aligned with Hobbesian ideas. The democratic state described above is in fact a Hobbesian democracy in purpose and form.¹¹ This purer form is in line with the nature of a state in a Hobbesian conception. Within this realm of truth all states are inherently legitimate, all powerful, and designed to achieve security. Dahl's democratic theory grants great power to the state for the purpose of achieving public goods on the basis of a positive definition of freedom, this conception fits into Hobbesian ideas of government.

The central argument of this paper is that the contemporary democratic theory of Robert Dahl is incorrect in its proposition that the democratic process produces legitimacy. However, he is redeemed by the Hobbesian characteristics of his theoretical outlook and by the failure of a

⁹ Rawls views a proper distribution of resources as one where a safety net exists, where people have equal opportunity, and where unequal distributions are allowed to exist if and only if those inequalities bring about a greater good for everyone else than would otherwise be the case. Democracy in this conception falls into this perspective of utility and is seen as a just institution. Rawls, *A Theory of Justice*, 65, 76, and 243.

¹⁰ Dahl, *Democracy and its Critics*, 169-73.

¹¹ While Hobbes is a supporter of absolute monarchy he accepts the legitimacy of a democratic form of government. However, he considers the democratic form to be least efficient in its decision-making and thus flawed. Flawed, because it cannot perform a states' function of providing peace as optimally as an absolute monarchy. Thomas Hobbes, *Leviathan*, 2:19:94-100, Edited by C.B. Macpherson (London: Penguin, 1968), 239-45.

Lockean normative approach in explaining the legitimacy of the United States. An analysis of the legitimacy of the modern United States without reference to any theory demonstrates this. The U.S. is then reexamined in terms of voter participation and government treatment of property rights. What is extracted from this analysis is that the United States is legitimate without conforming to either Dalian or Lockean theories on legitimacy. In fact the analysis demonstrates that contemporary American democracy illustrates the essential truth of Hobbesian conceptions of government legitimacy.

Legitimacy in this paper is defined as individual acceptance (tacit or explicit) of societal coercion. Coercion is defined as the imposition of a societal decision on a party which did not desire that action to take place (hence the emphasis below on defining freedom).¹² The acceptance of coercion demonstrates, on the individual level, the innate justice seen in the societal action. If a state cannot enforce its laws or if its people will not follow the laws, then that state's power is such that the state is irrelevant. This creates instability. A state's decisions must be carried out for either the good of the society as a whole or the interests which are in the majority. If this does not occur, a state's existence is threatened. If coercion is not accepted then war is a possible result. The destructive nature of this instability is something to avoid. Legitimacy is thus important because it allows a state to function properly while preventing instability.¹³

¹² The nature of human freedom is emphasized below because it relates to how humans can accept coercion. Can one remain free while being coerced (forced) into a decision? It is not the purpose to examine the truth value of these judgments on freedom, but merely to examine their outcomes and ensure that the theories take this essential concern logically into account.

¹³ While Isaiah Berlin has criticized the modern focus on obtaining political stability, this aim is at the foundations of all political theory since a perfect state should not be expected to fail. In shaping the purposes of government, stability is an implied goal. Isaiah Berlin, *Four Essays on Liberty* (London: Oxford University Press, 1969), 28-29.

Review of the Literature

The debate on state legitimacy revolves around the concepts of just ends and just means. In attempting to describe and define exactly what legitimacy is, the Stanford Encyclopedia of Philosophy offers a generally accepted definition, in that it is widely implicit in the literature, that describes legitimacy as the acceptance of coercive power.¹⁴ To determine how this result comes about, the modern political philosopher Thomas Christiano frames the debate in terms of just ends (instrumentalists) and just means (proceduralists).¹⁵ This distinction is simple, that either the process of societal decision making is just and worthy of submission or the results of those decisions are just and thus worthy of the same.

There are a large number of democratic theorists who claim the democratic process alone produces legitimacy. These proceduralists, like Seyla Benhabib, Jurgen Habermas, Jane Mansbridge, Benjamin Barber, Amy Gutmann, Dennis Thompson, and Frederick Schauer, see the actual discourse representation produces as the source of state legitimacy.¹⁶ Gutmann and Thompson express the essence of what makes this theory viable in their work, *Democracy and Disagreement*. For these authors, stability of the system requires acceptance of the system. By

¹⁴ Fabienne Peter, "Political Legitimacy," *the Stanford Encyclopedia of Philosophy* (Winter 2014), edited by Edward N. Zalta.

¹⁵ Thomas Christiano, "The Authority of Democracy," *The Journal of Political Philosophy* 12, no. 3 (2004), 260.

¹⁶ Jurgen Habermas, "Three Normative Models of Democracy," *Democracy and Difference: Contesting Boundaries of the Political*, Edited by Seyla Benhabib (Princeton: Princeton University Press, 1996), 24; Jane Mansbridge, "Using Power/ Fighting Power: The Polity," *Democracy and Difference: Contesting Boundaries of the Political*, Edited by Seyla Benhabib (Princeton: Princeton University Press, 1996) 51-3; Seyla Benhabib, "Toward a Deliberative Model of Democratic Legitimacy," *Democracy and Difference: Contesting Boundaries of the Political*, Edited by Seyla Benhabib (Princeton: Princeton University Press, 1996), 69; Benjamin Barber, *Strong Democracy: Participatory Politics for a New Age* (Berkeley: University of California Press, 1984), xi; Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Cambridge: Harvard University Press, 1996), 12-3 and 93; Frederick Schauer, "Talking as a Decision Procedure," *Deliberative Politics: Essays on Democracy and Disagreement*, Edited by Stephen Macedo (New York: Oxford University Press, 1999), 18.

creating an environment of open communication, parties can better understand each other. Even if both parties can not reach an agreement, stability is maintained by the knowledge of and respect for the opposing viewpoint. This can only be obtained through fair and open discussion.¹⁷

The idea of associativism within the literature on legitimacy stresses that one's natural social ties to neighbors, family, and coworkers bring about loyalty to the nation. Opposing this is a reductionist viewpoint which Christopher Wellman expresses. Wellman argues that a human search for justice governed by proximity leads to societal binding and the resolve to bring about intrastate economic equality.¹⁸ While relevant, these views are less widespread.

Dominant among democratic theorists is Robert Dahl. Dahl sees the process of allowing the accurate representation of interests, which only democracy provides, as the foundation of an inherently just and legitimate state.¹⁹ As a result, he is in agreement with proceduralists in that the democratic process is conducive to legitimacy. With every individual represented, discussion and majority rule can hold society accountable to the law. This focus on interests has seen pushback. The socialist Irving Howe argues that democracy cannot be maintained by corrupting private interest.²⁰ Bruce Douglas argues that representing interests is harmful and that individuals must make decisions based on what is believed to be the common good instead of what is

¹⁷ Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Cambridge: Harvard University Press, 1996), 93, 346-7 and 361.

¹⁸ Christopher Wellman, "Relational Facts in Liberal Political Theory: Is there Magic in the Pronoun 'My'?" *Ethics* 110, no. 3 (April, 2000), 537-8 and 542.

¹⁹ Robert Dahl, *Democracy and its Critics* (New Haven: Yale University Press, 1998), 37-8, 70-1, 164, and 180.

²⁰ Irving Howe, "Socialism and Liberalism: Articles of Conciliation?" *The Relevance of Liberalism*, Edited by Zbigniew Brzezinski, Seweryn Bialer, Sophia Sluzar, et al. (Boulder: Westview Press, 1978), 45.

beneficial to the individual.²¹ Supportive of all viewpoints in a general sense, is a Rawlsian influenced idea brought up by Jeremy Waldron who argues for a natural duty towards a just state, that any state that is just is deserving of a person's submission to coercion.²² Whether justice is found in means or ends a just state deserves a kind of natural allegiance. There is also a statist mentality that Christopher Wellman is supportive of, which argues on the basis of a cost benefit analysis that states deserve allegiance because they provide society with many unique and necessary goods.²³ All of these modern viewpoints however, demonstrate the contemporary starting point of subjective moralists in that these arguments are logical but do not seek to explain the justice each theory depends upon.

Few theorists attempt to define justice and emphasize the ends of the process as important. Dahl argues against restricting the powers of the state to allow for interests to win out. He argues that this pure democratic process will ensure stability. The foundations for such a mindset fit perfectly into Fishkin's theories on modern moral subjectivism and Berlin's descriptions of modern thought which emphasizes stability.²⁴ These types of means-based arguments conflict with classical liberals like John Locke who assigns specific moral instructions as to the purpose of a state. If a state protects the lives, liberties, and property of its subjects then

²¹ Bruce Douglass, "The Common Good and the Public Interest," *Political Theory* 8, no. 1 (February, 1980), 105-7.

²² Jeremy Waldron, "Special Ties and Natural Duties," *Philosophy and Public Affairs* 22, no. 1 (Winter, 1993), 27.

²³ Christopher Wellman and John Simmons, *Is there a Duty to Obey the Law?* (Cambridge: Cambridge University Press, 2005), 5-6.

²⁴ Isaiah Berlin, *Four Essays on Liberty*, 28-9 and 34.

that state is just and legitimate.²⁵ A state that does not produce those ends is inherently unjust and citizens can justifiably revolt. John Rawls is among the few modern theorists to propose such an ends-based normative argument in asserting “justice as fairness” as the ultimate claim of a state’s purpose, proposing justice in the form of political equality and equal economic opportunity as the ends of a just state.²⁶ However, he claims this to be a neutral starting point consistent with the theoretical orthodoxy Fishkin describes in *Beyond Subjective Morality*.²⁷ Among historical theorists there are also those with a conception of liberty which does not rely on democracy, namely Thomas Hobbes. A legitimate state for Hobbes is one which has the power to prevent civil war.²⁸ Although every government is legitimate, the best state would be undemocratic (preferably a monarchy) and contain absolute and unmixed power over its citizens based on the needs the state of war makes apparent.²⁹ This is contradictory to the makeup of modern democratic theory. Within the literature there is a general acceptance of the idea that legitimacy requires the acceptance of coercion, and there is consensus among the modern theorists that the democratic process produces this. However, there is disagreement with historical theorists which base their just outcomes on moral principles, like between Locke who finds legitimacy in the ends of government and like Hobbes who sees democracy as inefficient to the purpose of a state.

²⁵ John Locke, *Second Treatise on Civil Government*, 9:123 (Roslyn, NY: Walter J. Black, 1947), 139.

²⁶ John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 4-7.

²⁷ *Ibid.*, 9-11

²⁸ Thomas Hobbes, *Leviathan*, 2:21:108, 2:17:87-88, and 2:21:109-110, Edited by C.B. Macpherson (London: Penguin, 1968), 263, 226-7, and 265.

²⁹ *Ibid.*, 2:19:94-97 and 2:18:88-94, 228-34, 236, 239-243.

The literature on democracy presents a highly contested field where some positions are self-fulfilling. Proceduralists like Amy Gutmann and Dennis Thompson see the process of discussion only available to a democracy as the only source of legitimacy and thus democracy as the only legitimate government. No external explanations of justice or liberty are needed in this framework. The process allows human beings to accept coercion because they see it as fair. In the search for legitimate government then, democracy is the only possible outcome. John Rawls also finds that the process of democratic decision making is integral to state legitimacy as a society must produce political equality to be just.³⁰ The most direct way of producing political equality is through a democratic state where collective decision making is occurring. Robert Dahl is of the same opinion as Rawls in terms of political equality. Democracy is the only legitimate government because it allows the representation of all interests within a society and those interests are only properly represented when each individual is politically equal.³¹ The result of such a state whose purpose is to represent interests, is that only political rights are recognized. Beyond political rights, the existing majority interest is the only limitation on state power. Dahl does not even recognize property rights in this conception of democracy.³² What brings this type of pure democracy about is a democratic society which believes in equality.³³ So for Dahl, politics is an expression of underlying societal beliefs and democracy only thrives when the correct culture is participating.

³⁰ John Rawls, *Political Liberalism*, 4-7.

³¹ Robert Dahl, *Democracy and its Critics*, 70-1, and 89.

³² Ibid. 169-73.

³³ Ibid. 30, 168, and 178

There are also some minor arguments which play a role in these larger concepts. There is a discussion of representation which Hanna Pitkin takes up. Representation is key for Dahl and others who see citizen's interests being voiced in a democracy as important. Since representation is not ownership of the ideas themselves, but approval of an author of ideas, all representation remains idealistic.³⁴ Contrary to a pure agency view of representation, is Edmund Burke's idea of a trustee who the electorate leaves alone to make decisions for them.³⁵ However, Pitkin rejects this idea of representation as too far from a true definition of representation. She also sees the vigilance needed to ensure pure representation of interests as impractical, and so argues that representatives should be chosen based on a few key interests and then let alone.³⁶

Robert Dahl and Proceduralist understandings of Democracy and Government

Many modern political theorists concerned with democracy assert that the democratic process itself produces social acceptance of coercion. The production of understanding through debate is at the core of this assertion. When democracy exists, people's views are represented in the process of societal decision making. The results of these collective decisions will have effects for all members of that society and so are important on the individual level. In providing each person the opportunity for others to hear and discuss their opinion in the process of making a societal decision that person is contributing to the production of laws that could either help or hamper society as a whole in terms of economy and justice. When a decision is not reached in an individual's favor, the decision still applies to him. In this scenario, the thing that makes that

³⁴ Hanna Fenichel Pitkin, *The Concept of Representation* (Berkeley: University of California Press, 1967), 17.

³⁵ Ibid., 127 and 160-9.

³⁶ Ibid., 31, 190-1, 209, and 238-9.

individual accept the inevitable coercion (the taking on of a behavior which they do not want to) is the the process from which that coercion stems.

Through discussion, individuals present arguments and defenses which make clear to others their beliefs. The back and forth of debate tests one's ideas. The approval or disapproval of those ideas depends upon the force of reason which is placed behind them, in convincing others the ideas are valid. For those who are not swayed into changing their positions, or in situations where deadlock persists, discussion still produces beneficial results for the participants. The process promotes an understanding of different viewpoints. This understanding allows an acceptance of an idea's basic legitimacy to exist.³⁷ What is meant by this is that whether issues of fact or not, or supported by fact, one cannot assume any longer that an argument is invalid, but that it is a rational idea produced by other rational humans. As a result, it is given its due respect as a plausible alternative solution. Within the democratic framework where any idea has the potential for the state to accept and enforce it, and through understanding, individuals can come to respect the coercion they face as well as their opponents' viewpoints.

Democracy functions in the above manner when individual interests are represented as accurately as possible. The ideas which are presented in democratic discussion are those which inescapably come from individual human interest. The idea that democracy is built upon the representation of individual interests is itself built upon a general idea of mankind. Man

³⁷ For discussion to produce its legitimating results, Amy Gutmann and Dennis Thompson propose three requirements the process must contain. The moral arguments proposed in discussion must contain the principle of reciprocity, which involves basic cultural understanding of the claims which are relevant to where they are being produced. They also require publicity to allow society to hear and to judge arguments openly. The third principle is accountability, citizens must be able to hold public officials accountable. Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Cambridge: Harvard University Press, 1996), 12-14 and 93.

instinctively seeks after his own survival and behaves in a manner which he believes to be in his self-interest. Ever-present in human beings is the desire to achieve ends which promote this accepted purpose. The result of this is that all rational human thought and action is based upon what is in the interest of the individual. It is impossible for human beings to think otherwise, so an individual behaving on the basis of the idea that societal interests trump individual ones conflicts with what is innate and inescapable in humanity. Societal decision making cannot help but take individual interests into account because they are the only ones that exist.

In order for the process of democracy to work the state must represent individual interests. Dahl refers to a state containing sundry blocks of interests (like that of the United States) as a polyarchy. The representation of interests are good because people are more in tune with what will benefit them. Dahl writes,

Let us assume that an adult person is more likely, as a general rule, to understand his or her personal interests better than another person...If the general good were composed only of individual interests, and if we could also agree on a satisfactory principle for aggregating individual interests—a majority principle...To reach the best possible collective decision about the general good we would need only to ensure that everyone had an adequate opportunity to express a choice among alternatives (say, by casting a vote) and that the process of arriving at the collective decision followed a rule for aggregating these individual choices into a public choice (say, by a majority principle).³⁸

All that exists is individual interest, which people are adequate at discerning. What results from this is that general good must necessarily be composed of individual interests. Through voting and a majority principle individual interests are aggregated into the public good. By allowing the representation of interests to occur as accurately as possible, all ideas are given a role in the discussion and the potential for the state to enact them. They are also given a chance for the

³⁸ Dahl, *Democracy and its Critics*, 70-1.

public to understand, and for the owners of the ideas, who are tuned into the discussion because their interests are at stake, to achieve understanding. By representing all individual interests everyone in society is given a role in the legitimizing process, which allows for the acceptance of societal decisions, even by those in the minority. Since individual interests are the only interests that can exist, they represent the ideas which must be represented in the discussion which democracy promotes.³⁹ By producing an inclusive discussion the process of democracy produces legitimacy.

To insure that representation of interests occurs Dahl accepts restrictions on government's subversion of political rights. The democratic process produces the legitimacy required for a state and therefore a society to function. This process is accomplished through the accurate representation of interests.⁴⁰ However, political rights are required for representation of interests to occur.⁴¹ If people do not have the same institutionalized rights as everyone else to voice their opinion in a debate with the possibility of affecting change in their interest, then the democratic process is destroyed. There is no longer a need to come to an understanding or to engage in a debate if some interests do not get a fair voice in determining a societal decision. Equality in political rights is essential for legitimacy and for majorities and minorities to form based on understanding of true interests and of others' interests.

The protection of political rights is ensured by restricting government. To protect political rights requires equality of the value of a person's vote, equality of the opportunity to vote, and the freedom to speak and to publish freely. The value of a person's vote does not

³⁹ Ibid., 70-1, 164, and 180.

⁴⁰ Ibid., 60 and 70-71.

⁴¹ Ibid., 169-73 and 175.

simply depend upon one person one vote, but on the vote's equal importance in societal decision making. Currently, Dahl sees problems in the United States' system of representation embodied by the Senate, the electoral college, and gerrymandering.⁴² By allowing equal representation of the senate, states with smaller populations receive greater say than their numbers demand. There are no major state interests that are threatened today which are based upon the size of a state, and thus there is no clear reason why this should continue.⁴³ There are issues today with the opportunity to vote. Currently, the U.S. requires voter registration. It is known that registration lowers turnout for those who are relatively poor, as well as the undereducated. By requiring registration, low voter turnout among these groups is promoted so that accurate representation of interests in the federal system is hampered.⁴⁴ Registration is an unequal burden for underprivileged groups, and the same factor is in play with developing voter I.D. laws which require government photo I.D. at polls.⁴⁵ Freedom of speech is a well-protected requirement in the United States. Freedom House, a non-governmental organization which evaluates freedom of speech in individual countries, rates the U.S. as free in both the press and the internet (giving scores of 22/100 and 19/100 respectively, lowest being best).⁴⁶ Freedom of speech is integral to

⁴² Robert Dahl, *How Democratic is the American Constitution* (New Haven: Yale University Press, 2003), 79-81 49-53 171-3.

⁴³ *Ibid.*, 86.

⁴⁴ G.E. Mitchell and C. Wlezien, "The Impact of Legal Constraints on Voter Registration: Turnout and the Composition of the American Electorate," *Political Behavior* 17, No.2 (1995), 184; B. Highton and R. Wolfinger, "Estimating the Effects of the National Voter Registration Act of 1993," *Political Behavior* 20, No.2 (1998), 80 and 98.

⁴⁵ M.R. Hershey, "What we know about Voter-ID Laws, Registration, and Turnout," *Political Science and Politics* 42, No. 1 (2009), 87-90.

⁴⁶ The U.S. has issues with journalist access to national security related documents. The public is also questioning whether privacy is necessary for freedom of speech to exist, as the government's widespread data collection on its citizens has recently raised public concerns. "Freedom of the Press: United States, 2015" and "Freedom of the Net: United States, 2015," *Freedom House*. Accessed December 23, 2015.

allowing proper representation because it allows for the expression of private viewpoints in the process of selecting representatives and in the process of collective decision making which representatives carry out. Political freedoms are provided to produce a just government and are protections which stand above politics so that one group cannot use government coercion to exclude another group from aiding in the determination of collective action. If this were allowed to occur, the legitimacy of the democratic process would be in jeopardy.

Representation is an integral component of this concept of a functioning democracy. Two forms persist in the type of representation possible, the trustee and the delegate model. The trustee model finds its appearance in the mind of Edmund Burke who considered it the only proper form of representation.⁴⁷ The trustee is essentially a person with control over his ideas and values, who the people select to make decisions for them. This model's idea is, that by placing the representative above the vicissitudes and passions of the people he can be free to make the right decisions which takes into account primarily the public good.⁴⁸ This representative is chosen for his demonstrated skill and perceived value.

In the delegate model of representation the representative is simply the voice box of the people. The public selects him based on his commitment to represent the majority interest of his electorate on each issue. By doing this, his moral authority and individual ideas are subverted by the ideas of the populace. This requires open communication between the representative and his electorate. His decisions are not his but the voice of the people he represents.

⁴⁷ Hanna Fenichel Pitkin, *The Concept of Representation* (Berkeley: University of California Press, 1967), 168-9.

⁴⁸ *Ibid.*, 162-5 and 188-9.

The above-detailed conception of democracy favors the delegate model.⁴⁹ In having representatives act as the agents of their electorates the people are given both an outlet closer to the point of decision-making and more accurate representation of interests. Whether the people consider long term vs. short term interests priority is irrelevant to the accurate portrayal of individual interests in government. The representative cannot correctly judge and should not vote against the electorate's interests. The representative's job in this model is to portray accurately the will of his electorate. The goal of representation in democracy as described above is to achieve legitimacy through the accurate representation of individual interests. The representative form required by this democracy is that of the delegate.

While this Dahlian form of democracy does restrict government actions in the realm of political rights necessary for accurate representation, it sees any other limitations as inappropriate. The goal of democracy is to create societal stability through legitimizing government action. Through the acceptance of coercion, individual's allow the government to accomplish the public will. While the goal is stability it seems there is an understanding of societal change.⁵⁰ Social values may wander and individual interests may change. It then becomes counterproductive to government's purpose to restrict the actions of a collective. To restrict what is possible to achieve may create a dangerous handicap for the formation of state legitimacy.⁵¹ If a majority can come to an agreement on a collective action which will benefit a majority's interests on the individual level, to not be able to carry that out would certainly lead to frustration towards the system itself. Such a result is counterproductive to the legitimating

⁴⁹ Dahl, *Democracy and its Critics*, 28.

⁵⁰ Ibid., 180-3 and 192.

⁵¹ Ibid., 182.

process of democracy in this view as it disrupts the legitimate expression of collective decisions, the whole point of which is to achieve positive actions to form legitimacy and expand freedom. No restrictions on governmental power, other than the protection of political rights, is legitimate, because it disrupts the pure functioning of a democracy in producing collective decisions. In essence, allowing government to have near-absolute power allows for fluidity in societal ideology and interests, protecting the legitimizing process of democracy.

Dahlian Democracy as a Hobbesian State

The essential features of this democracy illustrate a Hobbesian form of government. The purpose of this democratic government relies upon Hobbesian conceptions of human nature. To ensure the proper function of government Dahl provides the state with unlimited power in his model for democracy. The only restrictions are political, which are simply necessary for this form of government to exist. People need the capability to choose their representatives, without that power the state would not be a democracy. Unlimited power is a defining feature of Hobbesian conceptions of government. Thomas Hobbes, a seventeenth century political thinker, argues that the nature of a state is absolute and that absolute power is the essence of government. Thinking along these lines, any restrictions placed on a state are merely the phantasmal morality of that time claiming to be universal and true. For Hobbes, the truth of such assertions are impossible to know and so the restrictions are the momentary beliefs created by the mind which mask the essential truth of the matter of power.⁵² Government power is absolute and all restrictions on that power are the weak beliefs of society, which, when confronted with the reality of the purpose of a state, can be assumed to falter. For Hobbes, the formation of a society

⁵² Hobbes, *Leviathan*, 1:12:52-54 and 2:31:186, 168-171 and 395.

and government is about survival. Fear, produced from the threat to one's life in a state of nature, drove man into society, the purpose of a state is thus to protect that life.⁵³ Anything which inhibits the carrying out of that purpose is thus a flaw and can be considered fleeting when a society's ideals face the reality of nature and war. Dahl's democratic theory has a basis in Hobbesian premises of human nature which invariably leads to his views on state power.

To begin a discussion of this connection a proper understanding of Hobbe's conception of two key aspects of humanity, freedom and self interest, are required.

Thomas Hobbes' view of freedom is practical and positive as it is focused on the physical world, but it is also constrained in that the urge to live binds man's freedom. Hobbes very neatly and clearly defines freedom, saying in *Leviathan*, "by Liberty, is understood, according to the proper signification of the the word, the absence of externall Impediments: which Impediments, may oft take away part of a mans power to do what hee would," and that, "*A Free-Man, is he, that in those things, which by his strength and wit he is able to do, is not hindred to doe what he has a will to.*"⁵⁴ Liberty is found not in the mind and the will to act but in the ability to act upon what the mind wills. This definition results in a very practical idea of freedom. It is an observable definition as David Gauthier, a Hobbesian scholar, describes, "liberty...must be defined as potential power unimpeded by external conditions. A man or a thing has the liberty to move in some way, if and only if it could now move in that way under actual external conditions."⁵⁵ So if one desires to move from a chair to a bed, they are only free to do this if they

⁵³ Ibid., 1:14:68 and 2:21:108, 196-7 and 262-3.

⁵⁴ Ibid., 1:14:64 & & 2:21:108, 189 and 262.

⁵⁵ David P. Gauthier, *The Logic of Leviathan: The Moral and Political Theory of Thomas Hobbes* (Oxford: Clarendon, 1969), 64.

have the unrestrained physical ability to move, not simply the will to. To elaborate on this Hobbes says,

the first foundation of natural *Right* is this, That *every man as much as in him lies endeavor to protect his* life and members. But because it is in vaine for a man to have a *Right* to the end if the *Right* to the necessary meanes be deny'd him; it followes, that since every man hath a *right* to preserve himself, he must also be allowed a *Right to use all the means, and do all the actions, without which he cannot preserve himself.*⁵⁶

Man has a natural right to protect himself, but the means to do this are naturally deficient in everyone, so man also has the right, is free, to do whatever he can do to protect himself (a similar prescription he eventually allows for the combination of men, a state). The idea of natural right is introduced here which, prefaced by Hobbes' view on the most impelling aspect of mankind, produces great effects on his view on man's freedom. Hobbes believed that all of man's actions are naturally oriented towards personal survival.⁵⁷ The natural laws are the products of this as Hobbes explicates this term saying, "the *Law of Nature*, that I may define it, is the Dictate of right Reason, conversant about those things which are either to be done, or omitted for the constant preservation of Life, and Members."⁵⁸ Man discovers natural (described as divine) laws through reason and experience of a life centered on survival to enable survival.⁵⁹ His views on natural right, are most consequential for man's freedom as they guide it. Contrary to Hobbes' definition of "law," the laws of nature serve a more advisory role.⁶⁰ Since, "*every man as much*

⁵⁶ Thomas Hobbes, *De Cive: Philosophicall Rudiments Concerning Government and Society*, 1:1:7-8, Edited by Howard Warrender (Oxford: Clarendon, 1983), 47.

⁵⁷ Hobbes, *Leviathan*, 1:14:66 & 2:21:11-12, 192 & 268-9.

⁵⁸ Hobbes, *De Cive*, 1:2:1, 51.

⁵⁹ Gauthier, *The Logic of Leviathan*, 36-37.

⁶⁰ *Ibid.*, 29, 39, and 67; Thomas Hobbes, *De Cive*, 1:2:1, 51-52.

as in him lies endeavor to protect his life,” every man’s freedom is constricted to achieving objectives pursuant to this end.⁶¹ Hobbes’ view on freedom is one where physical and external impediments take primacy over the importance of having an internal/mental will, but this freedom does have a natural aim which is towards the survival of the individual which, through experience and reason, culminates into natural laws meant to be the best means to this end.

Since for Hobbes man is most free when he lacks external impediments and because man’s will is aimed at survival while lacking the appropriate means, Hobbes’ state of nature is a state of war, as men, being equal, seek justly to domineer over others to gain the means to the ends of their freedom.⁶² Since man is in this competition with itself Hobbes concludes his idea of the state of nature by saying, “it is manifest, that during the time men live without a common Power to keep them all in awe, they are in that condition which is called Warre; and such a warre, as is of every man against every man.”⁶³ Man finds himself in an endless state of competition for the means of his survival and thus life in the state of nature for Hobbes is “solitary, poore, nasty, brutish, and short.”⁶⁴ The result of this is that man, driven by fear, gives up his freedom to a government in order to protect what his liberty was aiming at anyway, his life, as Hobbes states, “but as men, for the atteyning of peace, and conservation of themselves thereby, have made an Artificiall Man, which we call a Common-wealth; so also have they made Artificiall Chains.”⁶⁵ Law now binds man’s will and produces subjects. This state is best when it

⁶¹ Ibid., 1:1:7-8, 47.

⁶² John Colman, *John Locke’s Moral Philosophy* (Edinburgh: Edinburgh, 1983), 181.

⁶³ Hobbes, *Leviathan*, 1:13:62, 185.

⁶⁴ Ibid., 1:13:62, 186.

⁶⁵ Ibid., 2:21:108, 263.

is strong as to keep men from devolving back into the state of nature, so man must give up his expansive will to the state. Thus the sovereign can take a subject's life without cause and it will still be just, as the subject has given the state the freedom to do so in order to ensure peace.⁶⁶

Absolute power also assumes a purpose for its establishment which is not expressly stated in the logic of Dahl. Hobbes assumes survival is man's instinctive motivation and purpose. As he says, "The final Cause, End or Designe of men (who naturally love liberty, and Dominion over others,) in the introduction of that restraint upon themselves, (in which wee see them live in common-wealths) is the foresight of their own preservation."⁶⁷ The end of government, what Hobbes calls a commonwealth, is the security of individual life. Survival depends in a state of anarchy (where society does not exist) on absolute individual freedom. This is freedom which is dependent on man's innate capabilities and upon the environmental factors which set the stage for either limiting or expanding the potential options. Freedom is in the ability to make a decision and act in accordance with that decision. This action may be rational or not, but the principle of survival is expected to guide it. Man's freedom is always the same in the sense that it is tied to the will, which for Hobbes is the last decision which produces action.⁶⁸ However, a man who is physically restrained is not free. Freedom depends not on the existence of consequences but on the ability found in the natural limbs of mankind to put into action one's will. Thus, even under a government which wields absolute power over one's life, a person can

⁶⁶ Ibid., 2:17:87-88 & 2:21:109-110, 226-7 & 265.

⁶⁷ Ibid., 2:17:85, 221-3.

⁶⁸ Ibid., 1:6:28, 127.

be free.⁶⁹ The law sets consequences for undesired actions and one can decide whether or not to follow that law knowing the existence of coercive consequences.

The freedom found under government mimics the freedom found in nature. In nature, man is absolutely free, even to take another man's life. He rules the world and controls everything which his physicality can grip. The only way to fight such freedom and potential for injustice is a state with the same power over its citizens. Anything less would weaken the state and promote its own destruction by inherently voracious and opportunistic man. A restricted government within this framework is no government at all because it promotes civil war.⁷⁰ The prevention of a state of war and its concomitant injustices being the purpose of government, a restricted government is thus undesirable and unnatural. For Hobbes, all governments stem from the same origins (war in the state of nature) and thus one should legitimately expect them to wield the appropriate power to fulfill their purpose. Hobbes states, "And because the End of this institution, is the Peace and Defence of them all; and whosoever has right to the End , has right to the Means; it belongeth of Right to whatsoever Man, or Assembly that hath the Sovereignty, to be Judge both of the means of Peace and Defence."⁷¹ Government power is absolute. The origins of government determine its power and its purpose. These are the essence of government for Hobbes and as a result of this he views all governments as legitimate as he accepts that there are multiple forms of commonwealth. Hobbes defines Commonwealth as "One Person of whose Acts a great Multitude, by mutual Covenants one with another, have made themselves every one the Author, to the end he may use the strength and means of them all, as he

⁶⁹ Ibid., 1:14:68, 262-3.

⁷⁰ Ibid., 2:29:167-9, 363-5.

⁷¹ Ibid., 2:18:90-1, 225-8.

shall think expedient, for their Peace and Common Defence.”⁷² This one person is the leviathan of sovereignty which he views as an artificial man. Just before he defines his commonwealth he states, “man should say to every man, I Authorize and give up my Right of Governing my selfe, to this Man, or to this Assembly of men...This done, the Multitude so united in one Person, is called a Common-Wealth...This is the Generation of that Great Leviathan.”⁷³ The Leviathan to which he refers is first referenced in his introduction where he states, “For by Art is created that great Leviathan called a Common-Wealth, or State.”⁷⁴ The several forms government can take is insubstantial to its legitimacy because all states contain the same origins, purpose, and power, all states are legitimate. This is why in his analysis of democracy, oligarchy, and monarchy he accepts them all as different forms of commonwealth, saying “the Sovereignty is either in one Man, or in an Assembly of more than one.”⁷⁵ While he views all government as containing the same essences, he views monarchy as the best because he believes it able to accomplish a state’s purpose most efficiently.⁷⁶ So, not only is absolute power required it is a feature of every legitimate government. The state of nature being so violent and unproductive of man’s purpose, man was willing to give up his expansive will, to subvert himself to government, in order to better protect his life.⁷⁷ It is through contract that government was established, and that contract granted absolute power to a state as well as required the state to seek to keep the peace. All states are legitimate in their role as peace-keepers and all states are absolute.

⁷² Ibid., 2:17:88, 225-7.

⁷³ Ibid., 2:17:87, 225-7.

⁷⁴ Ibid., Introduction, 81.

⁷⁵ Ibid., 2:19:94, 233.

⁷⁶ Ibid., 2:19, 233-40.

⁷⁷ Ibid.,

In establishing a government with absolute power based upon representing individual interest Dahl assumes a Hobbesian conception of state purpose. A state's purpose cannot be to produce legitimacy. This presumes the existence of a state whereby collective decisions are made. To agree that individuals must participate in government also does not satisfy an appropriate explanation of purpose because this very action makes democracy inevitable through circular logic. To say a state's purpose is to represent interests accurately is to require a democratic form. The state itself becomes the purpose. Man needs a state to achieve democracy. This is an illogical, not to say unfulfilling, explanation for the existence of states and the requirement for legitimacy.

To allow for absolute power Dahl may be attempting to leave the question of purpose open for society to figure out on its own. This would say that a true conception of state purpose is perhaps unattainable and so man should forget about it. He is favorable to this point of view though he sees moral knowledge as inherently valuable, as he says

Few moral philosophers, and probably not many thoughtful and educated people, now believe that we can arrive at absolute intersubjectively valid, and "objectively true" moral judgements, in the same sense that we understand propositions in the natural sciences and mathematics to be "objectively true."...To say that moral inquiry does not lead to the discovery of objective and moral laws does not compel us to rush to the other extreme: that moral discourse is utterly "subjective."⁷⁸

He doubts that there is "objectively true" moral knowledge but allows that moral judgments have value. This value allows it to play a role in societal decision making. However, with no clear moral knowledge absolute power may play a functional role in allowing society to determine purpose and to change it when that purpose seems to produce results which people do not desire.

⁷⁸ Dahl, *Democracy and its Critics*, 66-7.

What Dahl does seem to know is that human beings need democracy and that democracy is the only legitimate form of government.⁷⁹ This certainly goes against Hobbes who argues essentially that all government is legitimate, but absolute monarchy is best. However, the focus on the representation of interests reveals a conception of human nature. In providing for legitimacy Dahl should expect democratic government based on represented interests to avoid civil war and promote stability. If human's have interests, what are they and why do they create instability when they go unrepresented? The best explanation for this is Hobbes' understanding of humanity. Human beings do not think on the societal level or in a utilitarian fashion regardless of their ideals. When utility faces the reality of life or death or even harm or benefit, people prefer to preserve their own lives and personal benefits. The impact on others is muted by the benefits of remaining alive or experiencing other benefits (perhaps obtaining more property). Humans also have an innate right to take action that is in their interest. When things occur which do not benefit them, they are free to take action, potentially producing radical change that further benefits them. In the state of nature a man can kill another man and take that person's property. He can eat that man's food, use his bow, live in his home, and maybe even eat the other man. He is free to behave in this manner if his body is capable of successfully carrying out this plan. This right does not change upon entering into a society of other individuals. In fact it becomes more clear to see as there is more opportunity to make war. In the democracy Dahl describes this freedom is being carried out on the societal level without violence. His democracy attempts to legitimize these unescapable realities and pits conflicting interests against each other in an

⁷⁹ Ibid., 311-2.

environment that allows resolution without violence. Individual interest and absolute power combine to allow actions carried out in a state of nature to be done without violence.

This democracy has the potential to legitimize theft. One does not want to go so far as murder (as in a majority desiring the extermination of a minority group) as this would be counter to Hobbesian ends for a state (though Dahl does not express explicit agreement with Hobbes' view on the purpose of government). What is commonly known as theft is clearly something allowed under this comprehension of democracy. If property rights are not protected by a government with absolute power, then it is clearly in the majority's interest to collect property from those in the minority. These groups can naturally define themselves in a pre-existing society of economic inequality, however, identity formation and party identity can develop towards this goal on the basis of cultural phenomenon or experiences which relate to particular issues. The minority in this situation of legitimate theft can easily be defined by wealth, cultural identity, or political identity. Thus, there is clear potential for theft to occur.

Dahl does discuss property, but from the opposite point of view. He assumes societal cohesion is more important in the instance of property than individual interest. Dahl considers property as a political tool which illegitimately allows the rich to have an unequal control over the political process. This is not however the result of economic inequality, but the type of representative democracy proposed given the above assumptions on human nature. In any event, the state Dahl constructs to promote the process of democracy allows the inevitable promotion of individual interest above societal interests, and promotes the potential for legitimizing theft.

To understand Dahl's views on freedom he must be put into context. A concept of human freedom holds huge implications for resulting state structure and purpose, as Hobbes' philosophy demonstrates. In regards to the state and freedom Dahl states,

The democratic process, I have argued, is superior in at least three ways to other feasible ways by which people might be governed. First, it promotes freedom as no feasible alternative can: freedom in the form of individual and collective self-determination, in the degree of moral autonomy it encourages and allows, and in a broad range of other and more particular freedoms that are inherent in the democratic process, or are necessary prerequisites for its existence, or exist because people who support the idea and practice of the democratic process are, as a plain historical fact, also inclined to give generous support to other freedoms as well.⁸⁰

A democratic state can produce and protect human freedom. This freedom exists in a state which allows for political rights and where the state holds absolute power. In such a government Dahl argues man is best suited to experience the greatest freedom. Such a mindset is consistent with Kantian/Rawlsian formulations of freedom. Isaiah Berlin, placed the concept of freedom into the context of positive and negative in explicitly political terms.⁸¹ The negative form was protected by limited government and the positive form was protected by active government. Negative freedom takes the form of innate human capacity to carry out the will with limited external influence on that will. Positive freedom depends upon one's ability to enact the will and so its existence depends on external factors. Immanuel Kant first defines these concepts in this way in a general sense. Negative freedom is dependent upon a self-generated will while positive freedom depended on the ability to carry out that will.⁸² John Rawls accepts these two notions of freedom

⁸⁰ Ibid.,

⁸¹ Berlin, *Four Essays on Liberty*, 118-9, 122-3, and 131-3.

⁸² Robert S. Taylor, *Reconstructing Rawls: The Kantian Foundations of Justice as Fairness* (University Park, PA: The Pennsylvania State University Press, 2011), 14-17.

as true and in forming a society founded upon the principle of justice, Rawls argues that freedom must be taken into account.⁸³ In Rawls' original position (where social and experiential influences do not affect human objectivity) behind the veil of ignorance (where one does not know one's position in society) humans' common sense (or Kantian intuition) would deduce that personal liberty is a requirement for a just society, as everybody would see it as personally beneficial.⁸⁴ Rawls' then goes on to argue for a state which promotes equal opportunity and which allows economic inequality only when that economically favored individual produces greater benefits to society.⁸⁵ Equal opportunity expands the positive realm of human freedom in that it opens up economic options which increase human ability to carry out their wills. Such a state of existence is one which Dahl favors.⁸⁶

Dahl's views on property and an emphasis on political opportunity combined with the immense powers granted to government aim to advance the positive sense of human freedom. As illustrated by the quote above, democracy expands human freedom to the greatest degree. Innate negative freedom cannot be enhanced, only positive-related environmental factors can be enhanced in magnitude. In creating an absolute state Dahl is giving society great ability to affect the enhancement of positive freedom. In giving every person a say in government he is allowing participation to serve as protection for the negative sense of freedom. This is the only realm where negative freedom has a chance to defend itself. By participating, an individual can shield

⁸³ Ibid., 12-14; John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), 24-28.

⁸⁴ Ibid., 15-19 and 118-23.

⁸⁵ Ibid., 130-1.

⁸⁶ Dahl, *Democracy and its Critics*, 311-2.

his will from outside influence while participation in a state with absolute power can enhance his ability, and thus his positive freedom.

Such a conception of freedom is in essence Hobbesian. Hobbes takes into account both forms of freedom but emphasizes it in the positive sense. Freedom depends on action and action depends on will. Since one who has reason can always will, freedom depends on external factors. These external factors can limit or expand human freedom in the positive sense. Dahl views human freedom in the same way as Hobbes and allows for human freedom under absolute government. Both create a purpose of government out of human freedom in that Hobbes requires living to be free and Dahl desires government to expand human freedom. Dahl's concepts of human freedom are essentially Hobbesian and he designs his democracy to protect negative freedom through participation and to enhance positive freedom through the absolute power of the state.

Dahl does not directly present a philosophy of freedom. However, the purpose of government surmised in his clearly illustrated Hobbesian conception of human nature requires a Hobbesian conception of freedom. Freedom is essential to the crafting of a state for fundamentalist theorists like Hobbes, Locke, and Jean Jacques Rousseau because the nature of human freedom affects state legitimacy. This is because it is related directly to the effectiveness of coercion. If human freedom cannot exist in the presence of coercion than a government cannot be legitimate given the definition stated above. Freedom needs to exist while in the presence of coercion for a state to be legitimate, otherwise no state is legitimate. That is a conclusion hardly viable given the pervasiveness of government in human history.

Freedom for Dahl is instrumental rather than intrinsic and utilitarian rather than individual. Positive is the best description. It is one that depends on environmental factors which limit what is possible and what decisions can actually be made. One can will to fly but that person will just be jumping. Similarly, a person in chains is not free because he can actualize very little of his will. He can wiggle his toe but that's about it. Evidence of Dahl's view on this matter is found in his treatment of property.

Property has the potential of producing political inequality and so Dahl suggests redistribution to remedy this. He states this clearly in *Democracy and its Critics*, saying through the advocate's voice in the dialogue,

Ideally citizens would engage in political life as political equals...for citizens to be political equals would require that they have all the rights, obligations and opportunities implied by the criteria of the democratic process. But...those rights duties, opportunities, and so on could not exist unless, for example, many crucial political resources were distributed pretty equally amongst them...I mean property, wealth, income, education, social status, information, and the like.⁸⁷

Dahl desires economic equality so that there would be equality of influence which would protect the sanctity of the democratic process. Such an action would have the effect of increasing the opportunity available to currently less wealthy persons while limiting those of the wealthiest in a non-political and a political sense. By increasing economic power and opportunity, freedom is being enhanced as more options become more readily available. For instance, a person with a lot of savings is no longer dependent on his employer for survival and he can afford to take more risks which he hopes will increase his chances for prosperity and survival. This is all arranged to ensure political equality, if people are equal in means they are equal in influence in a

⁸⁷ Ibid., 178.

representative democracy.⁸⁸ The connecting of property and freedom is something explicitly done in a Rawlsian state designed to produce equal opportunity.⁸⁹

An alternative conception of freedom which could function in this democratic context is one proposed by Phillip Pettit. Pettit argues on the basis of moral responsibility that a discursive conception of freedom is the most accurate description of human freedom.⁹⁰ By discursive, it is meant that freedom is only found in a measure of control in collective decision making. By having a say in societal actions one is free. This makes sense given the starting requirement Pettit establishes for freedom, which is that it creates moral responsibility.⁹¹ Such a requirement is inherently social, it involves interactions between two humans which one can judge with the concepts of right and wrong. The best way to be free in society then, is the ability to have control over collective decisions. The problem with this concept is that it views society as the starting point, and not man. Pettit establishes an artificial requirement to fulfill his desired result. His test does not consider the existence of individual freedom and as a result is flawed.

⁸⁸ Ibid., 178-80, 182, and 324.

⁸⁹ Dahl provides a more in depth demonstration of his views on economics in his work *Politics, Economics, and Welfare*. In his preface to the 1976 edition he makes clear that the purpose of the work was to develop a purpose for economic action devoid of -isms (capitalism or socialism), connected with government planning, and aimed at solving problems of economic inequality. He states in the 1976 preface that, “the American politico-economic order has displayed its incapacities, even its perversities, more than its merits. It remains both sluggish and feckless in advancing on problems on which it has the advantage of decades of experience in policy making: poverty and maldistribution of income and wealth, racial inequality, health care, public education, inflation and unemployment, and industrial relations...The specific influences of large private enterprise on government are an old story, but new chapters are written in each decade as the size, functions, and powers of the corporation grow... The constant reaffirmation of democratic egalitarianism does not, for example, much move the world’s polyarchies toward either political or economic or social equality.” Dahl laments the fact that the U.S. government has not sought to produce economic equality. Dahl goes on to say in the 1976 preface that equality is a purpose for societal action and in the 1955 preface that the state in the term “political economy” is a part of achieving those economic ends. Robert Dahl and Charles E. Lindblom, “1976 preface” and “1953 preface,” *Politics Economics and Welfare: Planning and Politico-Economic Systems Resolved into Basic Social Processes* (Chicago: University of Chicago, 1976), xxi-xxii, and xxxixlv-xlvii.

⁹⁰ Phillip Pettit, *A Theory of Freedom: From the Psychology to the Politics of Agency*, (Oxford: Oxford University Press, 2001), 64-68, 125-6, and 174.

⁹¹ Ibid., 7-8.

Both Dahl's and Hobbes' states function upon the same premises. The unescapable reality that humans will consider individual interest first is central to these two theorists ideas of the state. This supports the production of a state with absolute power to allow interests to thrive in both cases, just Hobbes' assumes the interest of survival to be a state's purpose. The difference between these two is slight in that Dahl allows for the purpose to change but cannot expect much difference given his emphasis on individual interests (since people's interests are ultimately related to survival the state's actions cannot be too distant from that aim). Since this is the case it is easier to assume that the purpose of a state seems so obvious that it does not need stating. The purpose has to be the protection of people's welfare. While the state is given agency with the power to set its own goals the essence of what a state is established to do stays the same. Under this premise, absolute power is something more familiarly known as state police power. In the ideal state all things are under the jurisdiction of this power and can be regulated by the state as it sees most beneficial to its goals, something which for Dahl the majority determines. It may be argued that Rousseau believed the state to contain absolute power wielded by the public in a democratic form. However, this government made decisions through the general will, not individual interests. The general will requires an interpretation of humanity which assumes innate morality which makes it capable for individuals to put the interests of society above that of themselves.⁹² Starting from this premise produces an entirely different quality of government while it is expected to stay similar in form (containing the components of absolute power and democracy). Like the inevitability of human freedom, all states require

⁹² Jean Jacques Rousseau, *The Social Contract or Principles of Political Right*, 4:1:1, Translated by G.D.H. Cole (New York: Everyman's Library, 1993), 271.

absolute power to protect the safety of the public. The most legitimate form of pure democracy which Dahl describes establishes such a conception of state purpose.

Property Rights and its Lockean foundations

What has come before was an analysis of a powerful force in modern democratic theory. Dahl's emphasis on process takes a side in a long running debate about whether a legitimate government must emphasize just ends or just means. The foundations for Dahlian thought assume Hobbesian premises on human nature which make the process of democracy the most powerful legitimating force. However, there is an opposing perspective on legitimacy which focuses on just ends. In the modern liberal democratic society of the U.S. John Locke is the most relevant character to frame the normative argument for just ends.

In traditional liberalism, property is an essential source of conflict that helps establish a rational basis for state legitimacy. The analysis of property begins with a definition describing how it exists and what its purpose is. John Locke provides the easiest and most widely cited source for the principles of property within the realm of classical liberalism. These understandings produce an outline of what one's rights are concerning property. Locke generally restricts this freedom to actions that do not affect another's property. Locke views these rights as essential to humanity and thus essential for a state to protect. These rights then help direct the purpose of government to protecting them. Thomas Hobbes' perspective is opposed to this given the expansive power he grants the commonwealth to protect its members. Hobbes leaves no room for restrictions on government that protect individual property rights. The Dahlian perspective views these rights as undefined and open to changing attitudes through the

democratic process. This also conflicts with the Lockean viewpoint. Since he bases all state legitimacy upon the process of democracy itself, Dahl views property as subservient to the democratic process and thus recommends a more equal distribution of property so that some individuals will not have an unequal influence on the democratic process.⁹³ The subject of distribution is a concern for Rawls but is also a topic of interest amongst modern political scientists in regards to campaign finance. The question then becomes, how closely does the United States protect property rights? This question is taken up later in an analysis of U.S. legitimacy. However, Locke's ideas need further description to form a common basis for discussion.

Locke argues that the purpose of government is to protect mankind's natural rights.⁹⁴ Natural rights are universal expectations of individual power which are necessary for human existence. Locke arrives at these rights by examining human nature in a classic thought experiment where he imagines man in a state of nature. This natural state has no society or government and thus allows a demonstration of man's pure nature. From this scenario Locke argues that man is totally free, equal, and rational. Man's aim is survival, but the state of nature serves as an obstacle to that assurance since he is at risk of injustice from other men. It is man's capability to reason, which, when it controls the passions/instincts, makes man free. This, combined with the obstacles of the state of nature, led to the formation of society. Locke argues that human nature pursues existence as its goal while requiring freedom and property to obtain that goal. Man can thus accept certain regulations which limit his ability to do injustice to

⁹³ Augustus Dizerega, "Equality, Self-Government and Democracy: A Critique of Dahl's Political Equality," *The Western Political Quarterly* 41, No. 3 (Sep. 1988), 463; Richard W. Krouse, "Some (Further) Dilemmas of Pluralist Democracy," *Yale Law and Policy Review* 2, No. 1 (Fall, 1983), 174.

⁹⁴ Locke, *Second Treatise on Civil Government*, 9:123, 139.

others for the protection of that instinctual pursuit and its two necessities. Thus government is given an explicit purpose and its adherence to that purpose creates its legitimacy. As a result of this, Locke is willing to accept any form of government as legitimate so long as it is true to its ends.⁹⁵ For Locke specifically, Life, liberty, and property are man's natural rights which man established government to protect.

Property is essential to humanity. By "essential," it is meant that human existence is not possible without it. For Locke, the simple act of eating lays a claim of property upon that item. It would be a contradiction to say that the food one eats to maintain life is at the same time yours and someone else's, it must be someones since the act of eating destroys its value to others. To claim the former cooperative spirit would mean that it would be an injustice to eat and a virtue to starve. In nature, Locke argues that everything was in common in this way, however the action of human labor produced the moral right to possess.⁹⁶ This basic argument of property makes it an essential aspect of human life. Property is necessary for survival and the protection of an individual's property at the societal level is an important function.⁹⁷

Locke elaborates on this theory to provide for situations of waste. When man accumulates more than he can himself possess and use, then he discovers trade with an accompanying view of relative value. This action goes hand in hand with Locke's spoilage principle, that man should leave as much and as good for everyone else.⁹⁸ One could argue that Locke is not in favor of the accumulation of wealth as this takes too much away from everyone

⁹⁵ Ibid., 10:132-3, 141-2.

⁹⁶ Ibid., 1:5:26-29, 88-9.

⁹⁷ The notion of property goes beyond material possession for Locke as he describes speech, life, and ideas as forms of personal property. Ibid., 5:24-6 and 9:123-24, 87-8 and 138-9.

⁹⁸ Ibid., 1:5:25, 36, and 46, 87, 92, and 97.

else while separating the individual from the labor which makes it his. While this may in fact be the result of the protection of property rights, Locke's argument for trade logically deals with these concerns in that it is a tool to preserve the spoilage principle and requires labor. Banking may be a harder corollary to defend on the basis of this principle, however, taking his basic view of property rights, where accumulations of the fruits of trade (less perishable objects of value like gold) are simply the accumulations of the fruits of labor in another form, banking is easily a legitimate function.

Locke's treatment of property is holistic while it maintains a touch of common experience which makes it relatable. One critique of it which Dahl would level upon it is that it is placed above the democratic voice which produces legitimacy. While not Rawlsian in principle, since Rawls agrees that people in the original position would agree to some form of property rights with limits which would prevent excessive accumulation through inheritance, Dahl views the restrictions on property Rawls places on property as beneficial. These restrictions include some form of redistribution efforts to provide for a social safety net as well as equal economic opportunity through state support of education and other means.⁹⁹ While Rawls believes these restrictions as something people would see intuitively as just in the original position, Dahl views them as a way to counteract the issue of inequality of political influence in modern U.S. democracy. This would then shore up the foundation of equality at the heart of the accurate representation of interests which for Dahl produces democracy and thus a legitimate state.

⁹⁹ Rawls, *A Theory of Justice*, 65, 76, and 243.

This concern for economic inequality is based on a concern for the strength of the democratic process. Dahl originally viewed inequality of political influence as inconsequential for political stability as in his early works, like in *Who Governs?*, where Dahl argues that in a modern pluralist democracy (or “polyarchy,” as Dahl refers to it) different groups hold different resources, which he refers to as “resource fragmentation,” and thus their influence equals out. These resources include voting, money, and activism. In his later works, like in *Democracy and its Critics*, he switches this view to state that economic influence through campaign finance is too influential and thus conducive to the production of governments which unjustly favor the interests of those who donate large sums.¹⁰⁰ Economic inequality threatens to produce inequality of political influence which threatens the legitimacy of democratic government because the inequality of influence produces inaccurate representation of interests. Modern scholarship along this thread has blossomed in the wake of the Supreme Court cases of *Buckley v. Valeo*, which equated money with speech, and *McCutcheon v. F.E.C.*, which allowed unlimited contributions to pour into campaigns from unaffiliated Political Action Committees (PACs).¹⁰¹ These Supreme Court cases illustrate exactly the problems with property rights which Dahl had when combining such rights with democracy. If a person is allowed undue influence through the free use of his property on the democratic process, then there is the potential that the legitimacy of the state will become corrupted. The argument would then go that the United States has too

¹⁰⁰ Dahl, *Who Governs?* 11, 89, 105, and 243; Dahl, *Democracy and its Critics*, 324; Augustus Dizerega, “Equality, Self-Government and Democracy,” 448 and 463

¹⁰¹ *Buckley v. Valeo*, 424 U.S., No. 75-436, (1976), *Cornell University Law School: Legal Information Institute*, Accessed February 26, 2016, 15 and 19-23; *Shaun McCutcheon v. Federal Election Commission*, 572 U.S., No. 12-536 (2014), 14-15 and 22-24.

much protection for property rights because the expansive protections for the political use of that property threatens the virtue of the democratic process which provides for legitimacy.

The counter to this concern relates directly to the debate concerning legitimacy, as the democratic process is important in the above position insofar as the process produces legitimacy. If it is not the process which is conducive to legitimacy, then instability as a result of the protection of property rights would not occur. Locke would thus stand upon his assumption of governmental purpose, which is to protect natural rights. The protection of these rights is of a higher order concern than democracy, as detailed above. As a result, the state must protect them in order to fulfill its purpose and thus remain legitimate.

With this discussion of the foundations of property in classical liberalism and the resultant consequences and arguments for and against its protection, it is now appropriate to move on to an analysis of the legitimacy of modern U.S. democracy.

Legitimacy of U.S. Democracy

Today, political scientists face a dilemma when analyzing the United States. It is a country with democratic mechanisms (interest groups and the right to vote) and institutions (the branches of state) which mostly fit with both early (easier to achieve) and late (more pure) Dahlian conceptions of state legitimacy in the form of democracy he requires.¹⁰² Along with this is a citizenry which views its government as legitimate and who overall approve of state actions. This is evident from John Dunn's hypotheses on the dominance of democratic theory in the populace's mind as well as the lack of any significant violent protest against government action.

¹⁰² Dahl's conclusion of *How Democratic is the American Constitution* points out that the U.S. has a few problems, but that one cannot expect a country to have a perfect electoral system. He points to the spread of democracy along a parliamentary model instead of a presidential model to prove his critique but also his belief that the U.S. is adequately democratic. He argues that the spread of democracy is a sign of the inherent democratic nature of the American experiment. Dahl, *How Democratic*, 176-7.

Dunn asserts the claim for the hegemony of the idea of democracy in American culture, saying in *Breaking Democracy's Spell*,

In the societies of the West today we constantly assure one another of our singular good fortune in several distinct but complementary respects...we feel ourselves fortunate too in the political arrangements under which and within which we live—fortunate in their intrinsic justice and decency...At least in the countries of the West, and probably now across the world as a whole, one salient prerequisite for improving political judgement is to recognize just what has recently happened to and through the still sometimes-charismatic but almost never classificatory term, *democracy*.¹⁰³

People in the West believe themselves “fortunate” for the democracy which they live under and consider it a cause for their high quality of life. However, in this work Dunn argues against this assumed causality in an attempt to shake the unthinking faith in democracy he observes. Dahl’s democracy places participation at the center for democracy’s power and success. However, consistently only half of the population votes in presidential elections and less than half in mid-term elections.¹⁰⁴ If the populace is not using the main tool of representation available to them, how can theorists truthfully conclude that the United States government is accurately representing all interests in American society? Providing practical leniency for such a universal positive statement, luck would serve as the only explanation no matter the cause of voter apathy. There is no explanation for how voting and representation of interests would produce the legitimacy for the United States government. To go further, U.S. treatment of property rights as described above as one’s freedom to use and obtain property, not its distribution, raises concerns for the traditional Lockean conception of legitimacy on a major natural right which government is meant to protect. This is a view which does not look at campaign finance, but the more

¹⁰³ Dunn, *Breaking Democracy's Spell*, 1-2 and 5-6.

¹⁰⁴ Michael P. McDonald and Samuel L. Popkin, “The Myth of the Vanishing Voter,” 966.

universally relevant issue of government regulatory taking, meaning the limitations which government has placed on property. What remains from these contradictions, and what is built upon the premises which disprove both the normative and procedural argument, is Hobbes' argument for government. There is an intrinsic purpose to government that is focused on security which makes government legitimate regardless of any temporal dominance of a system of moral beliefs or institutional process of how collective decisions are made.

The U.S. is a legitimate government. To make use of the definition given at the outset, that legitimacy requires a populace's acceptance of coercion, the U.S. government is a legitimate state. John Dunn has argued that people view democracy as a legitimate form of government. It has become the commonly accepted political axiom of U.S. citizens that democracy is the only form of legitimate government.¹⁰⁵ When considering the practicalities of Dahl's conception of democracy the U.S. fits closely with Dahl's model. He does admit to a few exceptions like single member district plurality voting and unequal representation based on constitutional favoring of small states in the senate and the electoral college. However, if the U.S. is a democracy, then the American people view it as legitimate given their beliefs in the inherent legitimacy of democracy. While there are polls which attempt to get at this question, the questions only bear on the the actual performance of government and not the more fundamental point of U.S. government having the right to make laws.¹⁰⁶ Along with the definition it is clear from recent history that the U.S. does not have a problem getting people to accept its laws. There have been no attempts at revolution and protests have remained peaceful and focused on

¹⁰⁵ Dunn, *Western Political Theory in the Face of the Future*, 1-3.

¹⁰⁶ "Trust in Government," *Gallup*, accessed on January 28, 2016.

using the governing structure to those groups advantage. The Occupy Wall Street movement was one prominent example of peaceful and lawful protest however, it was not revolutionary.¹⁰⁷

There is a notable exception to this general description of non-violence, which is recent and historical violence the African American population has demonstrated. Recent looting of stores, burning of cars, and injuring of police in Baltimore, Maryland is reminiscent of previous African American protests like the Watts riots in 1965.¹⁰⁸ Similarly, the United States has a high proportion of its population in prison relative to other countries with a rate .72 percent of its entire population in prison.¹⁰⁹ Accepting that some crime is inevitable, it is unsettling that roughly 43 percent of prisoners are African American, that 48 percent (in 2011) of prisoners are in jail for drug offenses, and that 59 percent of all prisoners in jail for drug offenses are African American.¹¹⁰ These numbers are disproportionate as the African American population makes up only 12.9 percent of the population.¹¹¹ Perhaps for some segments of the U.S. population the United States government is not legitimate, particularly the African American population. Using the conclusion which this argument is building towards, this is perhaps the result of a lack of security, physical or financial, which the U.S. government and a history of legal discrimination which is a source for that insecurity has provided the African American population. Ultimately,

¹⁰⁷ Joseph Goldstein, "Wall Street Demonstrations Test Police Trained for Bigger Threats," *New York Times*, September 26, 2011, accessed February 27, 2016.

¹⁰⁸ Sheryl Gay Stolberg, "Baltimore Enlists National Guard and a Curfew to Fight Riots and Looting," *New York Times*, April 27, 2015, accessed February 27, 2016.

¹⁰⁹ Michelle Ye Hee Lee, "Yes, U.S. Locks People up at a Higher rate than any other Country," *The Washington Post*, July 7, 2015, accessed February 27, 2016.

¹¹⁰ "Criminal Justice Fact Sheet," *NAACP*, accessed February 27, 2016; Nicole Flatow, "Almost Half of Federal Prisoners Held for Drug Crimes," *Think Progress*, January 2, 2013, accessed February 27, 2016.

¹¹¹ "United States: People and Society," *CIA WorldFactbook*, Accessed April 5, 2016.

the population which demonstrates such disregard for U.S. law remains a small proportion and thus is insignificant to the ultimate conclusion that the U.S. government is legitimate.

There is a large literature on voting, much of it old, but it remains relevant. There have been many explanations as to why voter turnout has decreased in the United States, but there is consensus that voters take into account costs and benefits. All writing on the topic of voter turnout and its decline assumes that high voter turnout/participation is a good thing. The various author's assume that the strength of democratic participation correlates somehow to government legitimacy. These political scientists have examined voter turnout extensively through empirical studies. Their results demonstrate several basic factors which describe and explain voter turnout in the United States. Several studies examined by Warren Miller, David Hill, and Richard Boyd produce clear conclusions. Demographically, the richer, more educated, and older a U.S. citizen is, the more likely it is that he votes.¹¹² The younger, poorer, and less educated segments of the population produce the largest drag on voter turnout. It is also clear that voting calendars affect voter turnout generally. Boyd argues that a greater number of separate voting opportunities (like primary, state, and local elections) produces lower turnout, and that if there were no primaries voting would increase by five percent.¹¹³ There are also arguments that voting has been declining since 1972. However, there is some skepticism about the actual numbers which Michael McDonald and Samuel Popkin raise. The issue here surrounds eligible voters who are incapable of voting, like felons, immigrants, and overseas U.S. nationals. The U.S. census takes into

¹¹² Warren E. Miller, "Disinterest, Disaffection, and Participation in Presidential Politics," *Political Behavior* 2, no. 1 (1980), 24.

¹¹³ Richard Boyd, "Elections, Calendars, and Voter Turnout," *American Politics Quarterly* 14, no. 1/2 (January, 1980), 1-2; Richard Boyd, "The Effects of Primaries and Statewide Races on Voter Turnout," *Journal of Politics* 51, no. 3 (August, 1989), 730.

account these voters when determining turnout numbers even though they cannot physically vote. Therefore, turnout numbers are actually higher to the degree of about 2.5 percent.¹¹⁴ The authors argue that voting decline has been a result in an increase in these eligible voters who are incapable of voting.¹¹⁵

From an international perspective, David Hill found in a comparison study to other developed democracies that the U.S. lags in voter turnout, implying the U.S is a unique case.¹¹⁶ However, differing statutory laws regarding registration and voter coercion skew the comparison. France's election system is most like the U.S. and that country has comparably low voter turnout.¹¹⁷ The major source of explanation for the decline within the literature is Anthony Downs' economic theory of democracy. This theory states that voters make a rational calculation taking into account the costs of voting, the individual benefits of voting, and the societal benefits of voting (civic duty).¹¹⁸ Hill argues that registration laws, lack of accountability in the U.S. government system, and reduction in electoral competition both increases the costs and decreases the benefits of voting.¹¹⁹ While voter turnout has been low, Miller takes a slightly contrarian view and argues that the strength of U.S. democracy may still be strong when one takes into

¹¹⁴ Michael P. McDonald and Samuel L. Popkin, "The Myth of the Vanishing Voter," *American Political Science Review* 95, no. 4 (December, 2001), 966.

¹¹⁵ Ibid., 968.

¹¹⁶ David Lee Hill, *American Voter Turnout: An Institutional Perspective*, (Boulder: Westview Press, 2006), 2-3.

¹¹⁷ Dunn, *Western Political Theory in the Face of the Future*, 1-3.

¹¹⁸ Ibid. 24-5.

¹¹⁹ Ibid. 2, 54, 66, and 29.

account non-voting participation like volunteering and money contributions.¹²⁰ Outside of all these explanations, the historian Mark Kornbluh proposes a broader social explanation which relies to a certain extent on the economic theory of democracy to why voter turnout has lowered. Since the peak of voter turnout in the late nineteenth century, a number of reforms took hold of the election system which de-incentivized voting. Registration became required, party power decreased, and the advance of the civil service system fed disinterest. The result of these changes was a reduction of electoral competition, the tangible benefits of voting, and an increased burden on the voter. Partisan loyalty decreased with the capability of splitting the ballot and the material gains of the spoils system were becoming extinct. The political culture also changed, as society became less community-centric. Reduced competition, increased disinterest, a decrease in party power, and societal change which deemphasized the community contributed to the sharp declines in voter turnout seen at the turn of the twentieth century.¹²¹ The study of voter turnout has produced varying fact-based explanations and solid factual descriptions of the U.S. voting system. There is consensus that voter's view voting as a cost benefit scenario. However, this literature is lacking in principled foundations which explain its assumptions that voter turnout is important to democracy and the fact remains that a near majority of the population does not vote and so one cannot say that the U.S. is accurately representing all of society's interests.

Modern U.S. government has infringed upon basic property rights. Regardless of the protection of property rights in the case of campaign finance, the U.S. government has allowed

¹²⁰ Warren E. Miller, "Disinterest," 12-3.

¹²¹ Mark Kornbluh, *Why America Stopped Voting: The Decline of Participatory Democracy and the Emergence of Modern American Politics* (New York: New York University Press, 2000), 3, 52, 114, 118, 148, and 159.

the infringement of property rights through regulatory takings. This is a much more pertinent issue for most Americans in that unlike campaign finance, which directly affects relatively few large donors and may marginally affect the benefits/influence one sees an individual vote as having on an election, regulatory takings affect nearly every American directly and in a substantial way. With this in mind, large scale corporate business regulations are not taken into account here. These regulations take into account the affects those uses of property will have on others lives and properties, and thus are potentially legitimate areas of regulation. What is primarily considered are regulatory takings concerning zoning and private to private transfers through eminent domain. Rigor Pilon, a scholar at the libertarian think-tank the Cato Institute, has provided a detailed account of this topic. He begins by differentiating between legitimate and illegitimate regulatory takings, claiming that illegitimate regulatory taking occurs,

when regulations designed to give the public various goods take otherwise legitimate uses an owner has in his property, thereby reducing its value, with no offsetting benefit, the Takings Clause, properly understood and applied, requires just compensation for the loss. Here, government regulates not to prohibit wrongful but rather rightful uses; not to prevent harms to others, as under scenario two, but to provide the public with various goods—lovely views, historic preservation, agricultural reserves, wildlife habitat—goods that are afforded by restricting the owner. Regulations prohibit the owner from using his property as he otherwise might—thus taking those uses—and the value of the property drops.¹²²

When the use of property is prohibited when that use does no harm to others that regulation does harm to the property owner by diminishing its value (what he can do with it) without a reciprocal equivalent benefit. Such takings are illegitimate as it pertains to Lockean natural rights doctrines as well as the U.S. constitution which requires just compensation for takings (compensation

¹²² Roger Pilon, “The Constitutional Protection of Property Rights: America and Europe,” *Cato Institute*. Accessed January 15, 2016, 29.

being an innovation within English common law). In dealing with such cases the Supreme Court has distinguished between the loss of part of a property's value and a complete loss, saying that only a complete loss is covered under the takings clause.¹²³ Pilon argues that such distinctions have no basis in natural rights doctrines of property. If the government is taking what makes a property useful than it is infringing upon property rights. Two instances of regulatory takings in modern America which Pilon finds deeply problematic are the takings of property for blight reduction and the limitation of use produced by permits and zoning.¹²⁴ He argues that blight reduction is not a proper state function which allows for regulatory taking.¹²⁵ However, a less controversial issue that most would accept to be a clear violation of property rights is the regulatory taking which occurs with zoning and permits. A classic example of this injustice occurred in the 1926 case *Village of Euclid v. Ambler Realty Co.* In this case government planning had zoned a portion of land for residential use which the owner had desired to sell for industrial development. The value of the land dropped by 75 percent. In a 5-4 decision the Supreme Court upheld the zoning decision and claimed that it was not a proper taking because the government was providing a public good.¹²⁶ This went against the former nuisance (where a use of property interfered with others health or enjoyment of property) requirements for acceptable takings and opened up a new rationale for legitimate taking which did not rely on a use of property that affected others. The government could thus take property by limiting its use, which is the source of its value, and do it without providing compensation. This issue of

¹²³ Ibid., 48-9.

¹²⁴ Ibid., 31-2

¹²⁵ Ibid.,

¹²⁶ Ibid., 40-2

regulatory takings reappeared in the 1992 case *Lucas v. South Carolina Coastal Council*. In this case, a real estate developer purchased two parcels of land which he hoped to develop two homes on. However, the South Carolina Coastal Council blocked such use because it interfered with the natural flora, fauna, and views of the coast which the Beachfront Management Act qualified as public goods. The Supreme Court took up the case and decided on the basis that since the use/value of the entire property was wiped out, that it was considered a taking.¹²⁷ The problem with this is that the court still considered the public goods which the regulation aimed at as a reasonable motive for a regulatory taking and that partial takings through zoning and permit regulations remained legitimate. These cases illustrate that property has become less of a human right and more of a tool for the production of free public goods. What it demonstrates is a clear abuse of property rights which allows the use of property to be taken away without compensation and even when that use is not harmful to society. This is important as Locke states, “The great and chief end, therefore, of men uniting into commonwealths, and putting themselves under government, is the preservation of their property.”¹²⁸ In spite of the clear lack of protection for property rights the American case has demonstrated, there has been little to no public concern for the failure to succeed in such a basic governmental purpose. Locke is explicit in clarifying people’s right to absolve itself of a tyrannical government, that he does not expect people who become set in their ways to rebel on every usurpation of their rights.¹²⁹ He sees people as inherently conservative and on revolutions states that, “Great mistakes in the ruling part, many wrong and inconvenient laws, and all the slips of human frailty will be borne by the people

¹²⁷ Ibid., 48-50.

¹²⁸ Locke, *Second Treatise on Civil Government*, 9:124, 139.

¹²⁹ Ibid., 19:223, 190.

without mutiny or murmur. But if a long train of abuses, prevarications, and artifices, all tending the same way...it is not to be wondered that they should then rouse themselves.”¹³⁰ It takes great and long term abuse of government power to spark rebellion, in the meantime Locke’s tacit consent principle seems to keep the government legitimate.¹³¹ However, the actions regarding property rights attack a central pillar of the purpose of government of Locke and as the court cases show there has been a pattern of such behavior dating back nearly one hundred years. There is also the volume of economic regulations which this paper does not bring up that may in fact be relevant to this argument and thus would greatly expand the extent of the abuse of property rights. By Locke’s logic, the U.S. government should not be legitimate and civil strife should result.

In the above discussion two different theories’ explanatory power were tested on modern U.S. legitimacy. The theories explain legitimacy from two opposing angles, means and ends. The analysis of the modern United States dealt with three items of importance: voting, because it is the main tool used to represent interests which imparts legitimacy upon government for Dahl, property, because in classical Lockean liberalism government’s legitimacy rests not on the democratic process but upon government outcomes concerning the protection of natural rights, and a definition of legitimacy separate from the theories which deals with what legitimacy should look like on a practical level. Using the relatively objective definition it became clear that the U.S. is a legitimate state. However, the analysis showed that the modern U.S. neither

¹³⁰ Ibid., 19:225, 191.

¹³¹ Requiring all government to be based on consent, John Locke supposes that in the absence of explicit affirmation of government authority the lack of explicit denial of that right is sufficient to say that government is legitimate. Ibid., 8:119-20, 136-7; For more on this topic of Locke’s tacit consent see John G. Bennett, “A Note on Locke’s Theory of Tacit Consent,” *The Philosophical Review* 88, No. 2 (April, 1979), 223-34.

accurately represents interests through voting nor protects property rights. Thus, neither Dahl nor Locke is correct about state legitimacy in regards to the U.S.. To explain why the U.S. remains legitimate Thomas Hobbes provides guidance. The U.S. has shown that the process of democracy Dahl describes is irrelevant to state legitimacy given that the U.S. does not accurately represent interests, as is necessary in a Dahlian conception of democracy. The U.S. has also shown that classical liberal moral purposes for government are also irrelevant to legitimacy, as the U.S. has infringed upon property rights. In spite of these circumstances the U.S. remains legitimate. Since people can accept the infringement of their rights they necessarily can accept a powerful government, and because they are not concerned about government representing their particular interests they can accept non-democratic forms of government. The U.S. thus demonstrates a strictly non-democratic government which wields absolute power over property. Hobbes' formula for a legitimate state is one that ensures the security of its citizens through any form of government which wields absolute power. Such is the nature of U.S. democracy as revealed in this paper.

Conclusion

Modern democratic theorist Robert Dahl and other proceduralists have developed the dominant views on democratic legitimacy. The process of collective decision-making, where every individual is given a voice in the process, is the essence of democracy. For Dahl, protected political rights ensure that all individual interests are accurately represented in government. It is the correct application of this process which produces state legitimacy. Legitimacy allows state stability to exist and for societal peace to continue. Legitimacy is essential for society in this respect. The emphasis on individual interests assumes a basic human nature of survival and self

interest guiding a positive definition of freedom. These are two crucial aspects guiding Hobbesian thought which necessitates a government with absolute power. For Dahl, absolute power of government is required to carry out the interests of the majority and to give the process value to those involved. Dahl's political theory is fundamentally Hobbesian in these respects, and his democracy is Hobbes' concept of human nature warring within the confines of democratic decision making. These proceduralist notions conflict with classical liberalism as John Locke represents it, where the legitimacy of government depends on governmental outcomes of justice specifically concerning the protection of natural rights. In examining modern U.S. democracy it is clear that the population views the government as legitimate in the sense defined. However, the U.S. neither adequately protects property rights nor accurately represents interests. As a result, neither Dahl's nor Locke's views on legitimacy explain the result of government legitimacy. However, these conclusions demonstrate that people can accept a less than pure democracy and a government with incredible power. The key to a legitimate government in Hobbesian thought is that all forms of government can be legitimate if they retain the absolute power which is their right. While not proving the most adequate form of government to be monarchy (as Hobbes argues), this paper does demonstrate the essence of government which Hobbes describes. As a result, Dahl is incorrect with his use of process to explain legitimacy but correct in assuming Hobbesian premises to build his theory upon which allows his assertion of absolute governmental power.

Bibliography

Aristotle. *The Politics*. Translated by T.A. Sinclair and Trevor J. Saunders. London: Penguin, 1962.

Barber, Benjamin R. *Strong Democracy: Participatory Politics for a New Age*. Berkeley: University of California Press, 1984.

Bennett, John G. "A Note on Locke's Theory of Tacit Consent." *The Philosophical Review* 88, No. 2 (April, 1979). 223-34.

Bentham, Jeremy. *The Theory of Legislation*. Translated by Richard Hildreth. Edited by C.K. Ogden. London: Rutledge and Kegan Paul, 1931.

Berlin, Isaiah. *Four Essays on Liberty*. London: Oxford University Press. 1969.

Boyd, Richard. "Elections, Calendars, and Voter Turnout." *American Politics Quarterly* 14, no. 1/2 (January, 1980). 89-105.

———. "The Effects of Primaries and Statewide Races on Voter Turnout." *Journal of Politics* 51, no. 3 (August, 1989). 730-9.

Braybrooke, David. "Can Democracy be Combined with Federalism or with Liberalism." *Liberal Democracy* 25, (1983). 109-18.

Brennan, Jason and Hill, Lisa. *Compulsory Voting: For and Against*. Cambridge: Cambridge University Press, 2014.

Buckley v. Valeo. 424 U.S., No. 75-436, (1976). *Cornell University Law School: Legal Information Institute*. accessed February 26, 2016.

Carter, Stephen L. *The Dissent of the Governed: A Meditation on Law, Religion, and Loyalty*. Cambridge: Harvard University Press, 1998.

CIA WorldFactbook, Accessed April 5, 2016.

Christiano, Thomas. "The Authority of Democracy." *The Journal of Political Philosophy* 12, no. 3 (2004). 266-90.

Colman, John. *John Locke's Moral Philosophy*. Edinburgh: Edinburgh, 1983.

Coons, Christian. "Wellman's 'Reductive' Justifications for Redistributive Policies that Favor Compatriots." *Ethics* 111, no. 4 (July, 2001). 782-8.

"Criminal Justice Fact Sheet," NAACP, accessed February 27, 2016.

Dahl, Robert A. *Who Governs? Democracy and Power in an American City*. New Haven: Yale University Press, 1961.

———. *Democracy and its Critics*. New Haven: Yale University Press, 1998.

———. *How Democratic is the American Constitution*. New Haven: Yale University Press, 2003.

Dahl, Robert. and Lindblom, Charles E. *Politics Economics and Welfare: Planning and Politico-Economic Systems Resolved into Basic Social Processes*. Chicago: University of Chicago, 1976.

Deliberative Politics: Essays on Democracy and Disagreement. Edited by Stephen Macedo. New York: Oxford University Press, 1999.

Democracy and Difference: Contesting Boundaries of the Political. Edited by Seyla Benhabib. Princeton: Princeton University Press, 1996.

Dizerega, Augustus. "Equality, Self-Government and Democracy: A Critique of Dahl's Political Equality." *The Western Political Quarterly* 41, No. 3 (Sep. 1988). 447-468.

Douglass, Bruce. "The Common Good and the Public Interest." *Political Theory* 8, no. 1 (February, 1980). 103-17.

Downs, Anthony. *An Economic Theory of Democracy*. New York: Harper and Brothers, 1957.

Dunn, John. *Western Political Theory in the Face of the Future*. Cambridge: Cambridge University Press, 1979.

———. *Democracy: The Unfinished Journey, 508 BC to AD 1993*. Oxford: Oxford University Press, 1992.

———. *Democracy: A History*. New York: Atlantic Monthly Press, 2005.

———. *Setting the People Free*. London: Atlantic Books, 2005.

———. *Breaking Democracy's Spell*. New Haven: Yale University Press, 2014.

Dworkin, Ronald. *Taking Rights Seriously*. Cambridge: Harvard University Press, 1977.

Fishkin, James S. *Justice, Equal Opportunity, and the Family*. New Haven, Yale University Press, 1983.

———. *Beyond Subjective Morality: Ethical Reasoning and Political Philosophy*. New Haven: Yale University Press, 1984.

Flatow, Nicole. "Almost Half of Federal Prisoners Held for Drug Crimes." *Think Progress*, January 2, 2013. accessed February 27, 2016.

Fralin, Richard. *Rousseau and Representation: A Study of the Development of His Concept of Political Institutions*. New York: Columbia University Press, 1978.

Freedom House. "United States: Research and Reports, 2015" Accessed December 23, 2015.

Gauthier, David P. *The Logic of Leviathan: The Moral and Political Theory of Thomas Hobbes*. Oxford: Clarendon, 1969.

Glassman, Ronald M. *Democracy and Despotism in Primitive Societies: A Neo-Weberian Approach to Political Theory*. Millwood, NY: Associated Faculty Press, 1986.

Goldstein, Joseph. "Wall Street Demonstrations Test Police Trained for Bigger Threats." *New York Times*, September 26, 2011. accessed February 27, 2016.

Gutmann, Amy and Thompson, Dennis. *Democracy and Disagreement*. Cambridge: Harvard University Press, 1996.

———. *The Spirit of Compromise: Why Governing Demands it and Campaigning Undermines it*. Princeton: Princeton University Press, 2012.

Hershey, M.R. "What we know about Voter-ID Laws, Registration, and Turnout." *Political Science and Politics* 42, No. 1 (2009). 87-91.

Highton, B. "Easy Registration and Voter Turnout." *The Journal of Politics* 59, No. 2 (1997). 565-75.

Highton, B. and Wolfinger, R. "Estimating the Effects of the National Voter Registration Act of 1993." *Political Behavior* 20, No. 2 (1998). 79-104.

Hill, David Lee. *American Voter Turnout: An Institutional Perspective*. Boulder: Westview Press, 2006.

Hobbes, Thomas. *De Cive: Philosophicall Rudiments Concerning Government and Society*. Edited by Howard Warrender. Oxford: Clarendon, 1983.

———. *Leviathan*. Edited by C.B. Macpherson. London: Penguin, 1968.

Hurst, James Willard. *Law and the Conditions of Freedom in the Nineteenth-Century United States*. Madison, WI: The University of Wisconsin Press, 1956.

Individual Liberty and Democratic Decision-Making: The Ethics, Economics, and Politics of Democracy. Edited by Peter Koslowski. Tübingen: J.C.B. Mohr, 1987.

Kant, Immanuel. *Critique of Pure Reason*. Translated by Max Muller and Marcus Weigelt.

Edited by Marcus Weigelt. London: Penguin, 2007.

Kleppner, Paul. et al. *The Evolution of American Electoral Systems*. Westport, CT: Greenwood Press, 1981.

Klosko, George. *Democratic Procedures and Liberal Consensus*. Oxford: Oxford University Press, 2000.

Knack, S. and White, J. "Election-Day Registration and Turnout Inequality." *Political Behavior* 22, No. 1 (2000). 29-44.

Kornbluh, Mark Lawrence. *Why America Stopped Voting: The Decline of Participatory Democracy and the Emergence of Modern American Politics*. New York: New York University Press, 2000.

Krouse, Richard W. "Some (Further) Dilemmas of Pluralist Democracy." *Yale Law and Policy Review* 2, No. 1 (Fall, 1983). 167-178.

Kuflik, Arthur. "The Inalienability of Autonomy." *Philosophy and Public Affairs* 13, no. 4 (Autumn, 1984). 271-98.

Lee, Michelle Ye Hee. "Yes, U.S. Locks People up at a Higher rate than any other Country." *The Washington Post*, July 7, 2015. accessed February 27, 2016.

Lijphart, Arend and Grofman, Bernard. *Choosing an Electoral System: Issues and Alternatives*. Westport, CT: Praeger, 1984.

Locke, John. *An Essay Concerning Human Understanding*. Edited by John W. Yolton. London: Everyman's Library, 1961.

———. "Second Treatise on Civil Government." *John Locke: On Politics and Education*. Roslyn, NY: Walter J. Black, 1947.

Lukes, Steven. "Robert Dahl on Power." *Journal of Political Power* 8, No. 2 (2015). 261-71.

Machiavelli and Republicanism. Edited by Gisela Bock, Quentin Skinner, and Maurizio Viroli.
Cambridge: Cambridge University Press, 1990.

Macintyre, Alasdair. *After Virtue: A Study in Moral Theory*. Notre Dame IN: University of Notre
Dame Press, 1984.

McDonald, Michael P. and Popkin, Samuel L. "The Myth of the Vanishing Voter." *American
Political Science Review* 95, no. 4 (December, 2001). 963-73.

Miller, Warren E. "Disinterest, Disaffection, and Participation in Presidential Politics." *Political
Behavior* 2, no. 1 (1980). 7-32.

Morriss, Peter. "Power in New Haven: A Reassessment of 'Who Governs?'" *British Journal of
Political Science* 2, No. 4 (Oct., 1972). 457-65.

Norton, Anne. *Leo Strauss and the Politics of American Empire*. New Haven: Yale University
Press, 2004.

Novak, William J. *The People's Welfare: Law and Regulation in Nineteenth-Century America*.
Chapel Hill, NC: The University of North Carolina Press, 1996.

Pateman, Carole. *Participation and Democratic Theory*. Cambridge: Cambridge University
Press, 1970.

Peter, Fabienne. "Political Legitimacy." *the Stanford Encyclopedia of Philosophy* (Winter 2014),
edited by Edward N. Zalta.

Pettit, Philip. *Republicanism: A Theory of Freedom and Government*. Oxford: Oxford University
Press, 1997.

———. *A Theory of Freedom: From the Psychology to the Politics of Agency*. Oxford:

Oxford University Press, 2001.

Pilon, Roger. "The Constitutional Protection of Property Rights: America and Europe." *Cato Institute*. Accessed January 15, 2016. <http://object.cato.org/sites/cato.org/files/articles/constitutional-protection-of-property-rights-america-and-europe-2007-edit.pdf>.

Pitkin, Hanna Fenichel. *The Concept of Representation*. Berkeley: University of California Press, 1967.

Plato, *The Republic*. Translated by John Llewelyn Davies and David James Vaughan. London: Macmillan, 1935.

Politics in Dark Times: Encounters with Hannah Arendt. Edited by Seyla Benhabib. Cambridge: Cambridge University Press, 2010.

Powell, G. Bingham. *Elections as Instruments of Democracy: Majoritarian and Proportional Visions*. New Haven: Yale University Press, 2000.

Rawls, John. *A Theory of Justice*. Cambridge: Harvard University Press, 1971.

———. *Political Liberalism*. New York: Columbia University Press, 1993.

———. *John Rawls: Collected Papers*. Edited by Samuel Freeman. Cambridge: Harvard University Press, 1999.

Rhine, S.L. "An Analysis of the impact of Registration Factors on Turnout in 1992." *Political Behavior* 18, No. 2 (1996). 171-84.

Schumpeter, Joseph A. *Capitalism, Socialism, and Democracy*. New York: Harper and Brothers, 1942.

Sidney, Algernon. *Discourses Concerning Government*. Edited by Thomas G. West. Indianapolis: Liberty Classics, 1990.

Signer, Michael. *Demagogue: The Fight to Save Democracy from its Worst Enemies*. New York:

Palgrave Macmillan, 2009.

Simmons, John A. *Moral Principles and Political Obligations*. Princeton: Princeton University

Press, 1979.

Shaun McCutcheon v. Federal Election Commission. 572 U.S., No. 12-536 (2014).

Skinner, Quentin. *The Foundations of Modern Political Thought*. Cambridge: Cambridge

University Press, 1978.

———. *Liberty Before Liberalism*. Cambridge: Cambridge University Press, 1998.

———. *Hobbes and Republican Liberty*. Cambridge: Cambridge University Press, 2008.

Stanley, Amy Dru. *From Bondage to Contract: Wage Labor, Marriage, and the Market in the*

Age of Slave Emancipation. Cambridge: Cambridge University Press, 1998.

Stolberg, Sheryl Gay. “Baltimore Enlists National Guard and a Curfew to Fight Riots and

Looting.” *New York Times*, April 27, 2015. accessed February 27, 2016.

The Relevance of Liberalism. Edited by Zbigniew Brzezinski, Seweryn Bialer, Sophia Sluzar, et

al. Boulder: Westview Press, 1978.

Taylor, Robert S. *Reconstructing Rawls: The kantian Foundations of Justice as Fairness*.

University Park, PA: The Pennsylvania State University Press, 2011.

Thomson, Judith Jarvis. *The Realm of Rights*. Cambridge: Harvard University Press, 1990.

“Trust in Government.” *Gallup*. accessed on January 28, 2016.

Waldron, Jeremy. “Special Ties and Natural Duties.” *Philosophy and Public Affairs* 22, no. 1

(Winter, 1993). 3-30.

Walker, Jack L. “A Critique of the Elitist Theory of Democracy.” *The American Political Science*

Review 60, No. 2 (Jun., 1966). 285-95.

Walzer, Michael. *Spheres of Justice: A Defense of Pluralism and Equality*. New York: Basic Books, 1983.

Wellman, Christopher Heath. "Relational Facts in Liberal Political Theory: Is there Magic in the Pronoun 'My'?" *Ethics* 110, no. 3 (April, 2000). 537-62.

Wellman, Christopher Heath and Simmons, A. John. *Is there a Duty to Obey the Law?* Cambridge: Cambridge University Press, 2005.