Monument Red Midseason

The following are articles, affirmative and negative cases, and opposing arguments is for your study of the Lincoln-Douglas resolution that was debated during the 2010-2011 school year in the NCFCA and Stoa speech and debate leagues. This collection was the midseason supplement that released the first of the competitive year. Applications and citations may be outdated, so give attention to checking all hyperlinks before attempting to run in competition.

***Resolved: A government’s legitimacy is determined more by its respect for popular sovereignty than individual rights.***

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Section 1  
Affirmative Cases & Briefs

"That to Secure these Rights..."

A Value-Plus Case

by Whitney Snowden

Do you remember the way airport security used to be? You did not have to arrive two hours early to make sure you made it through all of the security measures. You could take food and drinks with you, you did not have to take your shoes off, put all of your bags through machines and walk through metal detectors. Flying was not a hassle. But times have changed and the security risks have increased, and these hassles have become not just a necessity but a life-saver. Your rights may be infringed upon, but the cause is worth the cost. It is for this reason that I am Resolved: That a government’s legitimacy is determined more by its respect for popular sovereignty than individual rights.

First let’s look at the meaning of a few key terms in our resolution:

Definitions

Popular Sovereignty- "the doctrine that sovereign power is vested in the people and that those chosen to govern, as trustees of such power, must exercise it in conformity with the general will."[[1]](#footnote-1)

Individual Rights – “The concept that each person is assumed to possess certain rights because of the fact that they are human.”[[2]](#footnote-2)

Legitimacy: “Being exactly as purposed”[[3]](#footnote-3)

Value

I believe that legitimacy is established by my value, the **value of Security**. Security, defined as “the freedom from risk or danger”[[4]](#footnote-4) includes many different aspects, security from outside threats, inside threats, security of rights, and security from the government itself. A fine balance must be held, and the only way to determine that balance is through the mediator of popular sovereignty. Thus, I will be using **popular sovereignty as my** **criterion**, or method of achieving the value, in this round. We’ll look at the resolution in three parts, or contentions.

Contentions

1. Governments are established for the purpose of security

The question we are asking in this round is not what makes a good government, but rather what makes a government legitimate. Legitimate was defined as “exactly as purposed”. So what is the purpose of a government? According to Thomas Jefferson, "The purpose of government is to enable the people of a nation to live in safety and happiness. Government exists for the interests of the governed, not for the governors."[[5]](#footnote-5) Before people join together, they are in a state of anarchy, a “state of war” where one person or group of people are able to pillage and plunder another person or group of people. Might equals right. In order to protect themselves, people come together and form a government that can hinder such action. Security is the purpose of government.

1. Contention 2- Many times security conflicts with rights

**First- Citizens voluntarily surrender rights for the sake of security**

Rights are a wonderful principle for a country to have; however, rights cannot serve as a consistent standard, because many times, they conflict with overall security. For example, look at police searches. The principle of police investigations is for the most part, pretty non-controversial. At any given point in time, a police officer may enter your home with a warrant, to search your home or your person. This is a clear violation of your liberties as an individual if you are innocent but it provides protection for the nation as a whole in helping the police capture criminals. The same thing happens at airports- the airport security restrict your liberty to carry certain items, inspect your luggage, even make you remove your shoes, yet citizens do not make a big fuss over the sacrifice of their rights. Why? Because these are but a small price to pay in return for security. The very establishment of a nation requires the surrendering of rights to an extent. Though rights are a wonderful thing, they cannot be our standard for legitimacy.

**Second- Sometimes some citizens must involuntarily surrender rights for the sake of security**

Many times, rights within a nation, security of the citizens and security of rights conflict and a decision must be made favoring one or the other. For example, look at the European Burka bans. Some countries, such as France, are banning burkas, a piece of Muslim women’s clothing, on the precedence that there have been terrorists hiding bombs in them and killing citizens in public places. There is a clear conflict between the security of the citizens and the nation as a whole with the liberty of the Muslim women. How does a government decide which is more important? The will of the people. This leads me to:

1. The populace should decide how to balance security

The people of the nation should decide what they want to protect- their security or their rights, and different countries or even different circumstances alter that decision. For example, in the founding of America, the citizens put a very strong emphasis on the security of rights, at the expense of all else. Other countries, such as Russia, were founding with a strong emphasis on security and not as much on the protection of liberty. China was founded to protect all citizens but the right of property is practically non-existent. In times of war, even here in America, more liberties are sacrificed for security. Wiretapping is permitted, when in normal circumstances it would be abhorred. The point is, differing countries and situations all treat rights differently, sometimes protecting them, sometimes sacrificing them, but ultimately, that decision should be in the hands of the people for that government to be legitimate. With the burka ban conflict, the only legitimate voice in deciding which is more important, life or liberty, is the people themselves.

Conclusion

So, to summarize the entire concept into a few sentences- Legitimate governments are established for security- protection of its citizens and their rights from threats foreign and domestic, and the government itself. This does not mean that rights will always be upheld; many times they must be sacrificed for the good of the nation, as in the example of police searches, airport security, or the European burka bans. However that balance, that decision between the security or sacrifice of rights, should be determined by the people. If the people want to sacrifice more liberties in exchange for security, or keep their liberties and risk the danger, that is up to them to decide and is the key to a legitimate government.

"That to Secure these Rights..."

Negative Rebuttal

by Whitney Snowden

The case is cleverly constructed to protect both popular sovereignty and individual rights so it sounds pretty good; however, there are a few links that, if you can successfully break, will allow you to disprove the case.

Definitions

Legitimacy- You can do one of two things with “exactly as purposed”. You can accept it and show that the government has a different purpose (to uphold justice, rights, peace, etc) or bring up a completely different definition. I recommend the latter for the reason given below.

Value: Security

Really question him/her on why security is the purpose of government. Ask if any other government is established for a different purpose. Be careful though; if you accept the definition of legitimacy, get them to admit that governments can be established for a bad purpose, and then try and argue the purpose of government is justice, rights, etc, then your own question could backfire on you.

Additionally with this entire value you can try and turn it into a rights clash instead of security vs. rights clash. Most ‘security’ is just the attempt to protect life. If it’s a conflict between protection of life and protection of liberty or property, then rights is still the standard of legitimacy.

Criterion: Popular Sovereignty

This is the probably the weakest link of the case. Popular Sovereignty determining security is a strong idea, but you can debunk the idea that the people will do what is in the best interest of security; in fact, they can actually harm it. People will do what is best for them, not necessarily the country. You can still use all the tyranny of the majority and oppression arguments you would with any popular sovereignty case.

Examples:

**Police searches**- Point out that police investigations have to be with a warrant; it still protects your right to privacy. It may be easy for a police officer to investigate anything he wants or thinks something is suspicious but he has to have reasonable proof and obtain a warrant first. Rights come first.

**Airport security-** You can try and turn this and argue that it’s life that the government is trying to protect. (See the argument under the value about turning it into a rights debate.)

**Burka Bans-** You can take one of two approaches with this- you can argue the same argument under airport security, that it’s a conflict of rights but rights is still the standard, or you could argue that the burka bans are wrong- that we should not limit the Muslim women’s freedom to wear religious clothing no matter the risk.

“Check: Check One, Two, Three"

An Affirmative Empirical Brightline Case

By Jon Bateman

Jonathon Swift once said, “For in reason, all government without the consent of the governed is the very definition of slavery.”[[6]](#footnote-6) It is because I believe that the voice of the people is the vital determining factor of a legitimate government that I stand Resolved: A government's legitimacy is determined more by its respect for popular sovereignty than individual rights.

Definitions

**Legitimate Government:** A government generally acknowledged as being in control of a nation and deserving formal recognition.- Dictionary.com[[7]](#footnote-7)

**Popular sovereignty**: is the notion that no law or rule is legitimate unless it rests directly or indirectly on the consent of the individuals concerned.- Basic law.net[[8]](#footnote-8)

Individual rights are defined as **Rights**: that which is due to anyone [an individual] by just claim, legal guarantees, moral principles, etc.- Dictionary.com[[9]](#footnote-9)

Resolutional Analysis

**1: The resolution must be evaluated empirically**

In trying to argue this resolution both sides can try to claim popular sovereignty or individual rights is more important to government legitimacy but unless we have some sort of empirical measuring stick with which to evaluate the resolution, all the argumentation on both sides is simply subjective bickering. In order to avoid this pitfall I will present a checklist of the qualities that all legitimate governments must possess.

**2: Overall legitimacy and actions-based legitimacy**

The three checklist points which a government must meet in order to be legitimate cover two aspects of government legitimacy. The first two are concerned the overall legitimacy of the government and the third one is concerned with the legitimacy of each individual decision made by a government. As I will show in the following points, in order to be overall legitimate, a government must be a constitutional governance and must have an elected governing body. I will also show that in order for a government’s actions to be legitimate, the government’s actions must reflect the will of the people.

Checklist

**1: Constitutional governance**

In order to be legitimate a government must have a constitution and that constitution must be a product of popularly sovereign methods. In other words, a government that doesn’t have a constitution is illegitimate. Furthermore, a government that arbitrarily writes a constitution without consulting the people is illegitimate.

So let’s see what a constitution actually is.

Constitutions are a document that specifies exactly how far the government’s authority to regulate the people’s individual rights extends. So how is the specific extent of the government’s authority over the people’s individual rights decided without the government acting tyrannically? By using popular sovereignty to set up the constitution. When the United States constitution was set up the people elected delegates to represent them at the constitutional convention. Once the constitution was completed, it was ratified by the state legislatures that were, in turn, elected by the people. So throughout the process, popular sovereignty used to ensure the legitimacy of the government.[[10]](#footnote-10)

**2: Freely elected legislative and executive branch**

In order to be legitimate, a government must have a legislative and executive branch that is accountable to the people. The easiest and best way to ensure that the government is accountable to the people is by having an elected legislature and executive branch. Be it a congress or a parliament, president or prime minister, in order for a government to be legitimate, the people must have a say in their government.

**3: Popularly sovereign laws**

In order to be legitimate the laws that the government passes must reflect the will of the people. Even if a government passes the freely elected governing body test, if that body passes laws that go against the will of the people, then that governing body is acting illegitimately. When we look in the U.S. at the recently passed healthcare legislation we can see that it was illegitimate because the majority of Americans opposed it.

Now let’s look at how our checklist applies to a few governments. First, we will look at:

Governments

**France…**

Does France have a popular sovereign constitution? Yes, it does. France’s current constitution was passed by referendum in 1958.

Does France have a popularly elected legislative and executive branch? Yes, it does. France has bicameral legislature wherein representatives are elected for 5-6 year terms. France’s President is also elected for 5 years.[[11]](#footnote-11)

So we have established that overall the French Government is legitimate. From here we can evaluate whether each action taken by the French government is legitimate or not based off of its popular support.

**Now let’s look at North Korea…**

Does North Korea have a constitution? Physically yes. North Korea’s constitution was adopted in 1948. However, whether the constitution was created with the support of the people is seriously in doubt.

Does North Korea have a popularly elected legislative and executive branch? Obviously not. Kim Jong Il has been the dictator of North Korea since 1994.[[12]](#footnote-12)

So we can see that North Korea is clearly illegitimate. Since it failed both tests of overall government legitimacy.

Conclusion

Today I have laid out three qualifications that a government must possess to be legitimate. One, the government must have a constitution that was set up by popular sovereign means. Two, the government must have a popularly elected legislative and executive branch. And three, the laws of the country must be popularly sovereign at the time they were passed. As we look at these qualifications, we see a common theme arise. This theme is popular sovereignty. We can see that at every step along the way popular sovereignty is essential in achieving and maintaining government legitimacy. It is because of the absolute importance of popular sovereignty that the resolution must be affirmed. Thank you, and I now stand open for cross-examination.

“Check: Check One, Two, Three"

Affirmative Addendum

By Jon Bateman

This case is highly unconventional, as it has no value or criterion. Instead what the case attempts to do is clearly define the resolution for the judge distinctly to the Affirmative’s advantage.

If argued right, the case will make sense to judges, especially community judges, many of who will not be familiar with “LD format”. The case’s unfamiliar format will also not fit well with most negative cases. You can exploit this by pointing out how the negative team’s case does not give an alternate set of standards for the resolution, thus your standards still stand.

Be sure to hammer home again and again the need for standards with which to evaluate the resolution!

“Check: Check One, Two, Three"

The Negative Brief

By Jon Bateman

Negative arguments

**General arguments**

There is no central philosophy to this case other than the idea that “popular sovereignty is good.” But why is popular sovereignty good? Hit this point home hard. State that popular sovereignty is an amoral concept. It is neither morally good nor bad. It depends on the morality of the people who use it.

From that central point attack you can attack all the checklist points by pushing the affirmative for the criterion they used to pick their three qualifications. Did they just pick those three points out of the air? Is there any credible person who supports the choice of those three points as the qualifications for a legitimate government?

**Specific arguments**

*Resolutional Analysis 1:* is a checklist really the best empirical way to judge the resolution? State that whatever your negative value is, is the best empirical way to judge the resolution. (For instance if your negative value is Natural Law then you would state that the best empirical way to judge the resolution is whether the government in question upholds natural law.)

*Resolutional Analysis 2:* you can either accept the idea that a legitimate government can make illegitimate choices yet stay overall legitimate or you can reject it. Up to you. It depends on how you want to debate the round.

*Checklist Point 1:* What is the purpose of constitutions? To provide a line which the government cannot cross on individual rights. Is a popularly sovereign constitution always legitimate? If the constitution violates individual rights then it illegitimate regardless of whether it is popular.

*Checklist Point 2:* If the president and congress violate individual rights are they legitimate? No. The president and congress may be elected by the people, but their responsibility is to protect the rights of the people. Even if it is not popular.

*Checklist Point 3:* Of the multitude of arguments that can be brought up here my favorite is: if the will of the people threatens the rights of the minority then congress has the duty to ignore the will of the people and defend the rights of the minority.

*Application:* Yes, France is legitimate and North Korea is not. But it is for different reasons that the affirmative supposes. France is overall legitimate because it respects individual rights and North Korea is illegitimate because it does not respect individual rights.

*Conclusion:* You take this opportunity to say once again that it is individual rights that really and empirically decides individual rights.

Utilitarianism

Philosophical Criterion Case

By Patrick Ortiz

Introduction

Some things are self-evident. I don’t have to prove that my hand is visible, I can just see it. I don’t have to prove that fireworks make loud noises, I can just hear them. I certainly don’t have to prove that banana split sundaes taste great, but if you want, I’ll taste one just to prove it. It is because the answer to so many problems is often the simple, self evident answer, that I stand Resolved: A government’s legitimacy is more determined by its respect for popular sovereignty than individual rights. To understand this sentence better, let’s examine some of the resolution’s key words with:

Definitions

**Legitimacy:** Legitimacy involves the capacity of a political system to engender and maintain the belief that existing political institutions are the most appropriate and proper ones for the society (Professor Seymour Lipset, Brown University, 1959, ‘Economic Development and Political Legitimacy’)[[13]](#footnote-13)

**Popular Sovereignty:** A system of government in which policy choices reflect the preferences of the majority of citizens. (Black’s Law Dictionary)[[14]](#footnote-14)

**Individual Rights:** “Thus, for every individual, a right is the moral sanction of a positive—of his freedom to act on his own judgment, for his own goals, by his own voluntary, uncoerced choice. As to his neighbors, his rights impose no obligations on them except of a negative kind: to abstain from violating his rights.” (Ayn Rand, The Virtue of Selfishness)[[15]](#footnote-15)

Philosophical Criterion

Today I propose a Philosophical Criterion. Rather than striving towards a specific value, I present a criterion that we can weigh the conflicting philosophies with, which will show us if any value, system or philosophy is worth achieving. That philosophical criterion is ‘Utilitarianism’, defined by utilitarian philosopher Jeremy Bentham as“[t]he greatest good to the greatest number of people which is the measure of right and wrong.”[[16]](#footnote-16) Bentham also notes that this includes the greatest happiness for the greatest amount of people. While it is impossible to secure the greatest amount of good for everyone, utilitarianism simply encourages governments to seek the greatest amount of good for the greatest amount of people. Many look to abstract theories and values to determine just what makes a government legitimate, while ignoring the fact that the simplest answer lies in front of them. Let’s analyze this concept in more detail through:

Contentions

1. Utilitarianism is the Basis of a Legitimate Government

Utilitarian philosopher John Stuart Mill puts it simply- *“The only proof capable of being given that an object is visible, is that people actually see it. The only proof that a sound is audible, is that people hear it: and so of the other sources of our experience. In like manner, I apprehend, the sole evidence it is possible to produce that anything is desirable, is that people do actually desire it. If the end which the utilitarian doctrine proposes to itself were not, in theory and in practice, acknowledged to be an end, nothing could ever convince any person that it was so. No reason can be given why the general happiness is desirable, except that each person, so far as he believes it to be attainable, desires his own happiness.”*[[17]](#footnote-17) Utilitarianism just makes sense. If people sustain the belief that the government is the most appropriate, and in the interests of their own happiness, then legitimacy has been achieved. Applied to government, this occurs when people find a common set of principles that they believe. While not all citizens of a nation need to think identically, there must be some common principle that binds them together so all believe that their own happiness is being pursued, that the government is the most appropriate possible.

However, why can’t individual rights fulfill this role? To answer this question, let’s look at:

1. Individual Rights Requires Value Judgments

Utilitarianism boils down judgment to simple decisions: ‘What do people want?’, ‘What is best for the greatest amount of people?’, ‘What is likely to consistently produce maximum happiness?’, ‘What provides the greatest results?’. Altogether, utilitarianism relies on objective, quantifiable results. Individual rights, on the other hand, stem from the philosophy of speculation. In order to figure out what principles qualify as rights, proponents of individual rights must make value judgments, determining what they believe to be right for a country. Rather than political systems maintaining society’s belief that the existing political institutions are the most appropriate and proper, the political system itself makes that determination. In this manner, an unfair system is set up where the good of many can be usurped by the opinion of few. Individual rights ignore the binding principles that unify a nation, so there is no need for citizens to believe that their interests are being pursued. Popular sovereignty, on the other hand, judges fairly, and is linked with utilitarianism as can be seen in:

1. Popular Sovereignty Provides Fair Judgments

While the principle of ‘the greatest amount of good for the greatest amount of people’ implies popular sovereignty, it does not expressly state it. To solidify this concept, we return to John Stuart Mill- There is no other way to explain why general happiness is desirable, other than the simple observation that people desire it. With this mindset, we can see that the easiest, simplest way to gauge just what would provide the greatest good or happiness for the greatest amount of people is to look at just what the people themselves want. When the people make these preferences known, and the government acts upon them in policy, this distinctly fulfills the definition of popular sovereignty. Just how does this work in the real world? For this, let’s look at an example, or:

**Application: Sharia Law**

Recent controversy has stirred in the United States Court system as the issue of Sharia law has been brought up. Muslims wishing to be tried by the principles of their own faith have been promoting their right to be tried as they see fit- by Sharia law. Principles of Sharia law, however, do not always coincide with constitutional standards. From the widely supported principles that deny civil rights to women to the more drastic punishments of execution for apostasy (abandoning Islam) and stoning for adultery, there is a stark contrast between Sharia law and United States Constitutional Law. Rather than abiding by the commonality of what utilitarianism has declared to be the ‘greatest amount of good’, Sharia law supporters wish to bring multiple court systems into the picture, declaring it to be their right. The Economist Magazine comments on this (October 14th, 2010), stating “*When high legal principles clash with a quite different social reality, the results are inevitably messy*”[[18]](#footnote-18) This is exactly the problem that utilitarian popular sovereignty prevents.

Conclusion

Individual rights maintain that there are ‘high legal principles’, ignoring the social reality that legitimate governments need utilitarian authority. Sometimes we ignore that reality too easily, looking for other answers. The simple fact is that some truths are self evident: Fireworks are always loud, banana splits are always tasty, and popular sovereignty always represents a legitimate, utilitarian government.

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Additional Thoughts

Utilitarianism offers a wide variety of possibilities as a measuring tool for your case. A philosophical criterion is already pretty unique, but there are other options as well. Utilitarianism also fits nicely into the case type known as ‘Value Standard’, which uses a standard that governments strive to achieve, but can never fully reach. Unlike a traditional value, a value standard is sort of a distant goal. Applied to the resolution, a value standard of utilitarianism would maintain that while a government can’t ensure the greatest amount of good for everyone, utilitarianism (the greatest amount of good for the greatest amount of people) is striving in that direction.

Utilitarianism

Negative Rebuttal

By Patrick Ortiz

The key to defeating this case is to undermine its broad assumptions. There are a lot of large assumptions that, when pieced together, make sense. Disconnect the pieces, however, and they will slowly fall apart.

Philosophical Criterion

This is really the largest assumption that this case makes. Often times the simplest answer isn’t the best; exceptions exist. There are silent fireworks, my sister is lactose intolerant, and utilitarianism just might not be the most legitimate standard.

Taking out utilitarianism has obvious advantages as the entire case relies on it, but that is still a somewhat difficult task. To do this, you have a couple options:

**1. Disconnect it from the definitions.** The case, while containing value statements, is rather dry and almost factual. Definition battles aren’t very fun, so get creative in how you do this, though.

**2. Relativism!** Utilitarianism is very relativistic, as it relies on whatever people feel makes them happy to determine right and wrong. This doesn’t bode well for legitimacy, which implies there are standards that governments must live up to. Relativism is also not altogether popular in homeschool debate circles. That said, don’t argue that relativism is wrong because it’s relativistic- make sure you show *why* relativistic philosophies are bad for governments.

**3. Utilitarianism** has been debated for a couple of centuries, so there are plenty of options for contesting it. Research what the opponents of utilitarianism had to say.

Contentions

**Contention 1**

Again, attack the philosophical criterion. Once this link is broken, most of the case falls.

**Contention 2**

Aaaand? It’s ok to be dogmatic here. Don’t get consumed with the presupposition that it is wrong to make value judgments and impose morality through government. The entire opposing philosophy to utilitarianism (deontology) is based on this idea. Again, there is an opportunity to learn more here and see what utilitarianism’s opponents have to say. It should be pretty easy to argue for values in a values debate.

**Contention 3**

‘Fair Judgments’ is a pretty broad term here. A subjective system that judges on results and people’s emotions is not necessarily ‘fair’ or ‘just’. Again, break down the large assumptions in order to show that utilitarianism is a shaky, unreliable system.

Application

Definitely contest this application. There is a lot of room for debate here. For example, US courts allow for arbitration, which sends people to legally binding courts that use different legal standards. If Sharia law was treated like this, wouldn’t it be possible for everyone to go to the arbitrator or US court that they see fit, thereby pleasing the greatest all around amount of people?

Altogether, this case relies on some basic assumptions that begin to fall apart when you examine them closely. It would be wise to read into this philosophy and its opponents. Even utilitarian philosophers like John Stuart Mill are not altogether against individual rights (his philosophy, in fact, supports both popular sovereignty and individual rights). The key is not to accept these assumptions and proudly support the opposing philosophy.

Section 2  
Negative Cases & Briefs

“Now that's a Purposeful Case!”

A Value-Plus Case

By Jon Bateman

Ronald Reagan once said, “Protecting the rights of even the least individual among us is basically the only excuse the government has for even existing.”[[19]](#footnote-19) It is because I believe that the purpose of Government is to protect individual rights That I stand **Resolved: A government's legitimacy is determined more by its respect for individual rights than popular sovereignty.**

Before we look at the body of my case, let’s clarify what some important terms in the resolution mean in the definitions.

Definitions

**Legitimate**: Being exactly as purposed. -Merriam Webster’s Online Dictionary[[20]](#footnote-20)

Individual rights is defined as **Rights**: that which is due to anyone [an individual] by just claim, legal guarantees, moral principles, etc. -Dictionary.com[[21]](#footnote-21)

**Popular sovereignty**: is the notion that no law or rule is legitimate unless it rests directly or indirectly on the consent of the individuals concerned. -Basiclaw.net[[22]](#footnote-22)

In the resolution today, we are given the choice between an end and a means. Respect for individual rights is the end or purpose of government and popular sovereignty is a means we use to achieve that end. It is because of this that I present the value of purpose. In order to be legitimate, a government must fulfill its purpose. But how does a government fulfill its purpose? Through my criterion of individual rights. As I will demonstrate in my contentions, the purpose of government is to respect individual rights. Popular sovereignty is only useful insofar as it protects individual rights.

Contentions

1. The purpose of government is to respect individual rights.

The British Philosopher John Locke wrote extensively on the purpose of government and the legitimacy of government. He believed, as the Stanford Encyclopedia of Philosophy reports, that “people in the state of nature conditionally transfer some of their rights to the government in order to better insure the stable, comfortable enjoyment of their lives, liberty, and property. Since governments exist by the consent of the people in order to protect the rights of the people and promote the public good, governments that fail to do so can be resisted and replaced with new governments.”[[23]](#footnote-23)

It is clear from Locke’s position the reason that governments exist is to protect individual rights. However, Locke also clearly states that “governments exist by the consent of the people” or more simply put, by popular sovereignty. So it is clear that popular sovereignty is important to government legitimacy as well. So how can we say that individual rights are more important? This leads to my second contention.

1. Popular sovereignty is only useful insofar as it protects individual rights.

As the Stanford encyclopedia of philosophy states, “governments exist by the consent of the people in order to protect the rights of the people.” This accurately sums up the reason why individual rights are more important. The reason we use popular sovereignty is to protect individual rights but the end goal, the purpose of government, is individual rights. Thus, if popular sovereignty acts in a way that is harmful to individual rights, it is harmful to the purpose and therefore legitimacy of a government.

Conclusion

In conclusion, we can see that the purpose of government is to protect individual rights and although we may use popular sovereignty to achieve individual rights, individual rights are still the goal. It is a simple question between which is more important: the ends or the means. The answer is obviously the end, the purpose of government: individual rights.

“Now that's a Purposeful Case!”

Negative Brief

By Jon Bateman

General Arguments

The negative case essentially equates the purpose of government with the legitimacy of government. This essentially stems from the negative’s definition of legitimate as “exactly as purposed”. Point out that this is not a definition of “legitimate government” but just of “legitimate”. A fun rhetorical touch is to point out that you can find dictionary definitions of legitimate as “born in wedlock”. Born in wedlock obviously does not apply to government. So we need a definition of “legitimate government” as a concept, not just the dictionary definition of legitimate.

You can further bolster this point of disparity between legitimacy and purpose by stating that a government can illegitimately uphold its purpose. If a dictatorship chooses to defend individual rights, it is upholding the purpose of government but is it actually legitimate?

This leads to the argument of how a government protects individual rights. For this argument, you agree that the purpose of government is to protect individual rights. State that almost all governments do protect individual rights to an extent. If the government of a country oppresses its citizens’ rights to freedom of speech and religion but respects their right to property, then they are protecting individual rights… to an extent. However, is that government legitimate? No, it is not. So the real question is how a government upholds its purpose. Then make the argument that the only way a government can uphold its purpose legitimately is through popular sovereignty.

Specific arguments

On the specific argument of social contract, really emphasize the portion of the quotation from the Stanford Encyclopedia of Philosophy about popular sovereignty. You can turn their own quote against them by showing that their own quote implies that popular sovereignty is not merely useful to a legitimate government but is an essential element of even creating a legitimate government at all.

Other notes

How you attack this case will depend mostly on the details of your affirmative case but it is absolutely essential to argue that popular sovereignty is as essential to government as individual rights. It is really hard to say that individual rights is not the purpose of government ( I don’t recommend it). However, it is relatively easy to state that a government’s legitimacy is not simply determined by it purpose but by HOW it upholds its purpose.

“More By Other Rights”

A Value Centered Case

By Matthew Mittelberg

“Justice, sir, is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together.”[[24]](#footnote-24)

These words from President Ronald Reagan embody the negative position in today’s debate round, showing that the purpose of a Government is to uphold Justice and Individual Rights.

To clarify this debate, I offer the following definitions:

Definitions

**Legitimate:** “Show or affirm to be just and legitimate.” *Wordnet by Princeton*[[25]](#footnote-25)

**Popular Sovereignty:** “a doctrine in political theory that government is created by and subject to the will of the people” *Merriam Webster Dictionary*[[26]](#footnote-26)

**Individual Rights:** Thomas Jefferson said in the Declaration of Independence, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”

These are the most important rights in today’s debate round.

**More:** “something of greater importance” *Dictionary.com*[[27]](#footnote-27)

Value

The value we must uphold today is **JUSTICE**, defined by Webster's Revised Unabridged Dictionary, 1913 as, “The rendering to every one his due or right ... merited reward or punishment.”[[28]](#footnote-28) This value is the most important in this round because the administration of Justice is necessary for government to be legitimate. As George Washington said, “The due administration of justice is the firmest pillar of good Government.”[[29]](#footnote-29) Because the administration of individual rights is the very function of Justice, I believe that a government’s legitimacy is determined more by its respect for individual rights than by popular sovereignty.

With that in mind, let’s look at four reasons why you should vote for Individual Rights in today’s debate round.

Contentions

1. Popular Sovereignty is an Individual Right.

The United Nations Declaration of Individual Rights says: “Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.”[Article 21, written in 1948][[30]](#footnote-30) So as evidenced by this document that is signed by the vast majority of the nations of the world, Popular Sovereignty and the participation of the people in the Government is recognized as a right. Therefore Popular Sovereignty can’t be more important than Individual Rights, because it is one!

1. The other Individual Rights are more important.

Popular Sovereignty isn’t as important as the other Individual Rights such as life, because Popular Sovereignty is just a way of achieving those rights. As Ayn Rand put it: “There is only one fundamental right (all the others are its consequences or corollaries): [and that is] a man’s right to his own life.”[[31]](#footnote-31) For that reason you can see that respecting the other Individual Rights, such as life, is the most important factor in determining if a Government is Just and Legitimate.

1. Respecting Individual Rights leads to Justice.

A Government doesn’t need to have Popular Sovereignty to be legitimate, because there are examples of governments where the people had no voice, but there was still justice.

**Application – King Mahendra of Nepal**

For the protection of the individual rights of his citizens, King Mahendra established the Supreme Court and reformed the judicial system of the country. He introduced the New Civil Code to uphold the rights of women, children, and weaker sections of the society. The Code ensured equal treatment for all, irrespective of their caste, wealth, or gender.

So although the right of Popular Sovereignty is important, it isn’t necessary for a Government to have justice and be legitimate, as evidenced by the justice of King Mahendra.

1. Popular Sovereignty leads to injustice

When a Government respects Popular Sovereignty, but not the other Individual Rights such as life and liberty, it undeniably leads to injustice.

**Application – The Indonesian Democracy**

The Indonesia Constitutional Court has dealt a severe blow to religious freedom by upholding their law prohibiting "blasphemy," that punishes those who don’t believe in one of the six officially recognized religions. The blasphemy law has been used to prosecute and imprison members of religious minorities and of traditional religions with up to five years in prison.[[32]](#footnote-32)

In addition to this injustice, the people of Indonesia have also pressured the Government into closing down multiple Christian Churches. Clearly, as illustrated by the democracy of Indonesia, when a Government respects Popular Sovereignty but not the other Individual Rights, it leads to injustice – and the Government is illegitimate.

In conclusion, the best way for a Government to be legitimate is to respect Individual Rights. It doesn’t matter whether or not it respects Popular Sovereignty, because if it respects the other Individual Rights there will be justice. For this reason, I strongly urge a negative ballot.

Backup Evidence

**No Popular Sovereignty in Nepal -** U.S. Library of Congress, 1991

“The National Panchayat of about ninety members could not criticize the royal government, debate the principles of partyless democracy, introduce budgetary bills without royal approval, or enact bills without approval of the king. Mahendra was supreme commander of the armed forces, appointed (and had the power to remove) members of the Supreme Court, appointed the Public Service Commission to oversee the civil service, and could change any judicial decision or amend the constitution at any time.”[[33]](#footnote-33)

**Mahendra Valued the Monarchy -** Encyclopedia of World Biography, 2004

“At all times, however, Mahendra maintained a special concern for the viability of the monarchical system.”[[34]](#footnote-34)

**King Mahendra is revered by his subjects -** Time Magazine, March 1975

“Nepal's King Mahendra, 47, is himself revered by his 10 million subjects as a god incarnate”[[35]](#footnote-35)

**King Mahendra freed women and untouchables -** Time Magazine, March 1975

“Early in his reign, Mahendra decided that a country just awakening from the somnolence of the Middle Ages and still 93% illiterate needed strong leadership from the throne. In 1960, introducing Pakistani-style "controlled democracy," he abolished political parties, put the election of the legislature on an indirect basis and clapped potential troublemakers in jail. This has left him free to emancipate women and untouchables, [and] end polygamy and begin breaking up Nepal's feudal estates.”[[36]](#footnote-36)

**The Indonesian Democracy closes churches down -** Christian Today, 22th, 2008

“While pro-jihadist Islamic groups have been largely subdued in Indonesia, political Islam has been thriving. Many in the West however do not regard this as a challenge to Indonesian democracy. They fail to see that groups like the jihadist Jemaah Islamiyah (JI) and the political PKS differ only in methods, not in goals. The threat posed by political Islam is profound. While JI believes in bombs, PKS believes in protests and polls, yet both groups seek the creation of an Islamic Caliphate as their goal. JI might get all the headlines but the PKS has positioned itself in parliament.”[[37]](#footnote-37)

“To maintain power, [the] President Yudhoyono is dependent on the support of Islamic parties with whom he has entered into alliances. The Prosperous Justice Party (PKS an Islamist party) has become powerful and influential through its grassroots popularity, achieved by strategy and sheer hard work. The president is dependent on Islamist support and the more he needs the Islamists, the more they demand of him. They have already forced the closure of numerous Christian churches and institutions.”[[38]](#footnote-38)

More By Other Rights

Affirmative Brief

By Matthew Mittelberg

Initial thoughts

Notice that the Negative team accepts the definition of Individual Rights as the UN Declaration of human rights. If you have already bashed this document in your case, or even if you haven’t, it gives you a great platform to talk about how the negative team is accepting a definition that includes healthcare, free education, and paid vacation. This could really connect to homeschool parents who are probably not sympathetic to these ideals. However, be aware that the article I’ve written is a response to this very argument. Try to run it differently so that my responses don’t work, or at least read the full article because I give some affirmative responses that you can use as well.

Contention 1 and 2

**Not a right, but a privilege.**

Popular Sovereignty isn’t really an Individual Right. There are many other things in the UN declaration that aren’t really rights, but privileges. One example is paid vacation. No one has a fundamental right to this, but it’s great when people can get it! In the same way, Popular Sovereignty isn’t a right – it’s a privilege. So you can’t really say it’s less important than the other Individual Rights like life, because that’s comparing Apples to Oranges.

Contention 3 and 4

**1. The exception to the rule.**

There are two instances where the negative case makes this error:

1. They claim that because of King Mahendra of Nepal, Justice can be upheld without Popular Sovereignty.

This is almost never true, because without a voice, the people can’t guarantee their justice. Most governments that don’t have Popular Sovereignty don’t have justice. A few examples of nations like this are North Korea, China, Saudi Arabia, Sudan, Pakistan, Burma, Cuba, Russia, Somalia, and Iran. The fact that the negative team can’t possibly give as many examples that are contrary to this is proof that King Mahendra is the exception to the rule, and it’s almost impossible to have a government without Popular Sovereignty that is just.

1. They claim that Popular Sovereignty leads to injustice because of Indonesia.

This is almost never true, because most nations that have Popular Sovereignty have justice and Individual Rights. A few examples are Ancient Athens, Sweden, Iceland, Norway, Australia, New Zealand, South Korea, and the United States. The fact that the negative team can’t possibly give as many examples that are contrary to this is proof that Indonesia is the exception to the rule, and a government that has Popular Sovereignty will nearly always uphold justice.

**2. “More” not “Only”**

Both the negative applications assume that a government has to exclusively respect Popular Sovereignty or Individual Rights. However the resolution just says a Government has to respect one “more” than the other. So both of the negative examples are illegitimate, because they’re not addressing what the resolution is all about.

Kantian Morality

A Value Plus Case

By Patrick Ortiz

Introduction

*“Individual Rights are the means of subordinating society to moral law.*”[[39]](#footnote-39) It is because I agree with these words from Ayn Rand, and believe that individual rights uniquely provide moral law to governments, that I negate the resolution.

Definitions (If needed)

**Legitimacy:** Legitimacy involves the capacity of a political system to engender and maintain the belief that existing political institutions are the most appropriate and proper ones for the society (Professor Seymour Lipset, Brown University, *‘Economic Development and Political Legitimacy’*)[[40]](#footnote-40)

**Popular Sovereignty:** A system of government in which policy choices reflect the preferences of the majority of citizens. (Black’s Law Dictionary)[[41]](#footnote-41)

**Individual Rights:** “Thus, for every individual, a right is the moral sanction of a positive—of his freedom to act on his own judgment, for his own goals, by his own voluntary, uncoerced choice. As to his neighbors, his rights impose no obligations on them except of a negative kind: to abstain from violating his rights.” (Ayn Rand, *The Virtue of Selfishness*)[[42]](#footnote-42)

Value

The value that I present is **Morality**, defined by the New Oxford American Dictionary as “*Principles concerning the distinction between right and wrong or good and bad behavior*”[[43]](#footnote-43). At this point many would be quick to point out that there are many nations that do not ascribe to moral codes or religion, and in general, are immoral. I would contend, however, that morality is at the heart of every nation, even if it does not expressly say so. This is displayed in the way a nation acts. Whenever a nation makes a law about homicide, burglary, or even traffic, it makes a moral judgment; something is right and something else is wrong. Because of this, I believe we should look to morality when determining just what makes a government legitimate.

Morality, however, is a broad concept. In order to determine just which good and bad behavior we will be discussing, I present the **Criteria** of the **Categorical Imperative**. The Categorical Imperative is a moral code developed by philosopher Immanuel Kant that relies on these three principles

1. Morality is Absolute

Kant maintained that morality must be upheld categorically. If morality was only obeyed on condition, it would be cheapened; a ‘hypothetical’ imperative, as Kant called it. Rather than act morally some of the time, Kant suggests that people should act morally unconditionally.

1. Morality is Universalizible

Secondly, Kant states morality should be applicable to everyone, or universalizable. If morality is to be absolute, it must be able to be applied absolutely. Kant states *“Act that your principle of action might safely be made a law for the whole world”*

1. Morality Respects Humanity

The final criterion of the Categorical Imperative states that morality should always respect humanity, as Kant states “Act in such a way that you treat humanity, whether in your own person or in the person of any other, always at the same time as an end and never merely as a means to an end.”[[44]](#footnote-44)

These principles collectively set a firm standard for morality that is applicable, logical, and above all ethical. But at this point, you may be wondering just what all of this discussion of morality has to do with government. For this, let’s look at a

Contention

**Individual Rights Uphold Morality; Popular Sovereignty Does Not**

All three of the criteria in the categorical imperative are best upheld by Individual Rights and not by popular sovereignty. This principle is best demonstrated by looking at an example or—

**Application: The French and American Revolutions**

Fought in 1789 and 1775, respectively, the French and American revolutions were fought for very similar reasons; Taxes were high, people wanted freedom, and both popular sovereignty and individual rights were present. The American Revolution ended by giving rise to a free and prosperous nation. The French Revolution, however, brought a reign of terror and the guillotining[[45]](#footnote-45) of the aristocrats. Why did such similar wars bring about such different results? While the American Declaration of Independence states that rights are ‘inalienable’ and ‘from God’, the French equivalent, the Declaration of the Rights of Man and of the Citizen, states that *“Law is the expression of the general will”* and *“The principle of sovereignty resides essentially in the nation. No body nor individual may exercise any authority which does not proceed directly from the nation”*.[[46]](#footnote-46) In other words, individual rights were made subservient to the general will, or popular sovereignty.

Where French popular sovereignty allowed morality to be conditional on the vote of the people, American individual rights secured such morals. Where France considered morality only to the extent that it pleased the revolutionaries, in disregard to the aristocrats, the American Constitution secured a system where all would be considered. Where France slaughtered hundreds of innocents, America has respected humanity. We must stand by individual rights first, and subordinate society to moral law.

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Additional Thoughts

There are a couple more things that I feel that I should include as background for this case.

1. Morality. It’s a touchy subject. Many would contend that it is a personal matter. I’d suggest trying to ‘sterilize’ this concept of personal appeal, and simply show that you are trying to explain what governments should consider right and wrong. This avoids arguments such as ‘Governments shouldn’t impose their morals’ or ‘Not every nation is a theocracy’.

2. On this note of morality, I suggest that you take a firm, dogmatic approach. The case will do little good if you violate the categorical imperative. While it may be uncomfortable taking such a bold position, I have found that it is the best approach to cases such as this.

An extra application! This application doesn’t fit into the case itself, but I think it’s pretty apt and it would be beneficial to look into it if you ever want an example of how Kantian morality works in the real world.

**Application: The Nuremberg Trials**

After WWII, many Nazis were tried for war crimes and crimes against humanity. They maintained that they were innocent, because they had been ordered by their government to commit the actions that they had. The court of Nuremberg used Deontological Ethics and Individual Rights to violate the sovereignty of Germany; because Germany’s government had violated morality, it was not legitimate, and therefore the defendant’s plea was not valid. The court ruled that “The fact that the defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility” and “There is a higher duty”. The Allies determined the legitimacy of the German government by moral standard of individual rights.

Finally, just to clarify, the criterion, the Categorical Imperative, leaves out Kant’s final formulation. This is known as ‘The Kingdom of Ends’. I don’t believe that it is necessary for this case, and is rather confusing and redundant.

Kantian Morality

Affirmative Rebuttal

By Patrick Ortiz

The syllogism in this case is: Legitimacy is determined by morality, which is determined by the categorical imperative, which is best upheld by individual rights and not popular sovereignty. I have found that the weakest points in this logical chain are in the beginning- that legitimacy is determined by morality, and that morality is determined by the categorical imperative.

General Strategy

This case relies on Kant’s system of morality. The largest assumption it makes is that it is Kant’s morality that should be upheld. Even if the negative can show that morality is a better value, there is little reason to accept the categorical imperative. (To this end, it would be wise for negative speakers running this case to read about Kant and how he defended his moral system.)

Additionally, this case rests on the assumption that deontological ethics are the best standard of morality. There are plenty of ethical theories to explore, many of which are supported by popular sovereignty. Morality is certainly not exclusive to individual rights. While Kantian morality may fit with it well, if you can remove the link between the two, this case should be much easier to beat.

Value

While the value of morality leaves a lot of room for value clash and debate, the broad definition of morality can be tricky to deal with. It seems obvious that governments make laws, thereby saying ‘this is right’ or ‘that is wrong’. While the merits of this idea can be contested, a much more effective approach is by just accepting this. Sure, governments have to make moral distinctions, but said moral distinctions should be based on my (the affirmative’s) value. If morality consists of a set of dos and don’ts, based on values, then it is easy enough to craftily insert your own value, then bring clash by showing how your idea of morality is better suited for government than Kant’s.

Criterion

This is the part of the case where you should strike hardest. In the case itself, there is little indication that Kant’s idea of morality (the categorical imperative) is the superior one. Immediately point out the disconnect here. Even if morality is the purpose of government, it is not Kantian morality.

Secondly, show how the Categorical Imperative is flawed. Perhaps the largest critique of Kant is that he is too much of an idealist, and his ideas aren’t applicable in the real world. Because we are dealing with government legitimacy, it is pretty important to have real world ideas that governments can use. Why is Kant regarded this way? Kant gives no way to solve moral dilemmas; he maintains that morality must always be upheld. This is something that governments must do all the time. Realistically, governments make practical decisions every day.

Contention

The contention mainly revolves around the application, and how to apply the Categorical Imperative to government. If you have successfully separated the categorical imperative as unnecessary, you have severed the proverbial head of the beast, and this contention should fall.

Additionally, this contention asserts that individual rights works well with the categorical imperative. Individual rights can be shown as not universalizable. After all, can individual rights be guaranteed to everyone?

Application

Perhaps there is an example of Popular Sovereignty violating the categorical imperative. However, since the categorical imperative demands such strict, categorical, adherence to morality, one counter application displaying where Individual Rights violates morality will not only break this point down, but reinforce the idea that Kantian Morality simply doesn’t work in the real world.

It Ayn’t Easy Being Me

A Value Plus Case

By Patrick Ortiz

Introduction

*“Individual rights are not subject to a public vote; a majority has no right to vote away the rights of a minority. The political function of rights is precisely to protect minorities from oppression by majorities (and the smallest minority on earth is the individual).”[[47]](#footnote-47)*

These words from author and philosopher Ayn Rand directly challenge the resolution. I ask you to join me in challenging it as well, and I stand Resolved: A government’s legitimacy is not more determined by it’s respect for Popular Sovereignty than Individual Rights

Definitions (if needed)

**Legitimacy:** Legitimacy involves the capacity of a political system to engender and maintain the belief that existing political institutions are the most appropriate and proper ones for the society (Professor Seymour Lipset, Brown University, 1959, ‘Economic Development and Political Legitimacy’)[[48]](#footnote-48)

**Popular Sovereignty:** The doctrine that sovereign power is vested in the people and that those chosen to govern, as trustees of such power, must exercise it in conformity with the general will. (Random House Dictionary)[[49]](#footnote-49)

**Individual Rights:** “Thus, for every individual, a right is the moral sanction of a positive—of his freedom to act on his own judgment, for his own goals, by his own voluntary, uncoerced choice. As to his neighbors, his rights impose no obligations on them except of a negative kind: to abstain from violating his rights.” (Ayn Rand, The Virtue of Selfishness)[[50]](#footnote-50)

Value

The value that I present today is **Selfishness**. [Insert an awkward silence here]

Yes, I just presented something viewed as a negative quality, and asked that it be championed as the supreme value in this round. By selfishness, however, I do not mean greed, deceit, foul play, or the unwillingness to let my brother take the last cookie. Ayn Rand presents selfishness in a very unique way, in her book *‘The Virtue of Selfishness.’* She states “In popular usage, the word “selfishness” is a synonym of evil; the image it conjures is of a murderous brute who tramples over piles of corpses to achieve his own ends, who cares for no living being and pursues nothing but the gratification of the mindless whims of any immediate moment. Yet the exact meaning and dictionary definition of the word “selfishness” is: concern with one’s own interests.” [[51]](#footnote-51). Rand presents the idea that if those interests are evil, then selfishness is evil. But if individuals pursue wholesome ends in an individualistic manner, then there is nothing wrong. Such ends are best exemplified in Individual Rights- the freedom to act on your own goals, but abstain from violating the rights of others.

So just what pursuits should individuals undertake? To specify this, I present the criterion of Property Rights, which John Locke defines in his book *The Second Treatise of Government*, stating “*Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his”*.*[[52]](#footnote-52)* The essential interests that Rand refers to as ‘selfishness’ are just those: Life, the effort to sustain it, and the product of that effort.

However, why is this the concern of government? Let’s examine this concept further in

Contentions

1. The Burden of Proof

When government acts, it must have a justification, to show that it is legitimate. Political philosopher John Stuart Mill writes that “Again, in practical matters, the burden of proof is supposed to be with those who are against liberty; who contend for any restriction or prohibition; either any limitation of the general freedom of human action, or any disqualification or disparity of privilege affecting one person or kind of persons, as compared with others.”[[53]](#footnote-53) Selfishness is the natural state of things- where people are free to pursue their own interests without interference. If the government imposes a tax, for instance, that forces a citizen to support others, then liberty and selfishness has been violated. While such government action is sometimes permissible, it must be justifiable.

1. Individual Rights Fulfills the Burden

If governments must account for the legitimacy of their actions, then what could a justification be for violating a persons interests? The answer is simple- by securing rights to the citizen so they can safely continue the pursuit of their interests. Individual Rights, specifically, property rights, allow for individuals to productively pursue their own interests with minimal governmental interference. However, Popular Sovereignty cannot justify its actions. Popular Sovereignty looks to collectivism, what is good for the nation, rather than what is good for the individual. As Rand stated, the majority cannot violate the rights of the minority. Let’s examine this idea closer in an example, or

**Application: Kelo v. New London**

In 2000, The City of New London enacted eminent domain, taking privately owned land and using it for a development plan. The Supreme Court, stated that this plan “In 2000, the city of New London approved a development plan that, in the words of the Supreme Court of Connecticut, was ‘projected to create in excess of 1,000 jobs, to increase tax and other revenues, and to revitalize an economically distressed city, including its downtown and waterfront areas.’”[[54]](#footnote-54) Rather than consider the rights of the individual, city council had acted for the benefit of the group in tax revenue and jobs. While popular sovereignty violates property rights for the benefit of the group, acting without justification, individual rights ensure that property rights are secured, and selfishness comes first.

After all, isn’t that what selfishness is all about?

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It Ayn’t Easy Being Me

Affirmative Rebuttal

By Patrick Ortiz

General Strategy

The crux of this case centers around the idea that the purpose of government is to be as minimal as possible. Shift the focus from this and open up other purposes of government. Perhaps governments should enrich the lives of citizens, preserve a system of morality, or enforce justice. The ‘less government, the better’ maxim is only one view of what government should be.

Value

While the value is a little strange sounding, a well equipped debater will have prepared for obvious objections such as ‘Selfishness is bad’. You can use this general sentiment to your advantage, but Ayn Rand enthusiasts would love the opportunity to explain her philosophy.

Instead, try to look at the purpose of such a value. One might argue that selfishness is best found without government. After all, complete independence and pursuit of self interest is the definition of selfishness. Maybe the binding nature of popular sovereignty helps to bring peoples interests together. Again, what really is the purpose of government? Don’t let the negative get away with the assumption that it is selfishness.

Criterion

Property Rights serve as the link between individual rights, the application, and selfishness. Because of this, it would be highly advantageous for you to eliminate this link. While the previous argument could be made, that there is more to government than selfishness, here you can ask for more specificity. Could the government secure property rights through popular sovereignty? Is there ever a justification to violate property rights?

Contentions

While the first contention again repeats the idea of legitimacy and selfishness being linked, the second contention has more room for debate. The most glaring argument here is that popular sovereignty is the best way to secure selfish interests. After all, people vote for their own interests, and if they want to secure their own selfish interests in a government, popular sovereignty is the way to do it.

Application

Finally, while Kelo depicts a case with an elected city council and interests for the good of the majority, it may be argued that the case does not represent the majority. Rand’s principles of collectivism versus individualism still stand, but the application is still debatable, especially since the case was decided by the supreme court and widely protested afterwards- both signifying absence of popular sovereignty.

"Accountability, Transparency, and Legitimacy"

A Value-Plus Case

By Brent Pinero

Thomas Jefferson once said "The purpose of government is to enable the people of a nation to live in safety and happiness. Government exists for the interests of the governed, not for the governors.”[[55]](#footnote-55) Because of this quotation, I, as the Affirmative speaker, am most emphatically resolved that “A government's legitimacy is determined more by its respect for popular sovereignty than individual rights.”

In today’s debate round, my job as the affirmative speaker is to prove to you that the political doctrine of popular sovereignty is the most conclusive way to achieve governmental legitimacy.

So to offer some clarity to the resolution, let’s define a few key terms:

Definitions

**Popular Sovereignty:** “The concept that political and legislative power resides with the citizens.”(South Dakota Civics Glossary)[[56]](#footnote-56)

**Individual rights:** “The concept that each person is assumed to possess certain rights because of the fact that they are human. This concept stems from the inalienable rights outline in the Constitution as well as the Bill of Rights.” (The Kentucky State Civics Glossary)[[57]](#footnote-57)

**Respects:** “The act of noticing with attention; giving particular consideration to; hence, care; caution.” (Merriam Webster Online Dictionary)[[58]](#footnote-58)

**Legitimate:** “justifiable or justified” (Webster’s New World College Dictionary)[[59]](#footnote-59)

Now that we have set up the parameters of what the resolution is, let’s look what we should be valuing in this round:

Value

My value for this round will be that of Accountability, which Webster’s 1828 dictionary defines as “The state of being liable to answer for one’s conduct; liability to give account and to receive reward or punishment for actions.”[[60]](#footnote-60)

Criterion

And the way in which we achieve the benefits of this value is through the criterion of Transparency. Transparency is defined by Cambridge Dictionary as “Clear and easy to understand or recognize”[[61]](#footnote-61)

Now let’s move on to the logic behind my position as the affirmative:

Contentions

1. Popular Sovereignty enables accountability

Thomas Jefferson once said, “Whenever the people are well-informed, they can be trusted with their own government.”[[62]](#footnote-62) The principle of popular sovereignty proves this concept. Popular sovereignty is defined as the doctrine that political and legislative power (otherwise known as the power to regulate through government) resides with the citizens. So, ultimately, when popular sovereignty is upheld, the government is held accountable to will of the citizens, because the government is ruled under the interests of its citizens.

1. Accountability Creates Legitimacy

Accountability is a crucial aspect for any nation in regards to government because without it, it is impossible for that government to be effective at doing its job. It will be crippled by corruption because of human nature. As Lord Acton once stated, “Power Corrupts, absolute power corrupts absolutely”[[63]](#footnote-63); if government was left to rule without responsibility to anything but the agenda it holds, it will inevitably become corrupt. But by creating accountability through the checks and balance system of popular sovereignty, it creates a government that is justified or justifiable, ergo it creates ‘legitimacy’. Take for example the republic of San Marino. The republic of San Marino was founded in September of 301 A.D. and its government was completely led by popular sovereignty and the will of the people. It was one of the most successful countries of that time. San Marino’s government was not crippled by corruption, and it stayed that way for over a millennium, until the union of Italy in the 15th century.

1. Individual rights cannot be upheld without Accountability

"In a government bottomed on the will of all, the life and liberty of every individual citizen becomes interesting to all"[[64]](#footnote-64) said Thomas Jefferson. A perfect illustration of this is the United States Federal Government; the US governmental institution is based off of their constitution. The constitution lawfully enforces the individual rights of American citizens. If the United States Federal Government is not held accountable, it has license to violate individual rights and be a tyrannical government that has no respect for the rights of its constituents, thereby oppressing its people. Individual rights are dependent on the concept of accountability, which is only created by Popular Sovereignty in government.

Conclusion

A government’s legitimacy lies within popular sovereignty. When we value Accountability and give transparency to the constituents of any government, the government becomes the best it can be as it upholds the interest of the governed, not the interest of the governors. Abraham Lincoln once stated “A Government of the people, by the people, for the people, shall not perish from the Earth.”[[65]](#footnote-65) All this said, I ask you to vote Affirmative— a vote for popular sovereignty, the best determinant of governmental Legitimacy.

"Accountability, Transparency, and Legitimacy"

Negative Brief

By Brent Pinero

Value Arguments

1.Accountability = Relativity/Vagueness-

Ask in CX:

Do all people across the world agree? Their answer should be no.

Do all people agree on what a government should do? Again their answer should be no.

After you have set that up argue in your speech that we don't know what we are holding a government accountable to, and that it isn't a good standard for legitimacy because of the relativity.

2. Accountability = Individual rights-

If you don’t want to argue the relativity point, you can argue that individual rights achieve accountability better, because individual rights are the ultimate standard for accountability.

Contention Arguments

C1. Argument: Citizens don’t always know what to hold government accountable to-

Not all citizens are knowledgeable in politics or know how to run a country. To rely on them for accountability is not a very strong link to legitimacy.

C3. Argument: Individual Rights Turn- Aff is ultimately saying individual rights are the ultimate end/reason for popular sovereignty, so that’s what we should be respecting, because you don’t value the means to an end, you value the ends. So individual rights is better than popular sovereignty.

“Of the People, By the People, For the People.”

A Value-Plus Case

By Benjamin Simon

Introduction

“Indeed, it has been said that democracy is the worst form of Government except all those other forms that have been tried from time to time” – Prime Minister Winston Churchill[[66]](#footnote-66)

“Democracy is worth dying for, because it's the most deeply honorable form of government ever devised by man.”- President Ronald Reagan[[67]](#footnote-67)

It is because these two men, who each achieved the highest executive positions in their respective governments, thought so highly of democracy and accountability that I affirm the resolution today and stand resolved that **A government's legitimacy is determined more by its respect for popular sovereignty than individual rights.**

To clarify the resolution, I offer the following definitions:

Definitions

**Government:** “the organization, machinery, or agency through which a political unit exercises authority and performs functions and which is usually classified according to the distribution of power within it.” *Merriam-Webster’s Dictionary of Law[[68]](#footnote-68)*

**Legitimate**: “not spurious or unjustified; genuine.” *Random House Dictionary[[69]](#footnote-69)*

**Popular Sovereignty**: “a doctrine in political theory that government is created by and subject to the will of the people” *Merriam Webster Online[[70]](#footnote-70)*

**Individual Rights:** The concept that each person is assumed to possess certain rights because of the fact that they are human. This concept stems from the inalienable rights outline in the Constitution as well as the Bill of Rights.[[71]](#footnote-71) *The Kentucky Secretary of State’s Civic Glossary*

Resolution Analysis

With these definitions in mind, let’s look at the qualities of the resolution. Above all else, this debate must focus on legitimacy. My opponent and I have the foremost goal of proving what gives a government the right to be called a government. To rephrase the resolution, the question is this: Should a government make decisions based on people’s rights or the people’s attitude toward their rights?

Value/Criterion

**Value: Accountability**

“The state of being liable to answer for one's conduct; liability to give account, and to receive reward or punishment for actions.” *Webster’s 1828 Dictionary[[72]](#footnote-72)*

**Criterion: Democracy**

“A government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usually involving periodically held free elections” *Merriam Webster’s Dictionary of Law[[73]](#footnote-73)*

This is the standard by which we can tell whether a government is or is not legitimate. As Jefferson said, “That to secure these rights [specifically life, liberty, and the pursuit of happiness], governments are instituted among men, deriving their just powers from the consent of the governed.”[[74]](#footnote-74) Any government that is accountable to the people through a democracy is a legitimate government.

Contentions

1. Men are fallible

Nuff said.

1. Fallible (Powerful) men rarely respect others individual rights

If my opponent can show one instance of a government that respects people’s rights, over a long period, without being accountable to the people, a negative ballot could be justified. The fact is no such government has ever existed without divine intervention. A government without accountability will only temporarily protect Individual Rights.

For an instance of this, look at the kingdom of ancient Israel. Every century or so, Israel would have a benevolent King who would uphold the rights of the Hebrews. My opponent would call this a legitimate government. But usually that King’s son or successor came into power and took all those rights back. Benevolent kings like Jotham, Hezekiah and Josiah were followed by wicked kings like Ahaz, Menasseh, and Jehoahaz. A government without accountability will always fail sooner or later.

The second thing that we need to realize is that those benevolent kings neither legitimize their predecessors nor are in and of themselves legitimate governments. A leader who respects individual rights is not a government but a governor. For example, King Abdullah of Jordan is a great illustration of a monarch who respects individual rights. Since Abdullah ascended the throne in 1999, Jordan’s economy has been on the rise and literacy rates have risen to the highest in the Arab world. My opponent might consider this a legitimate government. If Abdullah’s successor retracts all the rights that Abdullah’s secured, my opponent would probably consider it an illegitimate government. However, it was not the government that changed, but rather the leaders of that government. So by definition, if King Abdullah’s reign is legitimate, so is every other leader who exists under that country’s form of government.

There is only one form of government that protects Individual Rights over the long run; a government “of the people, by the people, for the people.”

1. A government is only legitimate when held accountable the people.

“That to secure these rights (specifically Life, Liberty, and the Pursuit of happiness) governments are instituted among men deriving their just powers from the consent of the governed.”[[75]](#footnote-75)

Politicians who know that they will be held accountable to the citizens will always be more wary of the people’s rights. Additionally, citizens who are able to choose their leaders will always be better able to protect their individual rights. In the midterm election several months ago, the American people made one of the greatest demands for accountability seen in recent decades. Among the other amazing statistics is the number of incumbents who were booted out of office. Voters ousted almost 3.5 times more incumbents than the national average of all the years prior: the highest number in over forty years. No matter what party you side with, you have to agree that there was a huge amount of dissatisfaction among the American people with the status quo.

It was because of dissatisfaction with government that America was created and it will only retain its greatness so far as it respects the principle of accountability that it was founded on; “a government of the people, by the people, for the people.”

“Of the People, By the People, For the People.”

Negative Rebuttal

By Benjamin Simon

General Guidelines

It’s hard to plan an attack on any affirmative without knowing what negative you are running. This case takes a lot of time to pick at respect of individual rights. If you have one of the more unorthodox negatives, like a balanced or a kritik, you may want to argue totally differently than the suggestions that I put out.

Value-Criterion:

The value and criterion of this case are in a slightly odd order. It may make it easier for you to subsume a value of accountability. When you think about it, a government who respects individual rights is, by definition, accountable to those people’s rights. So, Accountability isn’t just an affirmative value. Democracy, on the other hand, isn’t something you either need or want to subsume. For the affirmative, it’s a way for him to be able to point out which governments are legitimate. For the negative, you can use it to show how narrow-minded the affirmative really is. If your case uses examples from non-democracies, you need to stress how these examples were legitimate governments. If you only have examples from democracies, it’s not something that you really have worry about too much. Spend your time showing why your standard is the true standard instead of showing why democracy is a bad criterion.

Contentions

**Contention one:**

Whenever someone tries to be humorous, whether it works or not, don’t play into their humor. Agree or ignore and move on.

**Contention two:**

1. A governor who respects individual rights makes the government legitimate.
2. The fact that he is legitimate does not mean that his successors have to be.
3. Successors who disrespect individual rights are illegitimate.
4. Focus on your standard.

**Contention three:**

1. The only reason that the American people voted to shift the government in 2010 was because of an extreme disrespect for individual rights.
2. Because of the affirmative criterion of democracy, the affirmative is saying that even when the old congress disrespected individual rights, they were a legitimate government.

Section 3

Articles

The Purpose of Government

By Jon Bateman

What is the purpose of government? Well it depends on who you ask. From a biblical perspective the purpose of government is to uphold God’s law on earth. However, as far back as recorded history goes people have disagreed as to how government should uphold God’s law or even what God’s law is. In addition, power corrupts. Government is the legal embodiment of power. Therefore many have used government to give themselves total power over the people of their country. So as we try to decipher the purpose of government, keep in mind that there are multiple theories on the subject. In this article, we will focus on the theories that apply to the resolution.

First, let’s look at the monarchial or dictatorial style of government. Although there are some semantic differences between these two types of government, the basic idea of the purpose of government in each situation is the same. In both forms of government, the main purpose of government as seen by its leaders, is the acquisition, preservation and dispensation of power. In this system of government, the leader has absolute power. However, more important to our purposes here, is what that leader perceives the purpose of his power to be. The answer to this question is probably best summarized by King Louis the XIV of France, when he said “It is legal because I wish it.”[[76]](#footnote-76)

In other words the purpose of government is to consolidate enough power to the Ruler (be it a king or dictator) so that the ruler may have his every whim fulfilled. In summary, for proponents of this style of government, there really is no larger purpose to government other than to be a tool for extending the power of the ruler.

As I stated earlier, we are going to focus only on those theories on the purpose of government that apply to the resolution. As we look at the theory of government simply as a tool to extend the power of the king, we can see that it doesn’t have much by itself to do with the resolution. However, it is included on this list because it is in the setting of this type of government that the age of enlightenment began and new theories as to the purpose of government came into vogue. It is largely on these theories that the resolution is based.

The idea that both popular sovereignty and individual rights are primary factors of government legitimacy is found in the philosophy of social contract. While the idea of social contract has been around in various forms for millennia, it wasn’t until the age of enlightenment and the ideas of Thomas Hobbes, John Locke, and Jean Jacques Rousseau (the big three social contract philosophers) that social contract became the dominant theory on the legitimacy of government for the western world.[[77]](#footnote-77)

But what is social contract theory? The specifics differ from philosopher to philosopher but a general definition of social contract is “an implicit agreement among people that results in the organization of society; individual surrenders liberty in return for protection.”[[78]](#footnote-78) Philosophical jargon aside it means that people voluntarily create a government for the purpose of protection.

So what is so special about this theory? Unlike the kingship theory stated previously, this theory implies that government actually has a greater purpose. That purpose is protection. The question then becomes protection of what? The answer is the protection of rights.

There was a problem, though, with this theory. It contradicted the theory that subjects receive their “rights” from their ruler. If people create government to protect their rights, it means that their rights existed before and therefore independently of government. If this theory was indeed to be validated, a new source of rights needed to be found.

For a naturalistic and secular answer, John Locke stated that “All mankind... being all equal and independent, no one ought to harm another in his life, health, liberty or possessions.”[[79]](#footnote-79) The reasoning as to why the protection of rights should be the purpose of government is that all mankind is equal (which in and of itself was a revolutionary Idea). Since mankind is all equal, they naturally possess the right not to be harmed by their equals.

The issue of the source of rights was also answered from a religious view by Thomas Jefferson in the Declaration of Independence, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness.”[[80]](#footnote-80) It is clear from the quote that men are given their rights by God. Therefore God is the source and reason for individual rights.

While Locke’s explanation skirts around the issue of why all mankind is equal, an understanding of this concept is useful in a debate round to explain the importance of rights without potentially causing the other debater to feel as if he must deny God.

To review our discussion of social contract: rights are independent of government and men create governments to protect their rights. Therefore, governments have a purpose: to protect rights. As a consequence, if a government does not protect rights, it is illegitimate. Sounds simple, right? Wrong! The tricky part of social contract theory is exactly how government fulfills its purpose of the protection of rights.

The British philosopher Thomas Hobbes was by far the most pessimistic of the big three social contract philosophers. In his theory, the state in which men live prior to the creation of a social contract government is called the state of nature. The state of nature by its very definition is anarchy. There is absolutely no government. Thus, man was free to do anything he pleased, and in typical Darwinian fashion, the strongest survived and the weakest were annihilated. To Hobbes this meant that there was no possible way to ensure respect of individual rights. He declared that life in this environment was “solitary, poor, nasty, brutish and short.”[[81]](#footnote-81) Thus to Hobbes, since the state of nature was the epitome of the lack of individual rights, any government respected individual rights better than the state of nature. Put simply, any government is better than no government at all.

The consequence of this idea is that, under Hobbes’ philosophy, if we use protection of individual rights as the standard of government legitimacy, all governments are legitimate because even the worst governments protect individual rights better than the state of nature. So the question then becomes how the government upholds its purpose or to what extent the government upholds its purpose. It is here that the affirmative finds ground on the topic of purpose.

To answer how the government upholds its purpose, we now turn to the social contract ideas of John Locke. Locke’s philosophy is best summed up by the Stanford Encyclopedia of Philosophy where, “people in the state of nature conditionally transfer some of their rights to the government in order to better insure the stable, comfortable enjoyment of their lives, liberty, and property. Since governments exist by the consent of the people in order to protect the rights of the people and promote the public good, governments that fail to do so can be resisted and replaced with new governments.”[[82]](#footnote-82) Locke established that since the government is set up by the people (through social contract) that the people reserve the right (no pun intended) to replace a government that they feel is not adequately defending their individual rights.

Now that sounds great in theory, but how often will a government willingly allow itself to be overthrown? In the case of a dictator or monarch, not very often. So a new type of government is needed that willingly allows itself to be overthrown by the people. It is this idea that inspired a kooky bunch of colonials that we know today as the founding fathers, to create the republican model of government, of which America was the first, and arguably most successful, test subject.

The idea behind a republic that, is rather than having the people try to forcibly replace a government that is violating its purpose, the people may peacefully replace that government by voting them out of office. Think about it. In the American system, if the people are happy with the direction of their government, then they will vote to reelect those who are currently in power. Conversely, if the people are unhappy with the direction of their government, they will vote out those currently in power. This voting out of those currently in power is actually “overthrowing” the government, albeit peacefully instead of violently.

The obvious consequence of this system of government is if the people get to vote out a government with whom they feel their rights are not being best protected, it means that the people get to decide whether a government is upholding its purpose.

This brings up a good point. If the people get to decide whether a government is upholding its purpose, then the people get to decide the purpose of government. This begs the question, does government have a set purpose? We determined earlier that the purpose of government is to uphold individual rights. But if the people determine exactly what individual rights are, or what they want their individual rights to be… the people decide the purpose of government.

This warrants a discussion on the will of the people. The natural objection to the idea that the people decide the purpose of their government is “what if the people decide wrongly?” If the majority of the people decide they want the government to act in a way that harms the minority, is it legitimate?

Socrates would say yes. Socrates was condemned to death by the people of Athens. His only crime was daring to challenge the establishment. Most would say he was unjustly sentenced. However, Socrates relented willingly to the will of the people for the reason that society must have laws and those laws must be followed. If the people make an unjust law, it is still a law. And as a law it must be obeyed, regardless of our opinions on the matter. So to Socrates, even if the will of the people is “wrong” it is still legitimate.[[83]](#footnote-83)

Conversely Ayn Rand would say no. Ayn Rand was a Russian American author who is famous for her defense of individual rights. She stated that, “Individual rights are not subject to a public vote; a majority has no right to vote away the rights of a minority; the political function of rights is precisely to protect minorities from oppression by majorities.”[[84]](#footnote-84) To Ayn Rand, popular sovereignty is only useful insofar as it upholds and protects individual rights. When it ceases to protect individual rights, it ceases to be useful.

So now we have come full circle. We have established that government has a purpose and that purpose is to protect individual rights. But how do we ensure that a government continues to protect individual rights? Through popular sovereignty. We have seen that if popular sovereignty has the power to determine when a government is protecting individual rights then it must have the power to determine individual rights themselves. But here we reach a dilemma; if the government’s purpose is to protect individual rights as decided upon by the people, but the people decide wrongly, is the government legitimate? In the end, when looking at the purpose of government, the question becomes:

To be legitimate and uphold its purpose, should the government:

A: Always listen to the people, (popular sovereignty, the affirmative side of the resolution) or

B: Always uphold rights, even when it isn’t popular (individual rights, the negative side of the resolution)

The discussion could continue on, as there are many reasons to support both sides but now hopefully you have a deeper understanding of how the purpose of government factors into this year’s resolution.

A quick note before we close- my personal affirmative case supports option A and my personal negative case supports option B. As you debate this year, do not feel as if you must always support one of the two options… or even either option at all. Which stance you take on this topic of purpose, will depend on each round itself. The bottom line is: don’t pigeon hole yourself. Don’t argue against your personal beliefs, but be open to running arguments that contradict each other in different rounds (just not in the same round, judges don’t like that). Why do this? Because the purpose of government is a multifaceted issue that is not as simple as it appears at first. It is a question that has fascinated philosophers for centuries and will continue to do so long into the future.

Further reading

Stanford Encyclopedia of Philosophy:

<http://plato.stanford.edu/>

Especially the article on Locke’s Political Philosophy:

<http://plato.stanford.edu/entries/locke-political/>

Internet Encyclopedia of Philosophy:

<http://www.iep.utm.edu/>

Especially the article on Social Contract theory:

<http://www.iep.utm.edu/soc-cont/>

And although I did not quote him at all in my article or case, Frederic Bastiat wrote extensively on the purpose of government in his book “The Law.” In comparison to many other political theory books “The Law” is very short and readable. It can also be found online here:

<http://bastiat.org/en/the_law.html>

“I Have High Standards”

Evaluating the Resolution

By Jon Bateman

Have you ever been in or seen a debate round that seemed to spiral downwards into a bickering match of AFF: “My side of the resolution is better because I say it is better!” NEG: “No MY side is better because I say it is better!” These types of debate are annoying both to watch and to judge. Why? Because there are no clear standards.

After this type of round, the next most annoying is the round where either team has a completely subjective criterion. Such as, NEG: “So, your criterion is goodness. Who determines when a government is exhibiting goodness?” AFF: “it is good when it agrees with my personal political philosophy.” You will rarely hear the affirmative team come out and say it quite like that but a lot of times it seems that the government is “good” when it is conservative and a government is “bad” when it is liberal simply because they themselves are conservative. The reason this round is so annoying is that the standard for judging whether a government is “good” or not is completely subjective to the whim of the affirmative team.

So what was the point to my ramblings about debate rounds that annoy me? They both share a common theme. In both cases there were no clear standards. In both instances the basis for the debater’s argument was “because they said so.” Not only is this standard subjective and counter to the purposes of debate, it is hard to judge and frankly not interesting to watch.

So as we debate this resolution we need to make sure that we have a clear standard by which we can evaluate the resolution. This is the case with all resolutions but it is particularly important this year because the concepts inherent in this year’s resolution are not always easily understood by either debaters or judges. In rounds that I have debated or watched this year arguments such as, “What is exact meaning of individual rights?” or “How do we know when an action is popularly sovereign?” have come up sporadically. The argument that I hear the most is, “What is a legitimate government?” or “How do we know when a government is legitimate?”. The exact definition of a legitimate government or governmental legitimacy always seems to be an issue. This is partly because, at the end of the day, both teams are attempting to prove either that a government that respects popular sovereignty more than individual rights is legitimate or visa-versa. But I think a lot of the argumentation on the subject of what exactly government legitimacy is, takes place because either one or both teams fail to give a clear standard with which to determine when a government is legitimate.

We are going to look at faulty standards that I have seen used for government legitimacy in debate rounds this year, as well as standards that have been developed by philosophers over time that maydetermine the legitimacy of government.

The first faulty standard I have seen is the abusive definition standard. In this instance the debater (usually AFF since they have the primary burden of definitions) defines government legitimacy in a way that only supports his side of the resolution (e.g. Legitimate government: a government which is elected by the people). Usually these definitions are not from dictionaries and are either invented by the debater or are a quote from somewhere. The problem with defining legitimate government so that it only supports one side of the resolution is that it gives the other team no room to debate whatsoever. It is better to define government legitimacy neutrally and to make the link to your side of the resolution from there. For instance, my personal favorite definition of government legitimacy is,”Legitimate Government**:** A government generally acknowledged as being in control of a nation and deserving formal recognition.- Dictionary.com[[85]](#footnote-85)” From this neutral definition you can focus on the phrase “Deserving formal recognition” and make the argument that the only governments that “deserve” formal recognition are those governments in which popular sovereignty (or individual rights) is valued the highest. The main ideas is that you should use a definition that allows both teams to have ground in the round and sets the measuring stick for a legitimate government as “deserving of formal recognition.”

The second faulty standard that I have seen is not answering why popular sovereignty or individual rights causes a government to be legitimate. This faulty standard begins where the first faulty standard left off. For instance, after you make the argument that the only governments that “deserve” formal recognition are popularly sovereign, it is tempting to stop there. However, this gives no clear standard as to why popular sovereignty causes governments to deserve formal recognition. To avoid this you should structure the rest of your case to give concrete reasons such as “popular sovereignty gives accountability” or “enhances personal liberty” etc. The main idea is you must explain why popular sovereignty or individual rights is important to a government’s legitimacy.

The third faulty standard I have seen is when one team pronounces a specific government illegitimate without saying why that government is illegitimate. It is not enough just to say that North Korea is illegitimate. You must say why. Here is why this is important. North Korea has both an appalling lack of respect for individual rights and an appalling lack of respect for popular sovereignty. Which factor is it that causes it to become illegitimate? You must specify by giving a clear standard with which you can evaluate whether a government is legitimate or not.

So now that we have covered common mistakes in providing standards for evaluating the resolution, let’s look at some standards that philosophers have created for the purpose of evaluating government legitimacy over the years. There have been many such standards proposed throughout history but we are only going to focus on those that have to do with popular sovereignty or individual rights.

First we will look at Frederic Bastiat. Bastiat believed that the overall legitimacy of a government a stems from the legitimacy of each individual action taken or law made by government. In his book “The Law” he contended that individual rights are the basis of law and all laws must uphold individual rights in order to be legitimate. He put it in this way, “in spite of the cunning of artful political leaders, these three gifts from God precede all human legislation, and are superior to it. Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place.”[[86]](#footnote-86) Bastiat’s standard for when a government should be considered illegitimate was, “if the law takes from some persons what belongs to them, and gives it to other persons to whom it does not belong. See if the law benefits one citizen at the expense of another by doing what the citizen himself cannot do without committing a crime. Then abolish this law without delay, for it is not only an evil itself, but also it is a fertile source for further evils because it invites reprisals.”[[87]](#footnote-87)

His reasoning behind the standard he presented was, “If every person has the right to defend even by force — his person, his liberty, and his property, then it follows that a group of men have the right to organize and support a common force to protect these rights constantly. Thus the principle of collective right — its reason for existing, its lawfulness — is based on individual right. And the common force that protects this collective right cannot logically have any other purpose or any other mission than that for which it acts as a substitute. Thus, since an individual cannot lawfully use force against the person, liberty, or property of another individual, then the common force — for the same reason — cannot lawfully be used to destroy the person, liberty, or property of individuals or groups.”[[88]](#footnote-88)

Let’s look at Bastiat’s argument in terms of the three faulty standards we discussed above.

First, definitions. Bastiat defines individual rights as being independent of and superior to government. He then reasons that it is because of individual rights that governments are founded. Second, standards of legitimacy. Bastiat lays out his standard for legitimacy as a negative standard. He defines what legitimacy is not. When a government redistributes wealth and possessions in ways that the people couldn’t do themselves, then the government is illegitimate. Third, why those standards? Bastiat states the reason that wealth redistribution is illegitimate is because the government is the common force and is an extension of individual force. Thus the government cannot legitimately harm the individual rights which it derives its authority from.

We can see how Bastiat lays out a clear standard for measuring the legitimacy of individual rights. This makes his argumentation easier to follow and more convincing. Now we will look at the standards for legitimacy set forth by Thomas Jefferson in the declaration of independence.

He starts off like Bastiat, with defining individual rights. He states that, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.”[[89]](#footnote-89) Like Bastiat, Jefferson believed that individual rights are independent of government and precede government. But here is where they differ: Jefferson goes on to state that even though governments are instituted to protect individual rights, they’re authority to do so comes from the people (popular sovereignty). Jefferson then moves immediately to define when a government becomes illegitimate, “That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government.”[[90]](#footnote-90) The “ends” that Jefferson refers to is the protection of rights through the consent of the governed. This is an important distinction from Bastiat’s standard. Bastiat’s standard is based exclusively on the protection of individual rights while Jefferson’s standard is twofold: the government’s protection of rights must be based on the consent of the governed.

Jefferson then goes on to list the specific abuses of the British government against the colonists. Among the abuses listed: “He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.” “He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.” “For imposing Taxes on us without our Consent,” and “For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.” All of these actions that Jefferson labels as “abuses” stem from the fact that they violate popular sovereignty.

So let’s review Jefferson’s arguments in terms of the three faulty standards. First, definitions: He defines government as being a product of the people’s consent for the purpose of protecting their rights. Second, standards for legitimacy: Jefferson argues that when a government stops respecting its people’s voice and their rights that they want defended, it is illegitimate. Third, Why those standards: Whereas Bastiat used theoretical arguments to demonstrate why his standard is legitimate (sorry the pun was unavoidable), Jefferson used examples to illustrate view. He essentially says, “Look at what the king is doing! This action is obviously illegitimate. But why is it illegitimate? Because it violates the right of the people to have a say in their government!”

So what is point of this article? If you forget everything else what should you remember from this article? Standards are important! The technical term for everything I have just gone over is “claim and warrant.” You present your claims (read as “your arguments”) and then you show how your claim deserves to win by presenting your warrant (read as “your standards”). Your warrant is basically laying out the logical reasoning behind your argument.

As you debate this year, it is more important than ever to create warrants for your arguments. Let your judge and your opponent know exactly what standards you are using to evaluate whether a government is legitimate or not. If you do this you will end up with arguments like those of Bastiat or Jefferson. If you do not do this, you will end up with confusing, muddled arguments that make for terrible debate rounds. You owe it to yourself, your opponent and your judge to clarify the round by laying out your standards for evaluating the legitimacy of government.

Responding to “Relative” Rights

Trying to find consistency in Individual Rights

By Matthew Mittelberg

“Individual Rights” has many definitions, so you can’t vote for it!”

We’ve all heard this argument in some form. Odds are, you’ve probably argued both for and against it. The basic premise of the argument is that the judge shouldn’t vote for Individual Rights because the definition is constantly changing. It’s undoubtedly one of the most popular arguments to run in an affirmative case – and, today, I want to give you some usable negative responses to it. Also, for those times when you’re presenting the affirmative case, I’ll give you some arguments you can make as well – but the primary purpose of this article is to level the playing field and give the negative team a viable way to overcome the "Individual Rights are relative" argument.

1. Popular Sovereignty also has many definitions

The first response the negative team can present is the fact that “Popular Sovereignty” also has many definitions. In other words, the biggest problem with the “Individual Rights are relative” argument is that Popular Sovereignty is just as vague, if not more so!

For instance, the Random House Unabridged Dictionary defines Popular Sovereignty as: “the doctrine that sovereign power is vested in the people and that those chosen to govern, as trustees of such power, must exercise it in conformity with the general will.”[[91]](#footnote-91)

So this definition says that the Government has to do what the people want.

Another definition from the Collins English Dictionary says: “the doctrine that the inhabitants of a territory should be free from federal interference in determining their own domestic policy, especially in deciding whether or not to allow slavery”[[92]](#footnote-92)

This definition says that Popular Sovereignty is about states rights apart from the influence of the federal Government.

And then there’s the definition from American Politics at the University of Texas, which defines it as: “Ultimate authority of the people. No law is legitimate unless it rests, directly or indirectly, on the consent of the governed.”[[93]](#footnote-93)

So then this definition says that laws are only legitimate when they have the consent of the Governed.

So, as you can see from these three definitions, sometimes the definition of Popular Sovereignty is talking about the people controlling what the Government does, sometimes it’s talking about states rights, and sometimes it’s defined as a test for laws. So Popular Sovereignty is not a firm or solid concept at all! Therefore, because the affirmative contradicts their own argument, they should lose the debate round.

Now, for the affirmative teams, there is a good response you can make to this argument. You can argue that all the definitions of Popular Sovereignty we just reviewed say generally the same thing – that people control and are sovereign over the Government. So the definitions of Popular Sovereignty aren’t really very different, whereas the differences between Individual Rights definitions are drastic and in some cases actually the opposite of each other.

A good negative team will respond to this by saying that the definitions given will contradict in the real world. For example, in the case of slavery most people in the United States wanted to abolish it (especially if you count the people caught in slavery themselves). However, some states didn’t agree – and, for many years, their opinion prevailed. So if the first definition of Popular Sovereignty – a Government controlled by the “general will” – was right, then there would not have been slavery. However, if the second definition of States having the right to decide their own policies and laws was right, then there would have been slavery in certain states. Therefore, the definitions really are distinct because they have vastly different results when used in the real world.

1. “Individual Rights” does have a firm definition

The second response the negative team can make is that “Individual Rights” does have a firm definition. That definition is the Universal Declaration of Human Rights. In all, 48 of the top nations of the world agree on this denotation.[[94]](#footnote-94) So, there is a far more recognized and solid meaning for Individual Rights than there is for Popular Sovereignty.

Now, you may have some animosity toward this definition. It advocates things like healthcare and paid vacation as basic rights. In most cases, however, the benefit of having a solid definition of Individual Rights outweighs these annoyances. In addition to this, it’s easy to agree with the majority of the rights laid out in the document. That’s why organizations like Amnesty International advocate it is a great standard: “The Universal Declaration of Human Rights recognizes the inherent dignity and equal unalienable rights of all members of the human family as the foundation of freedom, justice, and peace throughout the world.”[[95]](#footnote-95) “it is the basic document of our times – the strongest, most stirring, most complete description ever of the rights of individuals and the duties of nations.”[[96]](#footnote-96)

A good affirmative response to this argument is to attack the distasteful things in the document such as to right to such luxuries as healthcare, free education, guarantees of work, and paid vacation. Most homeschooling judges will be sympathetic to arguments such as these, so make good use of them.

The second response the affirmative team can make is to argue that many of the nations that originally signed this document have consistently failed to protect Individual Rights –including Afghanistan, China, Iran, Pakistan, and Syria. Clearly, these nations aren’t following through with their commitment to Individual Rights. Could this be because none of those nations have Popular Sovereignty? Absolutely, and that’s one of the strongest ways to turn this argument in the affirmative team’s favor.

Of course, the negative response to this will likely be that those nations are respecting neither Popular Sovereignty nor Individual Rights. If they would just respect Individual Rights, then there would be justice. However, advocating the previous argument will likely still further your affirmative cause in the mind of the judge, and show him or her that you can turn a negative argument in your favor.

One other response the affirmative team can use is to state that although we may seem to have a solid concept of what Individual Rights are now, that concept is drastically different from what it has been throughout history. For example slave ownership used to be considered a right, but now we all have the right to be free. This only proves that it’s a constantly evolving idea, and in a few more years we’ll probably have an entirely new definition! In contrast, Popular Sovereignty has always denoted the same general idea – namely, that the people are sovereign. However, be careful in using this response as the definitions I gave show that the definition of Popular Sovereignty has changed at least somewhat over time as well. In order to win with this response, you have to show the judge that the definitions of Popular Sovereignty say generally the same thing – otherwise the negative team will say that you're contradicting your above argument.

1. Impact – Vote for the negative team

If you run these or any other responses against the "Individual Rights are relative" argument, you absolutely must remember to impact them – or in other words, show why they matter. My former California debate coach Griffith Vertican wisely teaches that we need to make defensive responses into offensive arguments. So tell the judge that if they're going to vote on whichever issue has a clearer definition, they should definitely vote for Individual Rights! The definition of Individual Rights has been agreed upon by almost every major nation in the world, whereas there is no solid agreement on what Popular Sovereignty really is. Because the affirmative team contradicts their own argument by advocating a far more vague and relative term than Individual Rights, that alone should be reason enough to vote for the negative team at the end of the debate round.

Affirmative teams, remember that if the negative team uses this final response to your “Individual Rights are relative” argument, all you need to do is beat their responses to win the debate round. They've already conceded that whichever team wins this argument should win the debate round. Point that out to the judge, show how you've won the argument, and win the round.

I hope that as a result of reading this article you will be equipped and inspired to make effective responses both for and against the "Individual Rights are relative" argument – and that doing so will help lead you to success during this debate season!

Morality: With MILLions of theories, I KANT decide!

Consequentialism vs. Deontology

By Patrick Ortiz

First of all, let me ask for your forgiveness for the terrible pun.

Secondly, let us add even more controversy to this matter by taking a quick survey: Mac or PC?

While I know you probably won’t raise your hand and answer this question as you read this, many of you are likely to have a spirited opinion on this matter, as it is the next most controversial issue to morality. People are divided between these two classes of computers, both with valid reasons for each. Macs are marketed as high quality. They stand out. Macs only work with compatible software, which can be hard to find. They’re also rather expensive. But they are sleek, fun, and rather cool.

Windows PCs, on the other hand, are more traditional. They cater to a larger market. While Macs may be on the rise, Windows has always given a practical, economical and very useful product. Many companies make windows PCs, and a larger variety of software is compatible with them. These possible benefits and detractions make for difficult choices for potential buyers.

Fortunately, the consequences of the choice of Mac or PC are not altogether dire. Extra expense or a computer thrown against the wall in frustration is not nearly as dire as the consequences of moral choices. Yes, this discussion does have more to it than a delightful word or two on technology. Morality, too, has several options for the buyer, but these options fall into two primary categories: Deontological and Consequentialist Ethics. Deontologists are the ‘Macs’ of ethics. While they hold high standards, they’re not compatible with many systems, and can be impractical. They’re rigid and only use their own rules, or ‘software’, if you will. Consequentialists, on the other hand, are adaptable, and you will find many possibilities for moral decisions in the consequentialist field of ethics. The consequences of choosing one of these moral philosophies, however, are much darker. While a frustrated user is the worst consequence of a poor computer choice, poor moral choices can lead to genocides. So it’s pretty important to examine these ideas before we make a purchase.

The Ethics Theories

There are three primary ethics theories that have intertwined throughout history: Deontological ethics, Consequentialist ethics, and Virtue ethics. While they may sound rather intimidating and complicated, we’ll cover them all, and you’ll find that it’s very nice to be able to sound philosophical and use words like deontology.

**Deontological Ethics**

The New Oxford American Dictionary defines Deontology as ‘*The study of the nature of duty and obligation*’[[97]](#footnote-97). Immediately, we can find a very nice tie to the resolution. A large group of definitions of Government Legitimacy are concerned with the duty of government. Deontology deals with just what that duty is. The term deontological derives from the Greek *deon*, which means ‘duty’. Deontologists believe that morality is derived from principles, and it is our duty to uphold them.

Perhaps the most widely known deontological philosopher was Immanuel Kant: The Macbook Pro of the deontologists. Kant created a whole new way of looking at philosophy. Immanuel Kant was perhaps most famous for specifically laying down deontological rules for morality in The Categorical Imperative. The Categorical Imperative is a set of principles that Kant believed defined morality.

The primary, overarching concern of the categorical imperative is that it is upheld categorically. In addition to believing that morality was concerned with duty, and derived from reason, Kant was a moral absolutist. He believed that morality must be upheld unconditionally. If morality was upheld on condition, it would be cheapened. Morality would degrade, as it would only be upheld some of the time, slowly deteriorating. Kant said that this would be a ‘hypothetical imperative’ rather than a ‘categorical imperative’.

For instance, a hypothetical imperative would maintain that ‘If you want to stay out of prison, don’t murder anyone’. Kant stated that this premise was faulty, because it assumed that the person in question would want to stay out of jail, and it allows for morality to be dependent on the consequence. A categorical imperative would just say ‘Don’t kill anyone. Period. No questions asked’.

From here, Kant went on to display just what moral tenets should be upheld categorically. Remember, Kant is a deontologist, and therefore is looking for principles and duties to uphold.

1. Universalizability

While this sounds like it may have to do with anything from the cosmos to salt, universalizability is Kant’s term for morality being universally applicable. Kant states *“Act that your principle of action might safely be made a law for the whole world.”[[98]](#footnote-98)* For instance, if I declare that lying in order to bamboozle people is a moral action, I must consider a world where everyone did this. Because everyone lies, no one would trust anyone and therefore no one would be bamboozled. The principle is therefore not universalizible or moral.

The formula for determining universalizability is determined by putting an action and a motive together, then making it a maxim. The action, lying, is coupled with the motive, bamboozlement, to make the maxim ‘I will lie to bamboozle people’. Since the motive isn’t achieved by applying the maxim to the entire world, the principle is contradictory and illogical. A principle such as ‘I will tell the truth in order to gain people’s trust’, however, is logical: while truth has gotten a few people slapped in the face, honesty is still the best policy, and gains people’s trust.

1. Human Respect

Secondly, Kant maintains that being the ones making these moral judgments, humans have some intrinsic value. He reminds fellow moral philosophers to “Act in such a way that you treat humanity, whether in your own person or in the person of any other, always at the same time as an end and never merely as a means to an end.” This ensures that perspective is kept when making moral judgments. While it doesn’t mean that nothing bad will ever happen to humans, it does ensure that humans are never used as a means to an end, thereby deprived of their humanity.

1. The ‘Kingdom of Ends’

Kant’s final criterion for morality states *"Therefore, every rational being must so act as if he were through his maxim always a legislating member in the universal kingdom of ends."* The ‘Kingdom of Ends’ that Kant refers to is a hypothetical thought experiment, not a kingdom for which Kant was handing out legislative offices. This ‘kingdom’ is basically an imagined society where everyone acts by the first two criteria. If your action works in this society, it is good. This is very similar to the idea of universalizability, it just asks for you to imagine said morality in action.

Kant’s system was pretty revolutionary. In summary, Kant believed that morality should always be upheld, that it had to be universally applicable, that it should respect humanity, and again, be universally applicable (but on a grander scale).

**Some objections to Kantian morality:**

**1. Based in Human reason.** Even Kant recognized that God had to be present for moral systems to work. In his book, ‘The Critique of Pure Reason’, he stated *"Morality, by itself, constitutes a system, but happiness does not, unless it is distributed in exact proportion to morality. This, however, is possible in an intelligible world only under a wise author and ruler. Reason compels us to admit such a ruler, together with life in such a world, which we must consider as future life, or else all moral laws are to be considered as idle dreams”[[99]](#footnote-99).* This way, Kant recognized God as a practical concern (Though many of his views were agnostic). While Kant bases his philosophy in reason, he also derides human reason. Regardless of Kant’s personal beliefs, other philosophers were still able to glean much from his revolutionary ideas.

**2. No way to solve moral dilemmas.** This is one of the largest critiques of Kant. If we are to be categorically good, then moral dilemmas pose a wide variety of unsolvable problems. Whether it is the historical “You can lie to Nazis or let them find the Holocaust refugees hiding in your attic” or the classic superhero choice of “You can save your girlfriend or Gotham City”, moral dilemmas are unsolvable by Kantian ethics. Since we are to never take immoral actions, Kant never gives a solution to these sorts of situations.

To answer for this problem, W.D. Ross developed his own deontological ethics. If Kant is the Macbook Pro of philosophers, then Ross is the iPad. Ok, perhaps the analogy is getting stretched a little too much, but Ross is the lite edition, the critique. Like Kant, Ross was a deontologist. However, Ross was not an absolutist, and therefore believed that morals could be compromised, thereby allowing Corrie Ten Boom to live and Batman to save the day. Ross argues that there are several moral qualities that can be ranked in a hierarchy; we may not be able to uphold all moral laws, but we will at least uphold the most important ones. He calls these qualities ‘prima facie obligations’, a number of which may be present in any given moral dilemma. They are: fidelity; reparation; gratitude; non-maleficence; justice; beneficence; and self-improvement. They can be ranked in various orders, all that Ross declares is that they be present.

Many argue that this ‘lite edition’ of Kant defeats the purpose of deontology, by introducing ambiguity into the categorical imperative. On the other hand, W.D. Ross considered himself a moral realist. Sure, perhaps it is a hypothetical imperative, but Ross believed that his system was an accurate portrayal of the world.

The writings of Immanuel Kant changed philosophy, and affected a large group of philosophers like Ross. After Kant, just about every moral philosopher either agreed with Kant and adapted his deontological ethics, or critiqued Kant and showed why he was wrong. From older German philosophers such as Arthur Schopenhauer and Georg Hegel, to contemporary philosophers such as John Rawls, Kant made a large impact on moral philosophy.

**Consequentialist Ethics**

As the name accurately implies, consequentialist ethics look at the consequences of actions in order to determine their morality. Like Windows based computers, consequentialists are pretty flexible, and can work with a variety of formats.

Among consequentialist ethics, the most widely known is utilitarianism, which the New Oxford American Dictionary defines as “The doctrine that actions are right if they are useful or for the benefit of a majority”. Utilitarianism and Consequentialism fall under the category of philosophy known as teleology, coming from the Greek word ‘Telos’, which means ‘purpose’ or ‘end’. This is a pretty broad definition, though, so let’s examine utilitarianism in greater detail.

Jeremy Bentham is widely considered the founder of utilitarianism. Bentham argues that what is moral is whatever provides the greatest happiness for the greatest amount of people, or conversely, the greatest pain. Utilitarianism comes in several forms, but is always concerned with whatever produces the most good, happiness, or pleasure; versus whatever produces the most badness, or pain. Bentham takes a reductionist approach to ethics, making it almost a mathematical equation. In fact, in order to determine what is utilitarian, Bentham created what he called the ‘Felicific Calculus’, which is a set of criteria that gauge happiness. The criteria are the happiness’: intensity, duration, certainty or uncertainty, distance, the chance it has of being followed by similar sensations, the chance it has of not being followed by sensations of the opposite kind, and its extent (the number of people who are affected by it). Basically, these criteria are meant to objectify the vague concept of happiness.

Bentham, however, was far from objective. While he reduced morality to a mathematical calculus, his utilitarianism was known as ‘Act Utilitarianism’, which determines the morality of individual actions. Because of this, there is no rule to apply, rather, actions are judged individually based on their consequences.

Like Deontology, Utilitarianism also has its critiques and adaptations, most notably John Stuart Mill’s Rule Utilitarianism. If Act Utilitarianism is a regular Windows 7 computer, then Rule Utilitarianism is the netbook... if we continue to stretch this tired analogy like a worn out rubber band until it snaps. Rule Utilitarianism is a philosophy developed by John Stuart Mill, whose father was good friends with Jeremy Bentham. Mill contended that there should be rules in utilitarianism. If something generally brought the greatest amount of good for the greatest amount of people, then it was always good, even if in some instances that wasn’t the case. Rather than judge utilitarianism based on individual actions, a larger picture was looked at. His view of utilitarianism is ‘The greatest happiness for the greatest amount of people- within reason’. Mill argued that Bentham’s utilitarianism was too dry and devoid of value. Because of this, the moral value of the happiness found in a child’s game of tag could be viewed as just as valuable as happiness found in a higher pursuit... such as debate. Mill viewed utilitarianism as not only a quantitative assessment, but a qualitative one. Mill’s critique is a fairly apt one, but it loses some of the directness of Bentham’s utilitarianism and tries to bring rules into the picture (which moves it closer to deontology). Kantian Ethics and Bentham’s Act Utilitarianism may be seen as the extreme opposites, whereas Ross’ Moral Hierarchy and Mill’s Rule Utilitarianism are more moderate versions of their parent philosophies.

Like deontology, consequentialism presents a wide variety of offshoots and critiques to research. Consequentialism presents perhaps an even broader field, as each situation may warrant a different decision.

**Virtue Ethics**

It is worth taking a little time to note that there is one ethics theory that has been left out: Virtue ethics. If Deontological Ethics are Macs and Consequentialist Ethics are PCs, Virtue Ethics are Ubuntu computers. Acting like a third party, they really don’t fit into the picture of this year’s debate resolution. In order to gauge morality, virtue ethics look at the character of the person in question rather than the action, duty, or consequence of the action taken by the person. While a deontologist might say ‘lying is always wrong’, ignoring situations where lying to save someone is good, and a consequentialist might say ‘lying is good based on the consequence’, a virtue ethicist would maintain that the character of the person, not the action, determines morality. If lying is a noble thing to do, then by all means, lie. The trouble with this theory (apart from philosophical criticism) is that the resolution asks for an examination of governments, and therefore the personal nature of virtue ethics is hard to apply. If you can find a way to do it, however, great! Aristotle would be proud.

While it’s great to learn about philosophy (who wouldn’t want to just read this stuff for fun? Or is it just me?), you would undoubtedly like to see how this applies to debate. Fortunately, all of the philosophical knowledge will pay off.

**Governments and Morality**

Governments have always sought to be moral, or to prevent immorality. Every time a government condemns an action with a law, it makes a moral judgment. While there is certainly plenty of room for value debate, morality comes from a nice starting point. But the question remains- just what morality to choose?

Traditionally, affirmatives will want to side with utilitarianism: the greatest good for the greatest amount of people. What governmental system works better with that philosophy than popular sovereignty, where the majority decides what they want, or think will bring them the most good? Similarly, negatives will side with deontology- the philosophy that declares a moral obligation set by certain standards. It is all too easy to say that that obligation is individual rights- whether or not the people vote for it.

At this point, let’s make one exception to this general rule. It’s the shared philosophy of... how to put it... ‘Eat Your Veggies-ism’. When dealing with political philosophy, certain philosophers act like mom, urging people to eat their veggies ‘Because I said so’. What I mean by this is that, when applied to government, philosophies like Rule Utilitarianism and The Categorical Imperative have a certain elitist air to them, as if the philosophers were telling citizens ‘we know what is best for you, just trust us’. Just like mom telling you to eat your veggies, these philosophies make the decision for you. This falls in line with the negative; rather than seeking the opinion of the multitude, eat your veggiesists determine that something is right without seeking opinion. Something like... individual rights. Immanuel Kant in fact stated “*Seek not the favor of the multitude; it is seldom got by honest and lawful means. But seek the testimony of few; and number not voices, but weigh them.*”[[100]](#footnote-100) Even John Stuart Mill took this approach, arguing that everyone should be educated, and university graduates should be given a weightier vote. In this regard, the lines between consequentialism and deontology are blurred, and even consequentialists are better suited for negative.

While there are exceptions, generally speaking affirmatives will be better suited to utilitarianism while negatives will be suited to deontology. Some real world examples of this can be seen in a multitude of places. Wherever there is a moral decision to be made, you can be sure that these philosophies are present. This can be found in the cause of war- interventions and revolutions usually pose striking moral questions, or domestic policy- the will of the people is often at odds with what deontologists would consider ‘right’. The main question will always be whether a government chooses an action that yields results in a practical manner, or stands by stringent moral duties.

Personally, I am a Mac user, and somewhat of a deontologist. Whether you want the accessibility of consequentialism or the high standards of deontology, there is a morality theory for you. The debate is just as controversial as the debate between Windows and Macintosh, but it has been around much longer, and bears much greater implications. As you shop for moral codes, at whatever store sells them (‘Clean up in the consequentialist libertarianism aisle, please’), consider these theories. They provide great case material and a variety of governments that use them. Whichever you chose from-

There’s an app for that.

Further Reading

**Immanuel Kant**

*Critique of Pure Reason*

If you think Kant’s philosophy is confusing, wait until you see his writing. Kant is a very confusing author, but he has some very good things to say.

**John Stuart Mill**

*Utilitarianism*

*On Liberty*

It is worth noting that Mill not only wrote a lot about utilitarianism, but developed a lot of philosophy on government and society, which is very fitting for the year’s resolution.

**Stephen Law**

*The Great Philosophers*

This book is not a great philosophical work, but it is undoubtedly one of the most helpful books that I have read. It simplifies the works of a number of great philosophers, ranging from Plato and Aristotle to Locke and Kant.

**John Rawls**

*A Theory of Justice*

Rawls is a contemporary deontological philosopher, who is very much influenced by Kant in spite of the recent trend philosophy has had towards relativism. His work additionally encompasses a lot of very interesting political theory.

There’s No Ayn In Team

By Patrick Ortiz

People have all sorts of ideas for what sharing means. For parents, it means children sharing toys. For debaters, perhaps it’s sharing evidence. For me, sharing means my brother giving me the bigger half a sandwich. Sharing is generally viewed as a pretty good thing. We love to share, and we love it even more when we’re being shared with. Yet philosopher Ayn Rand proposes that rather than sharing, selfishness is a virtue. The only time I recall sharing being a bad thing was when my brother gave me the chicken pox.

Ayn Rand’s book, ‘The Virtue of Selfishness’ certainly has a shocking title. The philosophy surrounding selfishness and collectivism is controversial, and oftentimes stands contrary to the lessons that we learn as children. While I wouldn’t suggest telling your parents that debate has taught you to not share with your siblings, it is definitely worthwhile to take a closer look at the philosophy of individualism.

The History of Individualism

Individualism is a very broad philosophy, ranging from government to ethics to social issues. As the name implies, it is a philosophy concerned with the individual as opposed to the collective. Individualism has its origins in the philosophy of rationalists such as Plato or Descartes, who believed that reason was the means of knowing what was real. Descartes went so far as to say that the only thing that you could know for certain was your own existence— I think, therefore I am. This focus on individual reason set the stage for other philosophers.

After the establishment of individual reason, the idea of the individual as valuable soon made its way into government and political philosophy. The age of enlightenment advanced this notion, causing nations to turn to reason rather than tradition in order to recognize government legitimacy. Revolutions began to occur, and the long held European traditions of monarchy were ended. With the success of the American revolution, other nations emulated that revolution in the cause of freedom. As individuals began to assert themselves, monarchs became defensive. When the French rebelled against their monarchy, surrounding nations went so far as to declare war on France in efforts to crush the fledgling republic (giving rise to the famed Napoleonic Wars).

You’ll notice that as individual reason grew, so did the ideas of popular sovereignty and social contract. In this way, individual rights and popular sovereignty are very much intertwined throughout history. The same social contract philosophers who promoted ideas of popular sovereignty also present the first notable appearance of individualism. Notably, John Locke presented the idea of property rights and the need for individualism. While many social contracts call for unification, Locke recognized a need for private property. In his book, the Second Treatise of Government, he writes “*For when any number of men have, by the consent of every individual, made a community, they have thereby made that community one body, with a power to act as one body, which is only by the will and determination of the majorit*y”[[101]](#footnote-101) The contract calls for popular sovereignty, but with a focus on the individual consent of each person. This sort of social contract runs contrary to collectivist social contracts, such as the social contract formulated by Jean-Jaques Rousseau. Rousseau hated the idea of private property, claiming that it caused all of the problems government must fix. This sort of liberty was bad, and Rousseau called it ‘negative liberty’. ‘Positive liberty’, he claimed, was when people used popular sovereignty for the good of the collective. This is where popular sovereignty and individual rights diverged. On one hand government philosophy sided with looking at the collective in social contracts, whereas on the other hand, individuals were held higher.

Ayn Rand and Individualism

Here enters one of the most influential individualist philosophers. Well, I really can’t say ‘here’, as she was born almost 100 years after the age of enlightenment. However, there is no denying that Ayn Rand was one of the greatest thinkers of the individualism movement. Ayn Rand is one of the few prominent philosophers who actually uses the term ‘individual rights’. It is certainly beneficial to explore her philosophy in depth.

For starters, it would be pretty important to know just who Ayn Rand was. Born in the Russian Empire in 1905, Rand saw the effects of communism when the Bolsheviks took power. From these early days, Rand despised the collectivist mentality of communism. Subsequently she moved to America, developed her own philosophy, and wrote several books including *Atlas Shrugged*, *The Fountainhead*, and *The Virtue of Selfishness*. Who doesn’t relocate countries, write bestsellers, and invent a philosophy when times are tough?

Ayn Rand brought the philosophy of individualism to a whole new level by introducing the concept that she called ‘selfishness’. Rand saw the world as split between two primary ethics theories: Selfishness and Altruism (the principle that acting for the benefit of others is good). Most people, when faced with a choice like this, opt for altruism. Isn’t it obvious? Part of the reason that Rand uses the term selfishness is *“For the reason that you are afraid of it.”* Apart from flaunting convention, Rand gives reason to this answer. Rand reasons that altruism and selfishness answer two questions: A) What are values?, and B) Who should be the beneficiary of such values? Altruism maintains that any action taken for the benefit of others is good, thereby answering both of those questions at once. Selfishness, however, takes these questions separately, asking the individual first to figure out what is good, then gain it for himself.

This basic distinction changes the way society is viewed. When looking out for others is good, the group of ‘others’ is seen as an almost completely different entity. When ‘the good of others’ becomes a primary objective, a collectivist mentality is formed. Rand states that this causes people to separate society from moral law, and government to place itself above the citizens. When this happens, there are no ‘rights’ for citizens, but permissions granted by governments.

Remember the opening scene of Toy Story where Sheriff Woody confronts Mr. Potato head? “Can’t touch me Sheriff, I brought my attack dog with a built in forcefield!” Potato Head exclaims, to which Woody’s response is “Well, I brought my DINOSAUR, who EATS forcefield dogs!”. It is this sort of entity that Rand criticizes. When a government sets itself above the people, claiming that it is altruistic, acting for ‘the good of society’, it is just a phony premise for control. This power used for some mysterious ‘collective good’ is no more of a real power than a forcefield-dog-eating-dinosaur, created just to say “there’s no competition- I win”. This puts governments in control of and above individuals, which is what causes a right to cease to be a right, but become a privilege. Rand says that the person who does this— who works, but only gains what is allowed— is nothing more than a slave.

Selfishness presents a different route. Concern with one’s own interests means that people must look to what is necessary for their own survival, then continue to secure those necessities. Rand says that these are individual rights, and the most fundamental right is life. From there, Rand introduced the concept of property rights- what is necessary to live. The ability to work independently and provide for oneself is not incompatible with government, however. Here Ayn Rand points to social contract, stating that such an agreement does not reduce people to slaves, but can work because it is a voluntary, uncoerced agreement.

In summary, Ayn Rand holds selfishness as a reasonable recognition of just what man needs to survive, whereas altruism asks people to work for a collective instead of themselves. When a collective is seen as a separate entity, a dangerous situation arises where governments can make demands of people to strip them of their rights and identity, leaving them with only what the government has permitted them to do.

Application in Debate

For anyone interested in the philosophy of individualism, or individual rights, I cannot stress enough the helpfulness of Ayn Rand’s book ‘The Virtue of Selfishness’. I have personally found her writing very informative and easy to read, and I do indeed aspire to have enough free time to relax and read Ayn Rand’s books on the beach (guess what I did over the summer). While we’ve covered the basic tenets of Rand’s philosophy, there is still a lot more to cover, much of it helpful in debate.

Ayn Rand has a very obvious affinity for individual rights. She views the individual as the source of reason, and individual rights as the purpose of government. However, Rand also displays some tendencies towards popular sovereignty as well, praising the social contract and its pioneers. After all, if everyone votes in his or her own selfish interest, popular sovereignty can be successful. While her philosophy may be used for this, it is more advantageous to use her philosophy for the negative side of the resolution. First of all, she has a multitude of quotable phrases that neatly encapsulate the negative side of the resolution. Not only this, but she presents a unique and thought out philosophy that seems to answer for everything. Rand seems to preempt responses to her writings, and writes rebuttals to possible arguments.

Ayn Rand’s philosophy (known as Objectivism) can be applied in many different areas. It basically stands for individual achievement, in economics, politics, morality, or even sports. Concerning government, Ayn Rand dedicates an entire chapter to the application of this philosophy (apart from a general sentiment) in ‘The Virtue of Selfishness’. Altogether, individualism is the philosophy of individual rights (as the names might imply). The focus on the needs of the individual rather than the needs of the group has sparked countless debates.

My brother and I have a particularly unique way of sharing. Rather than act like most kids, we’ll draw up contracts, make rules, and in effect run our own little government based on these interests. No matter how you share with your friends or siblings, you’ll find that it sometimes pays to be selfish.

But don’t tell my mom I said that.

"Cross-Examination: Questioning Legitimacy"

Q&A Time- A CX Primer on Legitimacy

By Benjamin Simon

Though the idea of legitimacy can be very complex, most cases you hit will stem from a purpose-legitimacy. Many cases you encounter (and run most likely) will give a benchmark to tell at which point legitimacy is obtained.

The idea of benchmark ethics, or normative ethics, found a hero in John Rawls in the early 1970s.

**Normative Ethics** - *…the attempt to provide a general theory that tells us how we ought to live.[[102]](#footnote-102)*

From the mid 1900s onward, philosophers had slowly moved away from questions of Normative Ethics to questions of Meta-Ethics.

**Meta-Ethics** – “…*the attempt to understand the metaphysical, epistemological, semantic, and psychological, presuppositions and commitments of moral thought, talk, and practice.”[[103]](#footnote-103)*

In 1971 John Rawls published his work, *A Theory of Justice,* which looked at governments and society in light of how they ought to act rather than the metaphysics or general consensus about their actions. While it may have left something to be desired in regards to a Christian view of truth, it is a respectable work in light of what we homeschool debaters have learned thus far this year. I am sure even the more novice among us have spent a considerable amount of time contemplating what a government ought to do, ought not to do, what gives it the right to rule, and what makes it illegitimate.

But no matter how much we think about it, there are many things about government that we’ve just assumed. When attempting to debate a topic concerning government in only a 45 minute time frame, there are hundreds, if not thousands, of little assumptions that both you and your opponent make before the round even begins. “Governments are good, legitimacy is possible, legitimacy is good, individual rights are inalienable,” – just to name a few. Most of these assumptions are good. Most of these assumptions both you and your opponent can agree on. Most of these assumptions are ones you’ve never consciously thought about. Often the only ones that you or your opponent will think about are the one you believe will bring the most conflict in the round.

If you can break into these unvoiced assumptions on what your opponent truly believes legitimacy is, you can flank him on the side of his case that is unguarded by any forethought on his part. Below I’ve listed seven questions for you to consider when looking and your case and for you to find out regarding your opponents case. While these make for great C-X questions, remember that I’ve written most of them as open-ended questions. If you were to ask them as written and then let your opponent elaborate on the intricacies of each response, you may only have time to ask three or four of these questions, let alone have time to question him about his case. Whenever possible, phrase the question to have a yes or no answer.

**Question #1: What your standard of a legitimate government?**

By now most of us have at least one. If you don’t have one, get one. Your standard is the sieve by which you separate the legitimate from the illegitimate. All so-called governments go in one side of the sieve and only the legitimate ones come out the other side. If a government fulfills your standard, it is legitimate. Rawls saw the standard as justice. Hobbes thought it was just the fact that government exists. Without some standard, you probably have a lousy case. If your opponent doesn’t have a standard, that should probably be your first line of attack. Legitimacy without a standard is just a personal preference. If you tell me that McDonalds has the best hamburgers, but cannot tell me why, I stand a very good chance of tearing down your argument.

**Question #2: Is there such a thing as a legitimate government?**

While some people may say differently, I’m not completely against the idea of answering no to this question. However, there are some drawbacks to this answer. As always, look back to your standard. This year there will probably be far more negative cases that say no to this question than there will be affirmatives. Think about it. No inherent value is ever fully achieved. No government will ever completely uphold human rights. No government will ever be completely just.

Nevertheless, I prefer to say that there is such a thing as a legitimate government. When an opponent tells me there is no legitimate government, I wonder why I’m debating. If there are no legitimate governments, should I be rebelling against the government that I’m under?

So, for the most part, if you have a respectable standard, there should be some governments that fulfill that standard. After all, the resolution only asks for a respect of individual rights, not perfect Individual rights.

**Question #3: Which governments are/have been legitimate?**

Wow. This C-X question is pretty cool. Rarely will the person being cross-exed feel comfortable giving a direct answer to this question. If you can get an answer, this does two things for you. Firstly, it pins your opponent to something. It takes any of their theories or hypothesis and solidifies them into an instance where they are willing to say, “Here is where it was put into action and here is why it is legitimate.” Secondly, it’s as if they’ve brought up a whole new, albeit weaker, contention. If they say America is legitimate because of popular sovereignty, show when America has disrespected popular sovereignty. If they say Jordan is legitimate because of individual rights, show when Jordan has disrespected individual rights.

**Question #4: Does the fulfillment of purpose define legitimacy?**

You could spend hours on this one. Here is the reasoning: The declaration of independence is by far the most quoted source I’ve heard this year. Ironically it’s used equally by the affirmative and the negative.

*“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.”[[104]](#footnote-104)*

The Negative quotes Jefferson and says, “Hey, governments are instituted to secure Individual Rights.” The Affirmative comes back and says, “But look, they derive their just powers from the consent of the governed.” Neither person is right or wrong. Both just take a slightly different view of legitimacy. So far I haven’t come across any stunning ways of countering either one. You just have to be prepared with the best argument, example, or analogy that fits you or your case.

For the Negative: There are many things that are deemed legitimate based on whether they fulfill their purpose. For a basic example, look at a fruit tree. Mathew 7:19 says, “Every tree that does not bear good fruit is cut down and thrown into the fire.”[[105]](#footnote-105) A fruit tree that does not bear fruit is only a shade tree or firewood— not a legitimate fruit tree.

For the Affirmative: It took me by surprise when I realized that there are things that are not entirely defined by their purpose. Take an ER doctor. His purpose is to keep people alive no matter how many pieces they are in when they come to him. Unfortunately, he fails a lot. But his failure does not make him illegitimate. Basically, his legitimacy comes from doing his best and seeing what goes on from there.

**Question #5: Is a government most legitimate when its people are the most content with it?**

This is kind of a trick question as none of this debate has anything to do with contentedness. However, you can take it in a lot of different directions.

For the Affirmative: If people are sovereign over their government, then they should be moving their government to a place where they are content with it. If they answer yes to this question, ask as a second question, “Should citizens be in control of their government?” After they answer yes, they’ve admitted to something that you can take advantage of. To use the tree example, they are not saying that a tree is legitimate because it bears fruit, but rather because it makes them content. And if the tree makes them unhappy, it is illegitimate. Think about it. Then use it in your next round.

For the Negative: If the Negative answers yes to this question, the negative has started to play the affirmative’s game. The negative’s thought is that a government who respects individual rights is going to make the people content. However, if he admits that contentedness is the measure of legitimacy, he is admitting that there is something outside of individual rights is the defining factor; that is, popular satisfaction or popular sovereignty.

Whether you use these questions and answers in Cross Examination or just as thoughts to improve your own cases, these ideas are extremely important for this year’s resolution.

Conclusion

I disliked cross-examination my whole first year in debate. I thought my primary goal was to fill up three minutes of time with intelligent-sounding questions so that the judge thought that I wasn’t a total newbie. I had my opponent’s case on my flow. Why did I need him to repeat any of it to me?

Cross-ex is now by far my favorite part of a debate. I only consider a round to be fun if sparks fly in the Cross-ex. You may not have quite the same thrill that I have, but you can become confident with your questioning. Most of that confidence comes through preparation. I used to think that since most questions are case specific there is little preparation that you can do. Now I realize that no question should be asked unless it fits into your ultimate plan. It’s very easy think about and write down you plan and most of the questions you will ask long before you even get to the debate. Do this and you will have an edge. Good luck and happy cross-examining.

"6 to 5: Majority Rules"

A deep look into the theory on the tyranny of the majority

By Natasha Torrens

“Individual rights are not subject to a public vote; a majority has no right to vote away the rights of a minority; the political function of rights is precisely to protect minorities from oppression by majorities.” ~Ayn Rand[[106]](#footnote-106)

This concept of oppression by majorities comes up a lot under this resolution. ‘Tyranny of the Majority’ is a theory that states when a government bases its decisions upon what the majority says, tyranny will occur. The basic premise is that listening to the majority leads to the oppression of the minority.

History

The term ‘Tyranny of the Majority’ was first used in the book *Democracy in America* by Alexis de Tocqueville. He believed we should no sooner grant power to the majority than we should grant power to a single person.[[107]](#footnote-107) The fundamental concept behind the book is to apply the American system of government to de Tocqueville’s failing French system.

John Stuart Mill used de Tocqueville’s *Democracy in America* as a basis for his thought on the tyranny of the majority in his own essay *On Liberty*. His thesis is sometimes referred to as the ‘Majority Principle’. *On Liberty* states:

Like other tyrannies, the tyranny of the majority was at first, and is still vulgarly, held in dread, chiefly as operating through the acts of the public authorities. But reflecting persons perceived that when society is itself the tyrant — society collectively over the separate individuals who compose it — its means of tyrannizing are not restricted to the acts which it may do by the hands of its political functionaries. Society can and does execute its own mandates; and if it issues wrong mandates instead of right, or any mandates at all in things with which it ought not to meddle, it practices a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaving the soul itself.[[108]](#footnote-108)

The Federalist Papers, written with the intent of promoting ratification of the Constitution, also address the tyranny of the majority. Even today, they are used as a means of interpreting the Constitution. James Madison, in Federalist No. 10, warns of the role of majorities in breaking apart the republic. He called this “the violence of the majority faction”.[[109]](#footnote-109) According to this paper, a faction is *“a number of citizens, whether amounting to a minority or majority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community." [[110]](#footnote-110)*

Negative

Before this concept can be used as an attack against popular sovereignty, it is useful to break it down into several key links:

**1: Popular Sovereignty is Majority Rule.**

This is the hardest link to decisively prove, and correspondingly, the easiest for the affirmative to use against this argument. The ‘Tyranny of the Majority’ concept is fine as a reason to not support majority rule, but what does that have to do with Popular Sovereignty?

First, let’s look at this through the most basic level: definitions. Compare:

Popular Sovereignty: *the concept that political and legislative power resides with the citizens* (Merriam-Webster Dictionary)

Majority Rule*: the system of giving the largest group in a particular place or area the power to make decisions for everyone* (Cambridge Dictionary)

The most obvious difference here is that while popular sovereignty looks at the will of the people as a whole, majority rule looks at merely the majority of the people. But when we look closer, all practical manifestations of popular sovereignty involve looking at the majority. There are two reasons for this.

**A) It is impractical to look at the will of EVERY person.**

True, popular sovereignty is looking towards the will of the people as a whole. But how does that actually work out in real life? No government, legitimate or not, asks every citizen their opinion on every issue. Instead, the only practical alternative is to count the votes, or in other words, to look towards the will of the majority of people.

**B) Major decisions cannot take every position into account.**

Think of someone you know. No matter whom you choose, your views and the other individual’s will differ in some way. Imagine trying to come to a compromise with that person in every situation, big or small. Seems impossible, doesn’t it? Now extend that to any nation that follows popular sovereignty. Try getting three hundred million people to compromise on every decision. It just isn’t practical. Popular Sovereignty in application cannot look towards the views of every person in society. It must look towards the decisions of the majority.

Since we can’t look at the will of every person, or even take every position into account when making governmental decisions, the alternative we look towards is the will of the majority.

**2) Majorities have the ability to oppress minorities.**

If the government is primarily respecting popular sovereignty, then the will of the people must be upheld above all else, including respect for individual rights. Therefore, whatever the majority says goes, no matter what it does to the minority.

**3) An Individual Rights approach to the legitimacy of government prevents tyranny of the majority.**

Before we can finish linking popular sovereignty to majority rule, and thereby to oppression, an alternative has to be presented. Yes, popular sovereignty can lead to bad things, but what’s a better alternative? This is where individual rights come in. Careful, though. Advocating a system that doesn’t take the will of the people into account isn’t going to appeal to your judge. Instead of completely disregarding popular sovereignty, popular sovereignty can be looked at as the decision process legitimate governments might use. Still, respect for individual rights is what actually determines that a government is legitimate. In terms of the government, we value the rights it protects rather than the method it uses to protect those rights. If you want to learn to swim, does the method your instructor uses matter? As long as you achieve your goal of learning to swim, it doesn’t. In the same way, we care about the end goal of government respecting individual rights. How we get there is important, but deciding legitimacy comes with reaching that end goal.

The United States government is the perfect example of government based on popular sovereignty. Citizens elect their president, decisions are made through a systemized method of polls and elections to determine what the majority of the people want, and opposing views are considered. But underneath all that, there is a fundamentally necessary layer of individual rights that makes the whole system legitimate. We call that the Bill of Rights, which basically provide limitations on what the federal government can or cannot do. So even through the will of the people or a majority of the people, the government cannot take away those fundamental individual rights. These limitations are what make our government legitimate. While popular sovereignty is present in our government, it is not what actually determines the US government’s legitimacy. Popular sovereignty is susceptible to abuse, just as other forms of government are. It is the concept of individual rights that keeps the will of the majority in check.

Affirmative

A theory, which might be used to rival the tyranny of the majority, is “Concurrent Majority”. Concurrent majority is a principle that allows for popular sovereignty without oppression of minorities. The central idea behind concurrent majority is that by giving various minorities veto power over laws, oppression by the majority will not occur. John C. Calhoun in “A Disquisition on Government” observed that by giving minorities veto powers, the government could still function under the will of the people, and also prevent oppression. He describes concurrent majority as a government that looks at

interests as well as numbers – considering the community as made up of different and conflicting interests, as far as the action of the government is concerned; and takes the sense of each, through it majority or appropriate organ, and the united sense of all, as the sense of the entire community.[[111]](#footnote-111)

His fundamental principle was that government should look at more than just numbers. This prevents the tyranny of the majority.

Swedish political scientist Gunnar Heckscher further stated about Calhoun’s ideas:

He defines the government of the concurrent majority as one "where the organism is perfect, excludes the possibility of oppression, by giving to each interest, or portion, or order, where there are established classes, the means of protecting itself, by its negative, against all measures advance the peculiar interests of others at its expense. [...]

The reason presented by Calhoun for government by concurrent rather than by numerical majority is that the numerical majority of the people is not the people itself, and that the minority may be "just as much the governed or subject portion as are the people in an aristocracy, or the subjects in a monarchy.[[112]](#footnote-112)

This provides an interesting counter-theory for the affirmative. There are two things that need to be proven before this argument works, however.

**1: Concurrent majority works in stopping oppression.**

Using concurrent majority is successful in stopping the oppression of minorities because as soon as oppressive laws are proposed, the minorities have the capability to veto them. This stops the possible tyranny.

Calhoun gives us an example of this in “A Disquisition on Government.” The Iroquois Confederacy shows successful concurrent majority at work. He states:

I refer to the Confederacy of the Six Nations, who inhabited what now is called the western portion of the State of New York. One chief delegate chosen by each nation—associated with six others of his own selection—and making, in all, forty-two members—constituted their federal, or general government. When met, they formed the council of the union—and discussed and decided all questions relating to the common welfare. As in the Polish Diet, each member possessed a veto on its decision, so that nothing could be done without the united consent of all. But this, instead of making the Confederacy weak or impracticable, had the opposite effect. It secured harmony in council and action, and with them a great increase of power. The Six Nations, in consequence, became the most powerful of all the Indian tribes within the limits of our country. They carried their conquest and authority far beyond the country they originally occupied.[[113]](#footnote-113)

Thus, concurrent majority has been shown to be successful in preventing suppression of minorities.

**2) Following Concurrent Majority is still part of popular sovereignty.**

Even if following concurrent majority might stop oppression, if it isn’t part of popular sovereignty, it is useless to the affirmative side. Thankfully, concurrent majority is still the will of the people being reflected in the government. In fact, by allowing every position to be heard, whether from a minority or not, concurrent majority allows for the will of all the people to be heard.

The theory of concurrent majority provides an interesting attack against the ‘Tyranny of the Majority’ argument. If these two links can be successfully made, the argument will be effective.

Applications

**Concurrent Majority (Affirmative)**

**Poland**

Calhoun used Poland as an example of when concurrent majority was very effective. And while Poland was successful during the times he mentioned, they could also be seen as very inefficient, which gives an interesting negative twist to this application. This inefficiency stemmed from requiring a unanimous vote on everything.

**United States**

In a way, the United States also uses measures of concurrent majority in our government. The different branches of government, with their veto powers, are a form of concurrent majority.

**Iroquois Confederacy**

The Iroquois Confederacy, as mentioned above, is an excellent example of concurrent majority. The representative nature of their government allowed for more efficient decision-making.

**Roman Republic**

The Roman Republic was another example put forward by Calhoun. Their methods of concurrent majority in the government were very successful.

**Tyranny of the Majority (Negative)**

**Native Americans**

The United States shoved them into reservations against their will, a major breach of their individual rights. The will of the majority was to have the land they lived on, and thus they were forced to move. This could be an interesting application of the majority leading to oppression. Or, from the affirmative standpoint, the Native Americans weren’t technically US citizens. Therefore they were not a part of any majority or minority ‘in’ the United States, and popular sovereignty cannot be blamed for the oppression that occurred.

**Japanese-American citizens in World War II**

This is one of the best examples I’ve come across to illustrate the tyranny of the majority. While it could be argued that moving the Japanese-American citizens into camps was a wartime action, the point still stands. The fears of the majority crushed their rights.

**The Ik in Uganda**

The Ik were a tribe in Uganda during the 1960s. They were forced off their land and into poverty by their government, to make room for a national park.

**Slavery in America**

A common example this year, slavery can be seen as the minority in America being oppressed by the majority. It was only when individual rights for all were held as highest that slavery was ended.

Further Reading

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"Banning the Burka"

Exploring a useful and relevant application

By Whitney Snowden

Summary

Recently many European countries have considered banning or have already banned, for various reasons, the wearing of face-covering veils worn in public by Islamic women. This issue is particularly applicable to the resolution because there is a direct conflict between the will of the majority and the rights of the Muslim people.

What is a burka?

The ban being discussed covers any full face-covering veil. The most common type, and the catchword being used in media coverage, is the burka (burkha/burqa/burqua). A burka is an outer garment worn by Muslim women to cover themselves in public. The entire piece is referred to as a burka, but it can be broken down into specific parts— the loose body covering is the jilbab, the head covering is the hijab, and the face veil is the niqab. In reference to the ban, some sources use the most accurate of the three, the niqab, rather than the term ‘burka.’

State of the ban by country

**France-** Though the ban is being debated in many European countries, France is the first country to have passed an actual law prohibiting the wearing of burkas in public. Though recent, this ban has been slowly but steadily increasing for the past few years. In 2004, France banned burkas in public schools, dubbing them a religious symbol (Wearing religious symbols in public schools was banned in 1905.) On June 22, 2009, French President Nicolas Sarkozy commented that burkas are “not welcome.” The French National Assembly looked into it for six months and on January 26, 2010 stated that those wearing burkas should be prohibited from using public services and public transportation. On Tuesday, July 13, 2010, the Assembly almost unanimously approved a bill banning burkas and niqabs. On September 14, 2010, the French Senate also near unanimously approved a ban on the wearing of burkas in public, which will go into effect in the spring of 2011.

**Italy-** Italy does not have a ban on burkas specifically, but they have had a ban on clothing that obscures or hides the face, since 1975.

**Belgium-** On April 29, 2010 the lower house of Belgium parliament unanimously passed a bill that would ban clothing that would obscure or hide the identity of a person. It currently awaits Senate approval.

**Switzerland and the Netherlands-** Switzerland and the Netherlands are seeking to pass a nationwide ban on burkas as well.

**Australia and the United Kingdom-** The burka ban has been considered in Australia and the United Kingdom and has support from the populace; however, the current government has turned it down at this point in time.

(For additional smaller-scale bans, see additional reading.)

Reasons for the ban

There are two main reasons why these burkas are being banned: security and gender discrimination. Both can be used in the debate round, but security is the stronger of the two in support of the ban.

**Security-**

Because the burka completely hides a person’s face and body, and is a religious garment, it is the ideal disguise for crime, especially in countries where Muslim women are seen as practically invisible. There are numerous anecdotes of robberies, bombings, kidnappings, and even murders where the criminal slipped in or slipped away under the guise of a burka. (See additional reading for specific examples.)

**Discrimination/dehumanization-**

The other reason for the ban is the dehumanization of the female population. French President Nicholas Sarkozy stated this as one of his reasons for the ban, saying, “In our country we cannot accept that women be prisoners behind a screen, cut off from all social life, deprived of all identity. The burka is not a religious sign. It is a sign of subservience, a sign of debasement. It will not be welcome on the territory of the French Republic.”[[114]](#footnote-114) Many other politicians echo this sentiment: burkas demoralize and dehumanize women and their nations’ values do not condone that thinking. (See additional reading- article on multiculturalism for more on this.)

Popular sovereignty side

The unique aspect of this issue is that so many citizens are in favor of the ban. A survey conducted by the Washington-based Pew Research Center found that:

82% of French citizens support a ban; 17% oppose it.

71% of German citizens support a ban; 28% oppose it.

62% of British citizens support a ban; 32% oppose it.

59% of Spanish citizens support a ban; 37% oppose it.

Interestingly enough, America was the only country surveyed in which the majority did not support a ban. Only 28% of American citizens supported a ban while a 65% majority oppose it.[[115]](#footnote-115)

**Defense-** You may get this argument from a Negative who says that burka bans are an example of tyranny of the majority and a violation of liberty. You can 1) accept this. The majority wants it so that’s just the way it is, or 2) Argue a higher value, such as security or general welfare. Overall security of the nation is more important than that individual’s right to wear a burka, so the ban is justified.

**Offense-** You can actually turn this example into a rights battle and show that is a clash of rights. Either the lives of the citizens are at risk, or, if you use the second reason for the ban, because burkas are actually suppressing the freedom of these Muslim women and we should remove that burden. When this clash of rights is present, using a standard of “rights” leaves no way to determine which is more important, which is why individual rights fails as a standard and we must use popular sovereignty.

Alternately, you can initiate the example and argue that 1) your value, such as security or general welfare, requires that the good of the nation be put before any one particular individual right (as in the defense above), or 2) That this is a clear example of a conflict of rights and popular sovereignty must be the deciding factor in determining the hierarchy of rights (as in the offense above.)

Individual Rights

Conversely, you can take the side of the minority and argue that the liberty to wear what you choose should not be infringed upon, no matter the sentiments of the public. However, your argument will differ slightly depending on their line of reasoning.

If the Aff is arguing that the government should follow the will of the people no matter what, then this would be an example used with a tyranny of the majority argument. This is a clear example of majority whims vs. obvious rights.

If the Aff is arguing a value like security or general welfare, before you can use this you will first have to clarify what exactly that means. You want to try and get them to say that security of rights is important (they probably will admit that they are important but overall security of the nation is more important). With that established, pursue quantification, how dangerous these burka crimes really are. How many crimes do we have to prevent to justify giving up a right? How many criminals in the past month used a burka as a disguise? Past year? Past decade? How many could we stop if the did not have burkas? Can they just find another disguise? Should we ban ski masks? Big hats and sunglasses? Ask questions like that to undermine the idea that taking away that right will really help security.

Finally, if the Aff is arguing the discrimination idea, you can turn that whole concept. First off, it is a choice to wear the burka; the law does not require it. Burkas are required in certain Islamic countries, but obviously is not in the countries that ban them. Whether or not the government thinks that a burka is demeaning, if a woman chooses to put it on, that is her choice. If the Aff responds and says that husbands force them to wear them, then you can turn it and show that banning them will just make it worse. Willy Fautré, director of Human Rights Without Frontiers and member of the International Consortium on Law and Religious Studies, argues, “However, a ban could further worsen the plight of those who are coerced by family or by the dictates of tradition to cover themselves in public. Many believe that by making the burqa and the niqab illegal, a lot of women would be forced to stay at home, which would further alienate them and deprive them of their freedom of movement, their right to education, their access to public and health services, economic opportunities and their ability to seek advice or support.”[[116]](#footnote-116) If burkas are banned in public, then those forced to wear them will not suddenly be free, they will be forced to stay in the prison of their own home.

Overall

Regardless of which side you are on, this is a strong example in that for France, Germany, England, and Spain, there is a clear majority, or will of the people. It’s not some questionable historical event where we can only guess at public sentiment; this is undeniably the will of the people. How we should take it is up for interpretation, as seen above, but there is a clear undeniable conflict between the will of the majority and the rights of the minority.

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"Back to the Basics"

Exploring Foundations of Government

By Carys Aschmutat

A Government’s Foundation

For as long as mankind has been around there has been some sort of government. Whether it is self-governing, governed by God, or governed by man, people have always been under some kind of control. The resolution given this year requires students to find a way to determine a governments legitimacy. However, in order to determine what makes a government legitimate, the debaters must first discover the foundation of a government.

The definition of foundation is a basis (as a tenet, principle, or axiom) upon which something stands or is supported.[[117]](#footnote-117) By this definition, to find the foundation of a government is to find the basis of a government or the reason it was founded in the first place. In the quest to find the basis of government there will be some historians, philosophers and different ideas that will come up. However, all these ideas are other people’s opinions and cannot be taken as proof. These are just people that will help get the mind going and running for this year’s resolution.

From the time of Ancient Egypt to the 2000’s, historians have wondered what makes a government, and what the foundation of a government is. Rousseau, Locke, Hobbes and many other philosophers have come up with arguments that the foundation of a government is an idea, or even a physical factor. Thomas Hobbes says in his book *Leviathan* that “all humans are driven by two and only two impulses: fear of death and desire for power. If left unchecked, human beings would act on these impulse and live violent, brutish, inhumane and solitary lives.”[[118]](#footnote-118) Hobbes also goes on to talk about how humans want to go into submission so that someone will be in control of them and they have some sort of boundaries. This explains that the foundation of government is not just a want but also a necessity so that people can have limits and avoid anarchy. Jean-Jacques Rousseau had a similar philosophy as Hobbes. He believed that people submit themselves to an authority because they wanted to gain the benefits of living in a community; such benefits are safety, community, freedom, and more.

The significance of trying to determine a government’s foundation is that, once you find that foundation, you can find out why governments are started and can link that to the idea of a government’s legitimacy. Some historians believe that the foundation of a government is fear: fear of solitude, fear of making mistakes and having to blame themselves.[[119]](#footnote-119) Others think that the foundation of a government is based upon the people, and some believe that a government’s foundation is based upon the idea of individual rights.

Popular Sovereignty as the Foundation

Starting with the idea of popular sovereignty as a foundation, this can go several different ways. One way that popular sovereignty can be the foundation is because a government’s existence depends on people. Government is the political authority: a group of people who have the power to make and enforce laws for a country or area.[[120]](#footnote-120) The key word in this definition is people. A government could not function if it has no people to control. In this way, people are the basis for a government. However, popular sovereignty is different from “just people” because popular sovereignty is “a doctrine in political theory that government is created by and subject to the will of the people.”[[121]](#footnote-121) The theory of popular sovereignty goes all the way back to the social contract where philosophers Jean-Jacques Rousseau, John Locke, and Thomas Hobbes all played an important role. Hobbes wrote in the *Leviathan* that the first and only task of a political society was to name an individual or a group of individuals as sovereign. This means that the group or individual would have absolute power and everyone would have to obey him. Although this seems to be like a monarch, Hobbes still believed that it was the will and power of the people that made government. Locke said in his *Second Treatise of Government* that the legislative or government was only empowered to legislate for the public good. If this was infringed upon, the people had the power to replace the government with new people. Locke talked about how people have the power and that is what makes a legitimate government. Rousseau, like Locke, said that the laws enacted by the government could only be served for the public good, for the people.[[122]](#footnote-122) These philosophers could see how popular sovereignty was the foundation for a government because it was the people and the power of the people that kept the government functional.

Another way that popular sovereignty could possibly be the foundation of a government is the idea that it is the will of the people to make the ultimate decision. Jean-Jacques Rousseau talked about in his book *The Social Contract[[123]](#footnote-123)* that people have the right to ultimately decide whether or not they want to be governed. This concept is applied to governments all across the world. There are some governments where the people have little to no power and yet they hold the ultimate decision in whether or not they want the government to be in control of them. One of the best applications for this idea is the American Revolution. The Americans had very little popular sovereignty back in the 18th century. The Britain government that they were under would not respect what they wanted and infringed upon their rights. Even though America had very little popular sovereignty it was the populous decision that their government was being illegitimate. This shows how a government does not necessarily need to respect what the people want, but it is the power of the people that makes the final decision about the government that they are under, some consider this to be a foundation for a government.

Individual Rights as the Foundation

Former President Ronald Reagan said “Protecting the rights of even the least individual among us is basically the only excuse the government has for even existing.”[[124]](#footnote-124) Some consider individual rights as the basis for all decisions, as the basis for all reason, and as the foundation of a government. While the philosophers Rousseau, Locke and Hobbes all talked about popular sovereignty, they also mentioned individual rights as well. Rousseau possibly had the most impactful idea considering individual rights. He came to the conclusion that people agreed to be governed because they wanted to have certain benefits that came with a government, such as security, justice, freedom, and more. All these concepts are individual rights, meaning that people want to protect their rights. This can be taken as a way that individual rights could be the foundation. Since people wanted to protect their rights, they create or submit to a government to do just that. The definition of a government is “Political authority: a group of people who have the power to make and enforce laws for a country or area.”[[125]](#footnote-125) When the people submit to a government, they are doing this so that their rights will be protected and not ignored. That is why a government is formed: to govern and to be in control. A legitimate government is a government that has the right to hold and use power, one that has the right to control. All governments are formed to protect the rights of the people. The purpose of a government is providing for a people’s security, promoting common good, establishing justice, protecting individual rights among other reasons.10 Individual rights serve as a foundation because all governments are founded to protect its citizens and thus its citizen’s rights. A man named Charles Francis Adams said, “The foundation of every government is some principle or passion in the minds of the people.”[[126]](#footnote-126)

Another reason why individual rights are considered to be the foundation of a legitimate government is because every reason, every legitimate decision that the government makes has to do with preserving the rights of the people. A government could not function without the people, and in order to keep the people the government must keep the people’s rights. The United States Constitution states in its preamble “We the people in order to form a more perfect union to establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty.”[[127]](#footnote-127) The constitution serves as a basis for every decision made in the American government and the very premise of it states about protecting the rights of the people. Some historians considered King Louis XIV[[128]](#footnote-128) to have ruled the most successful monarchy until he started violating the individual rights of people, his monarchy then became illegitimate because he violated his peoples rights. It was the rights of the people that acted as a foundation, as the standard for a legitimate government. All forms of government must have individual rights, whether it is a monarchy, democracy, republic, etc because those individual rights are the rights of the people being governed and their rights must be respected.

While there are excellent examples of both sides of the resolution, this is a book dedicated to debate, which means there has to be two sides to every argument. The negative could use the affirmatives arguments in several different ways.

Negative Responses

The affirmative side touches on the topic of how a government depends on the existence of its citizens. The negative could come back and say that the existence of something does not determine the foundation or legitimacy of the government. The foundation is decided by the standard or basis for that government. While the people are the most important factor to a government, popular sovereignty does not necessarily the physical sense of the people; it means the will and/or power of the people.

Another point that the affirmative side expresses is that it is ultimately the people’s decision to decide whether or not the government is legitimate and thus popular sovereignty is the foundation. The negative could point out that the people might have the decision but the reason for the decision was their rights. In the example of the American Revolution, it was the people that decided the government was being illegitimate, but it was because of the reason of individual rights. The British government was harming their individual rights and the people rose up because of those individual rights violations. Thus, it is individual rights that provide the foundation of a government because it is the reason.

Affirmative Responses

The negative may point out that people submit to, or form governments so that their rights may be protected, so therefore a government is founded upon the individual rights that it protects. The affirmative could show that, while a government protects rights, it is the populous decision to be under that control and to give their rights to the government to protect, and it is therefore the popular sovereignty of the people that serves as the foundation.

The topic of reason is one of the main points for the negative side. They can say that every legitimate decision that the government makes is based off of the protection of individual rights. While this is very true, the affirmative could come back and say that foundation for a decision is not equal to the foundation of a government. While individual rights may be the reason for every law and decree, popular sovereignty serves as the foundation of the government because it is the basis and standard that protects the individual rights and the government.

In the end we see that popular sovereignty and individual rights are two completely different topics. Popular sovereignty is more physical while individual rights are more idealistic. However, they could both equally amount to be the foundation of a legitimate government. There are reasons for both sides, and either side could effectively debate the other. Popular sovereignty provides an action and individual rights provide a reason. The true factor to determine the foundation of a government is how you perceive the resolution.

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Federalist and Anti-Federalist Papers (especially no. 10)

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