

Theories of Government Part II

Theories of American Government

Chapter Objectives

- Explain how civil society (individuals and organizations) maintain limited government in a representative democracy i.e. U.S.
- Define and provide examples of constitutionalism, rule of law, limited government and popular sovereignty in the Constitution and explain the relationship of these three principles to the protection of individual rights
- Describe the relationship established in the Constitution between majority rule while protecting minority rights and the balance of the “common good” with individual liberties

Limits on Government/Limits on Citizens

Who does a society go about limiting the powers of government?

Do we even want to?

Why or Why not?

How does a society go about limiting the powers of the citizenry?

Do we even want to?

Why? Or Why not?

Limits on Government

Let's start with the presupposition that we do want to limit the powers of government, to avoid what type of system?

In the United States this started with the Mayflower Compact:

The compact basically established the idea of majority rule in the American Colonies. The colonists agreed to be ruled by the will of the majority as a pre-condition to residence in the American Colonies

This is often credited with being **THE** foundation concept of the United States. However, with the Constitution the concept of liberty is brought up.

This debate will be touched on in the outside readings for this chapter and will continue to appear throughout the semester

Liberty

Fundamentally Liberty ensures a limited government

Both of our readings for this chapter address the issue of liberty versus
democracy

Liberty is the idea that people can set their own course and make their own decisions

It is not necessary for government or any higher authority to regulate the behaviors of individuals assuming they don't hurt anybody else—in economics we call these negative externalities

People tend to like the idea of liberty with the exceptions:

If they think that somebody else's liberty goes against their sense of morality

If by having liberty they have to face undesirable consequences

Liberty examples

Drug laws?

Mandatory attendance at school?

Free speech?

Freedom of religion?

One of the fundamental issues involving liberty is the relationship between liberty and security

In order to protect the people from what was called the tyranny of the majority a written constitution was formed to ensure basic rights and protections to the citizenry

Rule of Law

Plato called for the rule of law to be supreme since no leader could be trusted fully. Aristotle said the only chance for a city-state to be successful is under the rule of law. Locke felt the rule of law was more important than the law makers or judges.

This emphasis on a “standard” of law that was not constantly changing led to the creation of written constitutions. Again to protect the citizens from the tyranny of the majority.

Rule of Law

When a country is based on the rule of law, this supersedes the wishes and intentions of the politicians, the judges, and the citizens.

this principle means that individuals should be governed by **generally applicable** and **publicly known** laws and not by the arbitrary decisions of kings, presidents, or bureaucrats. Such laws **should protect the freedom** of all individuals to **pursue happiness** in their own ways

Limits on Government

Are often based on what type of governmental system a country is. In the western world the Magna Carta represented the first limits on governmental power. This conflicted with the unlimited power of the monarchs. Should the government involve itself in an attempt to try to limit or get rid of societal wrongs? Fundamentally this is a question regarding what limits should be placed on government.

Popular Sovereignty

This basically indicates that government derives its power from the people and only the people. Government doesn't have any political or otherwise power in and of itself. This is built off of the Social Contract Theory of philosophy.

A brief history of Social Contract Theory:

Socrates: the state is the morally and politically most fundamental entity, and as such deserves our highest allegiance and deepest respect. Just men know this and act accordingly.

A brief history of Social Contract Theory:

Hobbes:

1st law of nature commands that each man be willing to pursue peace when others are willing to do the same, all the while retaining the right to continue to pursue war when others do not pursue peace.

1st --they must agree to establish society by collectively and reciprocally renouncing the rights they had against one another in the State of Nature.

2nd -- they must imbue some one person or assembly of persons with the authority and power to enforce the initial contract

A brief history of Social Contract Theory:

John Locke:

State of Nature, the natural condition of mankind, is a state of perfect and complete liberty to conduct one's life as one best sees fit, free from the interference of others. This does not mean, however, that it is a state of license: one is not free to do anything at all one pleases, or even anything that one judges to be in one's interest

A brief history of Social Contract Theory:

Jean-Jacques Rousseau

government gets established, through a contract, which purports to guarantee equality and protection for all, even though its true purpose is to fossilize the very inequalities that private property has produced

“Man was born free, and he is everywhere in chains” *Social Contract*

Was written after his initial work. He felt that based on history humans were born perfect but corrupted by living in society (particularly property rights which exaggerated the gaps between the rich and the poor)

A brief history of Social Contract Theory:

Jean-Jacques Rousseau

Might does not make right according to Rosseau

the basic covenant, the social pact, is the agreement to come together and form a people, a collectivity

Constitutional examples of each...

Rule of law:

Limited Government:

Popular Sovereignty:

Liberty vs. Democracy (the main event)