

# dominate

lincoln douglas

2011

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## **Preface.**

As a second-year Lincoln Douglas debater, I had felt that while the sourcebooks for Lincoln Douglas debate had valuable ideas, it wasn't enough.

While this book has something for everyone, those who wish to propel their debating even higher will find it the most helpful. It's both a guide to the resolution and a guide to preparing for debate. The first half of the book generally deals with explaining the concepts in the resolution and the second half presents cases and briefs. Concisely written, this resource is meant to be read multiple times. Some of the concepts referenced in earlier sections are further explained in other sections. For example, a concept in the strategy section may be best explained by the cases in the cases section that use that strategy. Each part of this book explains the resolution further, including the cases, which means this book should be read as a cohesive whole.

The main goal with this guide is to raise the bar for debate in the NCFCA and STOA. Those who have this guide will improve in their argumentation, but those who do not have this book will also improve their argumentation as a result of debating those who do.

Finally, although I think most of you wouldn't anyways, don't take everything in this book too seriously.

I'm sleeping in a tree tonight,

Jon Chi

# **Resolutional Analysis.**

## Overview.

The vast majority of problems a typical NCFCA or Stoa debater will face during the year can be answered by **resolutional analysis**, a process involving staring at the resolution for extended periods of time. This revolutionary process involves searching out definitions, interpreting the resolution and noting the affirmative and negative burdens as well. In the spirit of originality, I present this report.

## Definitions

"It depends on what the meaning of the word 'is' is."

## Government

The term you'll get the most liberty to define is "government," which the *New Oxford American Dictionary* says is the "**the governing body of a nation, state, or community.**" But wait, there's more:

- **the system by which a nation, state, or community is governed**
- **the action or manner of controlling or regulating a nation, organization, or people**
- **the group of persons in office at a particular time; administration.**

All of these definitions are valid and usable for this resolution. Based on this wider set of definitions, we can widen "government" from simply the government of a nation-state to any system or group of people that governs or controls, for example,

- School government
- The Illuminati
- Governing body of a church
- Home owners' association
- Corporate board of directors
- ...in addition to international, national, state, and local authorities

The definition of "government" sets the context for the resolution. The word "government" allows the resolution to be infinitely customizable. In other words, you can be legitimately squirrely.

Q: How much liberty do I really get?

A: Good question. Usually 9, but if you're good, 11.

## Legit-imacy

This mindblowingly awesome word actually represents **two types of legitimacy**: normative and positive legitimacy. There are other varieties, but they all fit under these two main categories.

"Legitimacy" is usually defined as the state of being legitimate" anyways, so might as well just define "legitimate" instead.

- From *Webster's New World College Dictionary* — "**a. logically correct; b. justifiable or justified**"

This definition supplies the resolution with a moral undertone, because "justified" has normative implications and definitions. For something to be justified, it has to be moral; morality is a

prerequisite of justification, no matter the moral philosophy. Denotatively, justified is “to demonstrate or prove to be just, right, or valid” (*American Heritage Dict 4<sup>th</sup> Ed.*). Thus, with this definition, “legitimate” carries moral weight. The resolution becomes “government is most moral when...” This is the essence of **Normative Legitimacy**, which says that legitimacy comes from following a set of arbitrary ethical criteria.

“Justified” can also mean the best philosophical model (thus the most justifiable model) for government. Thus the resolution would be “government meets the best philosophical model of government when...” This interpretation is also a subset of normative legitimacy.

- The American political sociologist Seymour Lipset argues that 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.**"

This is **positive legitimacy**, and refers to whether a government is accepted by its people. German political philosopher Dolf Steinberger described positive legitimacy when he said, "Legitimacy is the foundation of such governmental power as is exercised both with a consciousness on the government's part that it has a right to govern and with some recognition by the governed of that right."

A debate about positive legitimacy can occur on multiple levels: identifying the factors in a government’s legitimacy, whether positive or normative legitimacy causes acceptance more, and whether that acceptance is a good thing.

*Wordnet’s* take on the word — “**in accordance with recognized or accepted standards or principles.**” — provides an interesting observation: while positive legitimacy is about acceptance, the factors leading to its acceptance are often normative principles.

Which type of legitimacy should be used is discussed in the Topicality section and at length in the Positive Legitimacy vs. Normative Legitimacy section.

## Determined More

From the *New Oxford American Dictionary*. **Determine** — “**cause to occur in a particular way; be the decisive factor in.**” “**More**” — **to a greater extent.**”

Put these definitions together and “determined more” as a phrase can have two reasonable meanings:

- more met by — Government morality/acceptance is *more met by* respect for individual rights than by popular sovereignty. This meaning mentally creates a standard which governments have to meet to become legitimate.
- more of a factor in — Respect for individual rights is *more of a factor in* determining whether a government is moral/is accepted. This meaning almost personifies popular sovereignty and individual rights, making them forces that actively cause legitimacy.

Although both of these meanings are similar, it seems as though the first one is more applicable to normative legitimacy and the second, to positive legitimacy.



## Respect for Popular Sovereignty

From the *New Oxford American Dictionary*. **Respect** — “Avoid harming or interfering with.”

From the *Oxford Guide to the United States Government* — **Popular Sovereignty** — “**Popular sovereignty is government based on the consent of the people.**”

More broadly, it is the idea that the populace is ultimately sovereign over themselves. Popular sovereignty is a concept, not any specific type of government. As long as the people consent to the government, respect for popular sovereignty has been implemented. This can come in the form of pure, direct, democracy; representative, indirect, democracy; or even a king chosen by or accepted by the people. There lacks consensus as to what truly constitutes popular sovereignty; this will be part of the discussion this year. That being said, democracy, most people will agree, respects popular sovereignty. Thus, under this resolution, it is useful to simply think of popular sovereignty as democracy.

Interestingly, the resolution does not specify *whose* popular sovereignty it refers to. It could be referring to a government’s respect for *other* nations’ popular sovereignty, opening the debate to discussions of foreign policy: whether governments should intervene in human rights crises in spite of an ostensibly “popularly sovereign” regime or whether governments should install democratic regimes to replace ones that do not respect individual rights. However, this book will not be focusing on discussions of foreign policy because the domestic interpretation is the most direct and predictable; it’s also already broad enough for an incredible amount of flexibility.

## Individual Rights

From the *American Heritage Dictionary of the English Language*. “**Individual**” — **Of or relating to an individual, especially a single human.**

NOT. HALF.

In the usage notes, *American Heritage* goes on to say, “**The noun individual is normally used to refer to an individual person as opposed to a larger social group or as distinguished from others by some special quality.**”

*Stanford Encyclopedia of Philosophy*: “**Rights are entitlements (not) to perform certain actions or be in certain states, or entitlements that others (not) perform certain actions or be in certain states.**”

Essentially, you get to do stuff, you get to avoid having to do other stuff, you get to have people do stuff for you, and you also get to make people not do other stuff. That’s a lot of stuff. Unsurprisingly, you get to narrow this word down. Individual Rights can be used both in a broad sense and in a narrow sense. This is also discussed in the Topicality section and in the Individual Rights article. Obviously, Individual Rights can also be discussed in a foreign policy context, but we won’t be doing that here.

## It’s been a journey.

Resolved: A government’s morality/acceptance is more determined by the people’s consent of that government than by the government upholding individual rights.

## **Main Case Types**

Even though we now know what the resolution means, the question remains: what does it want us to debate? In previous years, the main case types have been categorized based on parametrics (isolationism year), and definitions (idealism year), but this year, cases will be categorized first on whether they use positive or normative legitimacy (discussed in the Positive vs. Normative section), then on whether they discuss duty of government or form of government (discussed below), then finally on the specific conflict scenario they construct (discussed below).

Before we get into those categorizations though, let's first deal with whether it should be fact or value debate. Hint: Value.

### **Fact vs. Value Debate**

Fact debate refers to an interpretation of a resolution that places burdens on each side to prove a fact. Is the sky green? Does Barack Obama have a birth certificate? Value debate is one in which the resolution places burdens on the debaters to pass a normative judgement on the resolution, or make a statement about good or bad. Is a green sky good? Is Barack Obama a Muslim and is that a bad thing? Both can be run under this resolution, but traditionally, debaters have chosen to debate values in Lincoln Douglas. Probably because it's more interesting. And because both NCFCA and STOA rules say it has to be.

## **Duty of Government vs. Form of Government**

### **1. Duty of government**

The debater argues that the actions of government determine the legitimacy of government. Whether the government is a democracy or monarchy doesn't matter so long as it does its job.

Examples of questions under duty of government:

- Is maintaining the welfare of society a duty of government?
- Is preserving order a duty of government?
- Is maintaining national security a duty of government?
- How should the duties of government be prioritized?
- If governments don't fulfill their duty, is vigilantism justified?
- How much control should the government get?
- Which set of morals should government uphold?
- If a government's actions are moral, does that government then become moral?

Argument for Duty — The government's power structure doesn't matter because a government that fails to do its job can never be a legitimate government. The government's structure does not limit the actions the government can take. The main determinant of a government's legitimacy is thus what the government does.

### **2. Form of government**

This is similar to the previous one, but instead of discussing what government does, it discusses the structure of government or the origin of its power. It argues that the way the government is structured has a profound impact on its legitimacy, positive or normative; the actions of government are either irrelevant in general or irrelevant to this specific debate.

Examples of questions under forms of government:

- Is a democracy the best form of government?
- Can a monarchy be a legitimate form of government?
- If the government's decision-making structure is flawed does this justify revolution?
- If a government's source of power is moral, does that government then become moral?
- If a government's structure is normatively incorrect, does this affect its actions?

Argument for Structure — All governments can take good or bad actions. The only thing that makes them different is their source of power. Actions that come after the point of establishment of the government could come from any government. Furthermore, if one must argue that actions determine the legitimacy of government: the structure of government has a major influence on the government's future actions. In fact, it's a pretty accurate indicator of what a government will look like in the future.

The key question that decides which of the two should be used is whether legitimacy is gained from the source of power or from the actual actions of government. Here's another way to think about it: forms of government deals with inherent legitimacy and duty of government deals with gained legitimacy (acquired through a government's actions).

### **Forms and Duties within debate**

To ensure clash, an duty aff case should always face a duty neg case; the alternative would be for the negative to argue that duty of government doesn't matter followed by discussing forms of government in their negative case.

A final note: it's impossible to completely separate the two. A designation of "forms" or "duty" in a case simply means that it primarily deals with that aspect of government. There is a very fine line between a forms of government case and a duty of government case. Often a forms case can be transformed into a duty case and vice versa by changing very small elements of the argument. This small difference though, is enough to make two cases slip right past each other during a debate, making it confusing and unproductive.

### **Finding Conflict in the Resolution**

It is important to note that popular sovereignty and individual rights are concepts of very different categories. Popular sovereignty is the concept that the collective has a right of self-determination; individual rights refers to the concept that every person has inherent rights by nature of him or her being human. They're not opposites. They're not of the same type. They're not mutually exclusive.

How do you make one ship meet another head on? How do you get conflict? You create conflict by finding a scenario of conflict within the resolution.

### **Two Ways of Creating Conflict**

1. Find a scenario in which the two ideas disagree. Even if two friends agree most of the time, there will be times when they disagree. These disagreements form ground for discussion.
2. Find a scenario in which the two ideas cannot logically coexist. While the previous method of finding conflict involves searching within the two ideas for internal conflicts, this involves searching for external conditions which force a choice between popular sovereignty and individual rights.

Regardless of which method you use, however, every conflict scenario under this resolution must fall under the auspices of the larger popular sovereignty vs. individual rights scenario. The most straightforward scenario of the resolution, this interpretation creates a hypothetical scenario which denies the other element an opportunity to exist.

- Collectivism vs. Individualism (internal)
- Social Contract vs. Always having individual rights, but no Social Contract (external)
- Majority rule vs. minority rule (external)
- Will Theory vs. Interest Theory (internal)
- Only having popular sovereignty vs. only having individual rights (external)
- Following majority will against individual rights vs. following individual rights against majority will (external)

And there are more.

By narrowing the concepts of popular sovereignty and individual rights, which don't inherently conflict with each other, down to the conflicting concepts of collectivism and individualism, we can also have clearly delineated sides on the affirmative and negative that ensure conflict.

### **Why Find Conflict?**

If a case simply argues that a government should follow popular sovereignty without presenting a clear reason why it is incompatible with individual rights, there's no reason the government shouldn't follow both popular sovereignty and individual rights. In other words, conflict is necessary for any affirmative to be valid. While we're talking about the lack of conflict, if there's an affirmative case that doesn't present a clear scenario of conflict between popular sovereignty and individual rights, it's time to bust that balanced negative out.

### **Kritik: Alternative Way of Finding Conflict**

One of these additional scenarios is a critical case, which examines the assumptions of the resolution and attacks them, instead of assuming them as well and going along with that. For example, notice that all of the above conflict scenarios assume the legitimacy of *any* government. What if governments were never legitimate? This idea is expanded on in the Anarchist case.

### **Resolutional Burdens**

Stop. Know that these burdens are for the *average* debate. Now carry on.

#### **Affirmative Burdens**

Proving the resolution true means upholding the following two burdens:

1. Identify the standard or factors of a government's legitimacy.
2. Prove, through comparison, that respect for popular sovereignty meets that standard more, or is more of a dominant factor than individual rights.

The affirmative can alternately uphold any of the following burdens and win the round.

1. Prove that the affirmative meets the criterion the most.
2. Prove that the negative burdens have been upheld. (the affirmative still has the prima facie burden of upholding their own burdens before getting to the point where this can be argued)
3. Prove that negative assumptions false.

## Negative Burdens

The negative burden is simply to prove the resolution false. This can be done in any of the following ways

1. Prove affirmative burdens not upheld. This proves the resolution false because if the resolution is not proven true, we cannot assume it is true, which means there is only possible option left: negative.
2. Prove that individual rights is the dominant factor.
3. Prove that popular sovereignty is not more of a determining factor than individual rights.
4. Prove affirmative assumptions false.
5. Prove that the negative meets the criterion more.

## Making Sense of This Mess

It's time to put it all together and figure out what this resolution means. The resolution asks debaters to analyze whether respect for individual rights in the form of government or the government's actions is more of a factor or is more effective in leading to the legitimacy of government, which can be acceptance or morality. The resolution is a question of what meets legitimacy the most, individual rights or popular sovereignty, or, "What does a legitimate government do?"

<b>Legitimacy</b>	Normative Legitimacy	Positive Legitimacy
<b>Forms/Duty</b>	Forms	Duty
<b>Conflict Scenario</b>	Majority vs. Minority, scenarios, Critical Case etc.	

The table above is one that describes every legitimate case this year. You just work your way down—pick a type of legitimacy, whether the debate is about forms or duty, and finally what conflict scenario.

## What's next

### Thoroughly understanding the topic

Understanding the topic seems like a rudimentary part of debate, but few people fully appreciate how important it is. Given that the entire debate season is a process of better understanding the topic, it isn't possible to fully understand the topic at the outset. But it is also surprising how many people consider writing arguments for each side of the resolution a priority over understanding the more basic question of what the resolution refers to and what it asks for.

It's tempting to jump in and write arguments first, but it's counterproductive. Several years ago, I would write arguments that sounded persuasive before understanding the resolution, only to discover that the resolution wasn't asking for that and throwing the arguments away.

Thoroughly understanding the topic means developing your own observations about the resolution, your own interpretations of the resolution, and your own burdens for each side. This year, with the billions of permutations in valid interpretations of the resolution alone, it becomes imperative for each debater to map out the different ways the resolution can be interpreted.

Open up a new document in your text editor and write out the different ways you think the resolution can be interpreted; list observations you have about the resolution; list the burdens you think the affirmative and the negative have under each interpretation—use this resolutional analysis article as a guide.

Answer these questions:

1. What are five different ways the resolution can be interpreted?
2. What does each side have to prove with each of those interpretations?
3. What are the differences between those interpretations?
4. What areas of discussion could I have with each of those?

You'll better know why you chose your interpretation. And better know how to defend your interpretation. You'll know the options you have and what you'll be facing.

## Definitions.

Definitions are key in debate. They function the same way a boundary functions in any other sport. Definitions decide where the debate will be. Go outside the definitions and you go outside of play. So it's pretty important to get them right.

As far as dictionary definitions go they will be, for the most part, the same. There really isn't a reason to prefer American Heritage to Collins English to Random House. However with a legal dictionary or an etymological dictionary you can come up with some interesting reasons to prefer when compared to a plain dictionary.

In addition, especially if you are new to LD or to debate in general, my advice would be to stick with a dictionary definition, unless you are going to take a very specific philosophical direction in your case. Also usually go with the first definition listed as it is the most common and therefore will provide the most amount of clash. Furthermore, some of the more uncommon definitions are also near useless.

Here are some common definitions from a variety of common dictionaries to provide a quick foundation for your definition hunt.

### **Popular sovereignty:**

Popular sovereignty is a term that is used for many governmental scenarios so it's important to very carefully define the term in a way that is current and provides the most clash. While it is not a form of government itself, it's an approach to government that usually manifests itself in a democratic fashion.

### **Dictionary.com's 21st Century Lexicon**

- The concept that political and legislative power resides with the citizens.

### **Random House Dictionary**

- 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.
- American History. (before the Civil War) a doctrine, held chiefly by the opponents of the abolitionists, that the people living in a territory should be free of federal interference in determining domestic policy, esp. with respect to slavery.

### **Collins English Dictionary**

- (in the pre-Civil War US) The doctrine that the inhabitants of a territory should be free from federal interference in determining their own domestic policy, esp in deciding whether or not to allow slavery.

## **Government:**

Government is a fact of our lives but also a philosophical concept. So there's going to be different definitions offered up of government.

### **Random House Dictionary**

- The political direction and control exercised over the actions of the members, citizens, or inhabitants of communities, societies, and states; direction of the affairs of a state, community, etc.; political administration: Government is necessary to the existence of civilized society.
- the form or system of rule by which a state, community, etc., is governed: monarchical government; episcopal government.
- the governing body of persons in a state, community, etc.; administration. a branch or service of the supreme authority of a state or nation, taken as representing the whole: a dam built by the government. (in some parliamentary systems, as that of the United Kingdom)
  - a. the particular group of persons forming the cabinet at any given time: The Prime Minister has formed a new government.
  - b. the parliament along with the cabinet: The government has fallen. direction; control; management; rule: the government of one's conduct. district governed; province.

### **Collins English Dictionary**

- the exercise of political authority over the actions, affairs, etc, of a political unit, people, etc, as well as the performance of certain functions for this unit or body; the action of governing; political rule and administration.
- the system or form by which a community, etc, is ruled: tyrannical government.
  - a. the executive policy-making body of a political unit, community, etc; ministry or administration: yesterday we got a new government.
  - b. (capital when of a specific country): the British Government. the state and its administration: blame it on the government. regulation; direction.

### **Online Etymological Dictionary 2010**

- 1550s, "system by which a thing is governed" (especially a state), from O.Fr. gouvernement (Mod.Fr. gouvernement ), from governor (see govern). Replaced M.E. governance. Meaning "action of governing" is from 1560s; meaning "governing power" in a given place is from 1702.

### **Merriam-Webster's Dictionary of Law**

- the act or process of governing; specifically : authoritative direction or control. the office, authority, or function of governing. the continuous exercise of authority over and the performance of functions for a political unit.
- 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.



- the complex of political institutions, laws, and customs through which the function of governing is carried out.
- the body of persons that constitutes the governing authority of a political unit or organization: as
  - a. the officials comprising the governing body of a political unit and constituting the organization as an active agency.
  - b. the executive branch of the U.S. federal government.
  - c. the prosecution in a criminal case in its capacity as agents of the political unit.

### **Individual rights:**

Surprisingly there is no single definition for individual rights that one can come across in the dictionaries, quite unlike government or popular sovereignty. So one will have to be a bit creative. Here are some generic ones from different sources, but I suggest you start reading up on rights theory, especially natural rights theory, because it will be important to define not only what are individual rights but what is an individual right. A generic, vague definition with no list of definitive rights will be an easy target for a clever and hardworking affirmative.

### **European Commission Glossary of Justice and Home Affairs**

- An aim of judicial cooperation between the Member States of the EU is that individual citizens have their rights guaranteed, no matter which State they move to or live in.

### **National Standards for Civics and Government**

- Rights possessed by individuals as opposed to those rights claimed by groups.

As you can see there are few definitions of the whole term. It probably would be helpful to use a full definition with a greater explanation of what a right is. Here are some definitions of the term “right” to get you started.

### **Right**

#### **Random House Dictionary**

- a just claim or title, whether legal, prescriptive, or moral.
- that which is due to anyone by just claim, legal guarantees, moral principles, etc.

#### **Merriam-Webster’s Dictionary of Law**

something to which one has a just claim: as

- a power, privilege, or condition of existence to which one has a natural claim of enjoyment or possession right of liberty
- a power, privilege, immunity, or capacity the enjoyment of which is secured to a person by law
- a legally enforceable claim against another that the other will do or will not do a given act; right to insist on that care

## **Legitimacy:**

Legitimacy is a term, like so many in this resolution, that does not have a neat, clean definition in the majority of dictionaries. When it does it can commonly be confusing. Ted Lee Anderson's book "Property Rights and Indian Economies" and the Stanford Encyclopedia of Philosophy explains that there are two general categories of definitions of legitimacy. One is called descriptive (or in Anderson's book "positive"). It is the definition what of makes a government legitimate to their citizens. Hence the term "descriptive". It merely describes what people believe to be a legitimate government without making a judgment call on what that legitimate government should be. A normative definition of legitimacy is a definition of what makes a government valid or justified. It passes judgment on the nature and actions of government.

In value debate the resolution itself is a normative statement. It is making a value judgment on a concept or a variety of concepts. If one were to define legitimacy in a descriptive manner and prove that legitimacy is based on popular sovereignty to the people, you have proven a fact statement, but you haven't proven a normative statement, which is a value resolution. So if you are going to do this as a value resolution, which I would personally recommend for a variety of reasons, a normative definition would be logically required.

### **Random House Dictionary**

- in accordance with established rules, principles, or standards.
- in accordance with the laws of reasoning; logically inferable; logical: a legitimate conclusion.
- resting on or ruling by the principle of hereditary right: a legitimate sovereign.
- not spurious or unjustified; genuine: It was a legitimate complaint.

### **Collins English Dictionary**

- conforming to established standards of usage, behaviour, etc.
- based on correct or acceptable principles of reasoning. reasonable, sensible, or valid: a legitimate question

### **Merriam-Webster's Dictionary of Law**

- to give legal status or authorization to.
- to show or affirm to be justified or have merit.

## Topicality.

Before you brush this off as irrelevant or unusable in homeschool debate, IT'S NOT. Now that we've gotten that out of the way, here's why T hasn't worked well in our circles: nobody does it well. We have theory-oriented debaters who insist on their structure and arguments without articulating what they mean and we have rhetoric-oriented debaters who insist on covering their topicality house of cards with flowers. Unfortunately, debate is a persuasive activity at its core, no matter the league, no matter the judge. For some judges, extensive explanation is necessary; for others, rhetorical polish is a turnoff. Adaptation is inescapable.

This means that once we know arguments, we cannot be trapped by them. We must transform the arguments to adapt. Once we know the arguments, we can package it to communicate to anybody. We should.

Why run T? It is a good strategy, since nobody knows how to respond to a good topicality press. It operates as check against abusive definitions. It proves that your opponent's case is fundamentally flawed. Finally, it forces debaters to understand the resolution more deeply and think critically about why their interpretation is correct or preferable to other interpretations.

Since the way people choose definitions this year will basically be used to fit their case instead of fitting the case around the definitions, topicality will be a major issue this year (or should be).

## The Arguments

As you'll notice, many of these arguments/standards are interchangeable.

### **Government**

The main definitional argument for the word "government" is whether it should be defined broadly, as any government, or narrowly defined, as the government of a country.

#### Government Should Be Broad

- Overlimits

The resolution doesn't specify that governments have to be the governments of a nation state. An arbitrarily narrow interpretation unfairly overlimits the scope of the round, skewing the balance of ground by removing legitimate arguments from the debate.

- Critical Education

By opening up the debate, it creates a more interesting fresh discussion. If we're stuck with talking about the government of a country every single tournament six times, we're gonna get bored. This inhibits critical thinking because we fall back on arguments that we or other people have already come up with, that we've used hundreds of times. A fresh discussion enables us to think critically on the spot, about a wider variety of topics.

- Resolutional Context

The word legitimacy in the resolution shows that the word government refers to all entities that require acceptance or justification. If we think about it logically, every single government or controlling organization, in the context of the words inside the resolution, government means a broad interpretation of the world.

- Quality ground

All discussions of governments have value. Providing us the ability to discuss more governments gives both sides of the debate more ground to argue.

### Government Should Be Narrow

- Brightline

A government isn't just anything that controls anything. If so, then if I control this light switch, then I'm the government of this light switch, and if I turn the page of this book, I'm the government of this page.

There's no end to this because nearly everything could be a government. There's no clear delineation of what is topical and what isn't. This means that not even my opponent knows what's topical and what's not. My interpretation, however, is simple: any governing body of a country is a government.

- Common man

If you talk to a guy at a Costco and ask what a government is, he probably won't tell you, "Oh my gosh that Home Owners' Association." More people hold to my interpretation of the word government, which means that my interpretation is more real life and more predictable. Remember a more predictable definition is always better because it is the key to having educational debates. If everybody started defining popular sovereignty as hot dogs, we lose education.

- Limits

Because the idea that controlling something can be found in an infinite number of situations, there's no limit to this interpretation. Limits are important because if we could talk about anything, there's no way my side of the debate could ever be as prepared, which decreases the educational value of this round.

- Takes away Ground

Look, allowing my opponent to make literally anything a government is a horrible idea. This lets him/her run really obscure cases that there's no way to argue against. The text of the resolution provides at least some type of assurance of things that I get to argue and things that my opponent gets to argue, but a broad interpretation means my opponent could run an obscure case that none of these arguments that I should legitimately get, apply to.

## **Legitimacy**

The main definitional argument is between positive and normative legitimacy. While I personally think both are *fine*, of course you could *argue* that one is superior.

### Positive Legitimacy

- Resolutional Context/Framer's Intent

The resolution includes the words individual rights and popular sovereignty which are always factors in positive legitimacy but are not always factors in normative legitimacy. At best, normative legitimacy is only half legitimate under the resolution.

- Literature Base

The overwhelming majority of political science articles, books, and definitions refer to legitimacy in a political sense. There's a more direct connection to literature with positive legitimacy, which is good because we won't simply be making up imaginary connections from what we talk about to the resolution's topic. This results in a more informed and relevant debate.

## Normative Legitimacy

- Evaluate Moral Implications (if positive legitimacy is run in a fact case)

Only my interpretation of the resolution allows us to pass a value judgment—my opponent’s interpretation only talks about how things are, which we know doesn’t get us too far. Value judgments are important because finding out how governments can get their subjects to not overthrow them has no application to our lives and to society as a whole, but evaluating what a government should do strengthens our political viewpoints and allows us to more effectively engage in the political process.

- Common man

The average person would tell you that governmental legitimacy has to do with the moral and philosophical aspects of whether a government has the right to its authority. This interpretation is the most predictable interpretation, which means that a debate about this type of legitimacy would be the most accessible to the average person, which makes people more politically informed and increases social involvement in the political process.

## **Respect for Popular Sovereignty**

Popular sovereignty is the concept of the people being in control—democracy. But...what is that in practice? If a republic is an exemplification of democracy, then so can an oligarchy—if the people consented to their authority. If an oligarchy could be considered a democracy, then so can a monarchy. Ultimately, it can even be argued that even dictatorships are democratic: if the people decide to not revolt, they implicitly consent to the rule of the dictatorship by inaction. Thus, there is a sliding scale of different levels of democracy. The question here, is, how directly do the people have to be in control for the political system to be considered popularly sovereign?

## Ultimate/Indirect Control

The UT Austin Liberal Arts department website says popular sovereignty is the “ultimate authority of the people. No law is legitimate unless it rests, directly or indirectly, on the consent of the governed.” While this definition has “direct” in it, it’s as good as having a definition that only says “indirect.” Here’s why. If even indirect consent is democracy, then obviously direct consent would be democracy. Those who side with the indirect interpretation have no problem with recognizing that direct consent is democracy. It’s those who adhere to *direct consent* that say indirect consent is not democracy. Since the definition takes the position of accepting both, it agrees with the indirect interpretation. Or, to put it another way, the disagreement here is over the extent of the separation of the legislative process from the will of the people. Direct control argues that it has to be direct legislation. Indirect argues that it should be expanded to indirect consent. Since this definition says both constitute popular sovereignty, it is already taking the broader, expanded position.

DID YOU JUST SEE THAT? I zapped one whole word from a definition with pure, unadulterated logic.

- Resolutional Context

The resolution says respect for popular sovereignty, not popular sovereignty. If a political system were already directly democratic, it would make no sense to say that the political system has to respect popular sovereignty. It’s like saying the majority will must respect the majority will. The only context in which the word respect means anything is one in which the government is an indirect democracy, where there’s a margin of divergence between what the representatives do and what the people want.

- Overlimits

Look, most countries we consider democratic today are not direct democracies. They all have a government controlling the nations, indirectly representing the will of the people. To say that only direct

control is popular sovereignty is to essentially limit today's discussion to ancient Athens. That overlimits the debate.

- Societal Understanding. What a classy way of saying common man.

Society at large understands "the consent of the governed" not to be the rigid, limited view that the citizens themselves must vote on every law. In fact, the founders of the United States shunned direct democracy, but still considered our country of the people, by the people, and for the people. This has influenced our society's view of what consent of the governed is to mean the more reasonable indirect democracy.

### Direct Control

From the Nevada State Social Studies Standards History Glossary: "a principle of government in which the vote of the citizens is considered the final authority." So, direct control.

- Limits

If indirect democracy is considered popular sovereignty, it means that any government that can claim indirect consent falls under popular sovereignty. Anything from a republic to an oligarchy to a monarchy could be considered democratic if they claim their power comes from the consent of the people. See, anything less than an interpretation that "only direct democracy is popular sovereignty" will open the floodgates for saying that any government respects popular sovereignty. My opponent's interpretation essentially unlimits the resolution to mean almost any government.

- Brightline

My interpretation is the most clear cut interpretation that allows everyone in this room to know exactly whether a government respects popular sovereignty or not. My opponent's interpretation leaves this ambiguous, which means it's invalid because under that interpretation, nobody knows whether the resolution is being upheld or not. Prefer the interpretation that presents a clear brightline.

## **Individual Rights**

What are individual rights? Are they the rights the collective does not have but individuals do, or are they all rights that individuals can claim (which would include rights the individual claims as part of a collective)

### Individual Rights as the opposite of collective rights

- Forces philosophical discussions

This is valuable because debaters often avoid tough philosophical discussions. This interpretation forces them to confront it. Philosophical discussions are important because they form the basis of our thoughts and actions.

### Individual Rights as Specific Rights (e.g. Human Rights)

- Basis for Discussion

Regardless of which definition of Individual Rights you use, chances are you'll agree that it includes Human Rights. Thus, this definition is the only common ground from which we can discuss this topic.

- Common man

It is likely that the common man will also realize that the most basic rights of individuals are life, liberty, and property. It is best to use this definition of the word because this makes the debate accessible to the common person.

## Individual Rights as all rights individuals can claim

- Common man

If you ask anybody what individual rights are, chances are, they won't say "I sympathize with Ayn Rands opinion on Individual Rights." They will probably say "The rights that people have." This is exactly what my interpretation says. All rights that individuals can have are individual rights. Sometimes you'll have rights as a result of being part of a group and you'll have other rights regardless. But all of these rights are still yours; you are still an individual.

- Brightline

Objectively, all rights can be called rights by individuals. We can't say who has more authority on determining what individual rights are truly individual rights. This means that if we were to realistically say what the term individual rights describes, it would include every possible rights claim by individuals.

## **Adapting the Arguments**

### **What to call it**

- College debaters: "topicality."

This is what they're used to.

- Alumni who are not debating in college and parents who accept LD theory: "resolutionality."

If they've been in speech and debate long enough, they will accept technical jargon more. Using this word with this category of judges boosts your credibility and establishes a rapport with your judges.

- Parents who don't like topicality or procedurals: "not upholding burdens."

If you come across a parent who doesn't like topicality, don't call it that. All of Idealism year, I ran a burdens argument that stemmed from my specific interpretation of the resolution. What was essentially a topicality argument instantly became more accessible and appealing to parent and community judges as a result of eliminating jargon.

- Community judges: "meeting the resolution's requirements."

Community judges all go through orientation, where they're told that the affirmative must uphold the resolution. Capitalize on that. Go ahead and call it an unspoken rule of debate. They know you know more about debate than they do, and tend to respect rules of the game.

### **How to structure it:**

- College debate judges — Use a four point structure (variations based on the situation are fine)

A. Interpretation: What you think the word should be defined or interpreted as.

B. Violation: How your opponent's case fails to meet that interpretation.

C. Standards: Why your interpretation is better (the arguments from the previous section)

D. Voters: Why this whole topicality deal matters at all in the round.

- Everyone else — Don't use any structure at all. Just speak forth freely from thy mouth.

## How concise to be

- College debaters

It's okay to be extremely concise, although it never hurts to be persuasive. "Limits are the internal link to predictability which is the key to education which is a terminal impact" is fine with college debaters if you're running short on time and want to cover everything while avoiding speed.

- Everyone else

Explain it so the timer understands it.

## Impacts of the argument

This is the part where you explain what the argument means for the debate round. There are different levels of impacts that range from reject the argument to reject the team.

### Reason to reject argument (topicality-averse judges)

Argument Invalid — opponent's argument rests on a faulty interpretation and should be rejected.

Case Invalid — opponent's case rests on a faulty interpretation and thus should be rejected.

Relapse of burdens — opponent should lose because burdens not upheld.

Rules — opponent should lose because arguing outside the resolution constitutes a rules violation

Education — the value of debate as an activity is diminished with opponent's interpretation, so vote for me.

### Reason to reject debater (college debaters)

As we move more and more towards college debaters, we can add more and more impacts. So while in front of a topicality-averse judge, you would only argue that your opponent's argument is invalid because of its nontopicality, you could argue everything from Argument Invalid to Education in front of a college debater.

## Defending Topicality

**"It's a technicality. Don't throw out the entirety of the case for this."**

1. We always look to rules first. If you shoot my team's goalie and start shooting goals, it doesn't matter how many goals you scored after that, because there was a rules violation.

2. Rules are key to fairness. They prevent abuse by establishing a level playing field that's been agreed upon before the round.



# Legitimacy: Normative or Descriptive?

This is the one area where the authors disagree.

## For Normative Only

As you go about defining the resolution it's clear that there are a few different ways to define the term "legitimacy." The Stanford Encyclopedia of Philosophy explains that there are two categories of legitimacy as it relates to the civic and political realm. Descriptive is just that. It describes. It passes no judgment but rather explains what the people's beliefs are about the government. In this way I can say that the United States federal government is a very legitimate government. The people accept that we should obey the government's mandates, that it has a reasonable expectation of loyalty on our part and that there are no significant segments of the country, geographically or otherwise, that reject it's supremacy. During the American Civil War it was quite easy to argue, under this definition the American federal government was not legitimate. It's mandate was rejected by nearly half the country as the federal government found it difficult to extend it's mandate over all segments of the country, costing hundreds of thousands of lives. A government like the Afghan national government would be said to be illegitimate. The people see it as the product of a foreign invasion and not an organic Afghani development. Its rule is challenged by a plurality and even majority of the people it claims to governs.

But notice that each of these descriptions does not argue whether or not it is valid that these governments are seen as legitimate or not. I could be a member of Afghan parliament that strongly supports the Afghan national government's efforts to control Afghanistan, and yet argue, under that definition, that the government is illegitimate. Just as I believe that the Union government of the United States was a valid and justified government and yet illegitimate under the descriptive definition of the term.

Then there is the normative definition. Normative means adherence to certain norms or standards. In this sense, normative means it adheres to certain moral or ethical principles that we uphold. A normative statement is one where we pass some kind of judgment on the value of something. "Superbad was a good movie", "National security is superior to civil rights", and "Capitalism is unjust" are all examples of normative statements. In the normative sense, to say that the government is illegitimate is to say it does not adhere to moral or ethical principles. Under this I would say that the American government is illegitimate because it allows the mass murder of it's own citizens under the guise of the right to privacy. Or I could argue that the American government is highly legitimate because it provides the best protection of it's citizens that any government can through the Constitution. Both those statements make value or normative judgments.

Clearly the normative definition is more conducive to a value debate because a value resolution itself is a normative judgment. The question then becomes, could this debate be a fact debate this year, should it be a value debate this year and could you blend both fact and value debate?

To remind ourselves a fact debate is merely a statement about the truth or falsity of a matter. "Iran is pursuing nuclear weapons", "The sky is blue" and "The Battle of Hastings took place in 1066" are all fact debates, some more interesting than others. To argue these are true is not to say that you like the sky being blue, that you believe it is good for Iran to have nuclear weapons or that the Battle of Hastings was a positive event.

So could it be a fact debate? Technically yes. You could define legitimacy in a descriptive manner, and find evidence to prove that popular sovereignty is a bigger factor in how people view the government as opposed to their individual rights. Case closed.

However should you? I would argue no for several reasons.

First of all, both organizations, NCFCA and Stoa, define this debate as a value debate. You will be going against the grain if you decide to define it as a fact instead of value. This will confuse judges, confuse opponents and lead to several messy debates about definition debates instead of debates about the issues of popular sovereignty and individual rights. Be prepared for an unfulfilled year in debate.

Secondly, fact debate is not preferable. Like I said before, you technically could run it as fact, but look at that prospect for a second. Assuming that everyone will go along with a fact debate (they won't), it will be an incredibly boring year. Debating facts will only be so novel, interesting and clever. After a while it will be very tedious. Furthermore, debating ethics and values is more edifying to us personally. They recommend to us action. They inspire us, motivate us and even get us filled with righteous indignation. Done right a value debate can not only be fun, educational but even can be edifying to our republic, one citizen at a time.

Could you find some blend of the two? Perhaps. Like I said, anything is possible. But it still is not preferable for a few reasons. First of all, you will be creating that much more work for yourself. The affirmative already has this year cut out for them. You are doing yourself no favors. Secondly, using descriptive (sometimes described as "positive") legitimacy with some kind of normative impacts is a bit extra-topical or extra-resolutional. Let me explain. If I define legitimacy as descriptive or positive, I don't need to prove that it has normative impacts. The resolution is true regardless of whether or not popular sovereignty is even a good idea. To prove that popular sovereignty is how people generally regard their government as legitimate and then to prove that it is also helpful is not only creating more work but proving two resolutions true as opposed to one.

So if it were me debating this year, I would stick with the normative definition. It is most suited to the value aspect of this resolution, is the simplest and least confusing so you can focus on the debate itself without being sucked into a definition debate. Then again, it's not my year. It's up to you.

## **For Both Normative and Descriptive**

Joe makes good points, but positive legitimacy still wins out in the end. Let's begin by analyzing the three types of debate.

A fact debate is one that purely discusses fact. Is Conan's hair seven inches tall? The debate is won or lost based on evidence to support the fact claim. The key here is that only facts are discussed.

A value debate is a discussion of a topic and a comparison of the sides based on a value hierarchy. The winner is whoever reaches the best value. The value debate requires a value or normative judgment—a statement about good and bad as opposed to truths and untruths. Each side must make a normative claim. Is the use of paper towels immoral? Each sides must not only present facts, but show why those facts mean that the use of paper towels is immoral, moral, or neither. The key here in value debate is the presence of that normative judgment.

A policy debate is a discussion of what should be done, usually based on an assumed framework of values. Should we send aid to Pakistani earthquake victims? "Of course, because it saves lives." "No we shouldn't, it won't save lives." Life is assumed to be favorable under both teams' value framework. When teams disagree on the desirability of a value, they will often make impact turns to say that the opposing teams' value judgments are incorrect. "Life is a horrible thing, it leads to suffering. We should let people die and stop suffering." Kritiks are also essentially value debates. Thus, a policy debate can be one which involves debate about whether the proposed policy solves (policy debate), whether the result of the policy is desirable (value debate), and whether the basis of those two claims is correct (fact debate), the last of which has obviously spawned massive policy tubs. The key here, though, for policy debate, is the presence of a policy proposal.

As you've likely noticed, each type of debate adds an additional level of discussion: Fact -> Value -> Policy. Each higher level of discussion also gets access to lower levels of discussion: policy gets access to value and fact, value gets access to fact. The determinant of whether a debate is fact, value or policy is dependent on the highest level of analysis present. This brings me to an important point:

The type of debate isn't determined by the resolution. It's determined by the way the debate plays out. We begin by discussing the resolution; the debate then takes on a life of its own. If a debate in the end hinges on a policy question, it's a policy debate. If a debate in the end hinges on a value question, it's a value debate. If a debate in the end hinges on a fact question, it's a fact debate. Policy resolutions can essentially turn into value debate, and value resolutions can turn into fact debate. A debate is not policy or value by virtue of the resolution being either, but by virtue of the debate itself being policy or value.

Joe spends the first 75% of his analysis attacking fact debate. I agree with him. Debate here should be value, not fact. However, I would argue that it is entirely possible, acceptable, and desirable to discuss positive legitimacy as part of a value debate. It's simple: we make normative judgments on the desirability of positive legitimacy within the debate. Note that because this debate involves value judgments, it is not a fact debate, but a value debate, which both of us agree is far superior to fact. Positive legitimacy simply acts as an additional layer to explain ethereal concepts like how the social contract leads to a more stable society.

Just because facts are involved in positive legitimacy discussions doesn't mean it's a fact debate. Remember, value debates can include everything from fact to value, just like policy debates can include everything from fact to policy. Normative judgments make this debate value, not fact.

Now moving on to the idea that this is extra-topical. Joe says that if something is not part of the core burdens of the resolution, it is extra topical. This is false. First, just because something isn't required doesn't mean it's extra topical. It's not a question of whether we have to do something. It's a question of whether it is acceptable within the debate. And it is clear that there are plenty of acceptable arguments that fall between "absolutely necessary" and "extra-topical." Adding additional impacts in policy debate? We don't have to. Debating them is not extra topical though.

Furthermore, under my interpretation of the resolution, positive legitimacy technically functions as a subset of normative legitimacy. Because the debater is arguing that the acceptance of a government is the moral criterion for a government to be normatively legitimate, I am all the more, completely topical. This is simply a discussion of positive legitimacy within the broader context of normative legitimacy. Obviously this means it cannot be extra-topical, because everybody agrees that normative legitimacy is totally fine.

Someone might say at this point, then it isn't a discussion of positive legitimacy, but a discussion of normative legitimacy. No, it still is a discussion of positive legitimacy because we are still making normative judgments based off of a discussion about whether a government is accepted.

To his final objection: it's complicated. It's not. I'd say that it's the only way to analyze the way ideas like the social contract in a way that's not grossly oversimplified and misleading. So yes, it's more complicated. But I've simplified it enough for it to be accessible to anyone. In fact, I tested the case on my mother, and she found it perfectly understandable. If you don't believe me, test it on your guardian of choice. My point is, if you want to run positive legitimacy, go for it. I'm not saying you have to. I actually don't care. But my job is to tell you that there is no theoretical barrier to using positive legitimacy within a value debate. Read up on positive legitimacy. Check out all the evidence in the Positive Legitimacy case. Make sure you understand the theory behind positive legitimacy and the debate theory behind positive legitimacy so that you can explain it to judges.

# Strategies.

It may seem like debate is primarily argumentation, but at its core, it primarily is a strategy game. With the correct strategy, the best of cases fall. Understanding the topic, setting up the debate, and running a set of arguments strategically will give you a massive advantage over your opponent. It would be pointless here to even attempt to write out strategies for everyone to use, because they would not work for every debater and would be too publicized to be useful as a strategy. The best strategies are ones you develop yourself. Thus, this section is meant to be a guide to developing your own strategy for this resolution.

Strategies generally either find a way into an opponent's case or spike out (preempt) possible arguments.

## Find a way in

Meeting an argument head on usually doesn't work or doesn't win you the argument outright. Most arguments can be debated back and forth for hours. In addition, debaters usually have responses to common arguments against their cases. The correct strategy maps out a path to the weakest part of your opponent's argument. If a weakness doesn't exist, strategy creates one for your opponent.

Strategy is the crack in the wall that ants crawl through, the ribbon in the battery compartment that you pull to yank the battery out. The magic argument can be a burdens argument, a topicality argument, analysis backed with an application, or anything else that cracks open your opponent's case.

## Spike out expected arguments

Sometimes, it's just preferable to avoid dealing with some arguments. They're just a hassle. Spiking arguments is like placing spikes in the ground to prevent the opposing cavalry from mounting a charge. Debaters can use criteria, burdens, interpretations, and frameworks to preempt arguments. By confronting the expected arguments with something unexpected, the debater preempts the argument and mitigates it before it even shows up on the flow.

## 1. Creativity

The topic is incredibly broad, and it's not changing until next year. So have fun with it. With the scope of this topic, you can run a different case every round and still have a policy tub of cases left at the end of the season. This enables you as a debater to morph unpredictably, giving you not only the argumentative advantage of being more prepared than your opponent (on your side of the debate), but also a psychological advantage of having your opponent become more nervous because they are unprepared.

## Different combinations

Normative Legitimacy	Positive Legitimacy
Forms	Duty
Individualism vs. Collectivism, Hypothetical scenarios, Critical Case etc.	

Mix up the elements of your case. Here are examples of combinations that can work well:

- Normative Legitimacy, Form of Government, Tyranny of the Majority.

- Positive Legitimacy, Duty of Government, Majority Will vs. Minority Will.
- Normative Legitimacy, Duty of Government, Will Theory vs. Interest Theory.

Switch things up, and you have a new case. It's akin to wearing a blue t-shirt and jeans one day and wearing the same thing with a fedora the next.

## **Creative Interpretations**

Metaphor resolutions like "Resolved: this house should unfriend" need to be interpreted for debate to happen; even with the same definitions, there are multiple ways each metaphor can be interpreted. Resolutions like this year's LD resolution can also be interpreted different ways.

- Entrenchment

Respect for popular sovereignty is not popular sovereignty, but the government's respect for popular sovereignty; individual rights is not the government's upholding of individual rights, but the inherent individual rights of the people. The affirmative can argue that the government's ability to perpetuate the perception that the people are in control creates the most acceptance of that government, while the negative can argue that only entrenches the power of those in control.

- One right at a time

"Individual rights" as referring not to the individual person's rights but to a single right as opposed to a bunch of rights. The affirmative can argue that popular sovereignty inherently respects multiple rights as opposed to the negative side, which respects only one right.

## **2. There are assumptions in this resolution. Attack them.**

There are always assumptions in a resolution. Often, these are assumptions that both sides are willing to agree on, such as the nature of reality, the validity of logic, or the nature of the debate round. Other assumptions are not so fundamental, but are assumed because of the difficulty in tackling them or in persuading a critic otherwise, such as the assumption that governments are necessary in a society.

- Governments are normatively legitimate.

The most apparent delineation of the sides assigns popular sovereignty to the aff and individual rights to the neg, all concepts generally viewed as positive. Furthermore, the resolution skips the question of whether government can be normatively legitimate and goes right to the question of which side produces the most normative legitimacy. Attacking this assumption, which can be done multiple ways, would effectively negate the resolution.

- Positive legitimacy is neutral.

Most people don't associate any normative judgement with positive legitimacy but view it as a question of fact. Positive legitimacy could very well be a bad thing: if it simply is the ability of a government to create acceptance, positive legitimacy could be an incredibly ruinous towards society.

- Discussion in terms of rights is a good thing.

The most basic arguments of both sides involve assuming that "individual rights" is a proper way to discuss the way society should be. Affirmatives can challenge this assumption by arguing that framing the debate in terms of "rights" actually harms the political process by inhibiting real political discourse.

### **3. Play around with (weighing) criteria.**

The weighing criterion is used to decide who wins the round. For example, a criterion of Net Benefits in team policy debate sets up a race to prove that voting for their respective teams would create more of a positive impact in the world than voting for the other side. Criteria can be used in a similar way in LD.

- Court cases/legal — the case with the most legal force should win.

This criterion would replicate the courtroom environment in the debate round. Arguments like “Aristotle said” would be replaced with “Buckley v. Valeo said.” This grounds the debate in a sort of political reality that isn’t possible with normal value cases.

- Net Benefits — the side with the most positive impacts should win.

It’s not just for team policy. Lincoln Douglas debates produce real world impacts too. It’s just a pity no one bothers to articulate them. Net benefits is a beautiful thing. It allows the critic to weigh not only the visible impacts of each side’s ideas hypothetically being implemented in society, but also the philosophical impacts of each sides discussions and the in-round impacts of each side’s advocacy.

- Most real world useful — the case most applicable to the real world should win.

This moves the debate round from a hypothetical question to a real world question. What impact will the debate physically have on society? After all, popular sovereignty of the people doesn’t get a boost as a result of an affirmative ballot. This forces debaters to confront the reality that the real impacts of the round are education, the discussion that occurs between the debaters and communication of ideas to the judge and the audience.

### **4. Play around with burdens. Make opponents meet all of them.**

Obviously there are direct burdens from the resolution like defining legitimacy and proving the resolution true, but you can logically set up further burdens for both sides, which is incredibly awesome because you can say, “YOU MISSED ONE!” This is important because you will be shaping your cases and arguments around this. Ask yourself, logically, what positions does your opponent have to prove in order to win the round? Have they done all this?

Since new burdens can be created by debaters, they can often be (subtly) abusive. If so, argue that the burden is unfair it and explain why the burden is nothing more than a fanciful daydream from your worthy opponent.

The difference between burdens and criteria is that burdens are different for the affirmative and negative, but criteria (as in weighing criteria) must be met by both sides of the debate in order to win the round. Also, burdens are most often used to argue that the other team loses because of failure to uphold burdens, while criteria are actually used to win the round.

- All instances

Argue that your opponent must prove his/her side to be 100% true in order to win the round. Virtually an impossible burden to uphold, it can be effective because this creates an expectation for perfection from your opponent and because it sets up an easy kill in the 2A’s and 2N’s. This also has a certain level of grounding in contrapositive theory.

- Must positively prove

Mostly a burden set up by the affirmative for the negative, this burden argues that the opposing team must prove their superiority, not merely the other side’s inferiority. Some negatives may try to only argue that popular sovereignty is not better than individual rights. This burden forces them to prove that individual rights is better than popular sovereignty; it also takes out balanced negatives.

- Prove in same scenario

We must compare instances of popular sovereignty and individual rights within the same scenario or type of scenario. If we compare different scenarios, it is an unfair comparison. Each debater has the burden to present only applications which meet these criteria.

## **5. Run invisible procedurals...**

### **...whenever you and your opponent disagree on what something is**

Don't be afraid to trot out the T press. Disagreement on what something is is a disagreement on the definitions, which warrants running topicality. Remember, there are different levels of impacts to topicality. It isn't always an argument that your opponent broke the rules. The arguments within topicality (standards) can be used to argue that your definition should be used for the debate and that something.

### **...be a grammar Nazi**

Whether you're a fan Colonel Hans Landa for his charm, his wit or his....\*ridiculous\* accent, this is your chance. Think what you will of grammar as an argument: judges actually love it. It's convincing. They love the idea that each word has only correct meaning (although this is absolutely not true).

### **...just don't make it sound anything like T.**

In fact, the last thing it sounds like is topicality.

## **Pitfalls to Avoid.**

Potholes filled with rainwater. Interning for Donald Trump. Nigerians with suspiciously large inheritances. These five things.

### **1. Don't Ignore Burdens. (They're delicate and need attention.)**

Burden: a duty, obligation, or responsibility. Burdens tell the audience, "This is what I expect to see from my opponent in this round, and this is what you can expect to see from me." Burdens hold debaters accountable. They're almost a roadmap of the debate. They show your hand just enough that your judges can be prepared for what's coming, but not enough for your opponent to know your strategy. Even if you don't use burdens as an offensive strategy, it's still a good idea to point out the most basic burdens from the resolution. Upholding your burdens is crucial for a clear, enjoyable debate.

#### **What happens when you ignore burdens?**

- The direction of the debate can be unclear.  
If judges don't know what questions the resolution wants you to answer, it's up to them to figure that out.

- Advocacy shifting becomes more effortless.  
It becomes much easier for your opponent to shift if you don't articulate what they have to do. All your opponent has to say to get away is "I'm only clarifying my position." Better say what you want to see in your constructive than risk letting your opponent get away with shifting.

#### **What about when you take care of them?**

- You know exactly what you have to do win to win.  
If your opponent fails to meet a burden, you know what to go after. If all the burdens are met, you know whether to take your strategy elsewhere. In policy debate, teams often run arguments just to see if their opponents have a brief in their tubs, a "file check" of sorts. This is similar.

### **2. Don't try to find conflict between Individual rights and popular sovereignty.**

Trying to make popular sovereignty and individual rights mortal enemies is like trying to make three-year-old girls hate Justin Bieber. Popular sovereignty and individual rights don't inherently conflict. In reality democracy has historically led to individual rights—the philosophies go together. Trying to find conflict between the two ideas themselves is futile.

#### **Why is there no conflict?**

We are comparing two generally positive principles. It's like asking me: what do you want, a Tesla Roadster or a Fisker Karma (both luxury electric vehicles for those who don't know or care)? I'd say, "Both." Unless you also told me that I only had a budget of a hundred thousand dollars, the two don't come into conflict. It is the creation of an additional scenario that produces conflict in what otherwise does not conflict.



### **3. Not finding a scenario of conflict.**

In our case study of three-year-old girls who want to marry Justin Bieber, there is no inherent conflict between either entity. But by introducing a scenario, such as trying to convince the three-year-old girls that Justin Bieber is actually gay, we have now two wholly incompatible entities.

#### **You can find your *very own* scenarios of conflict!**

Begin by thinking of

1. Any scenario in which the two ideas [PopSov and IndivRights] disagree.
2. Any scenario in which the two ideas [PopSov and IndivRights] cannot coexist.

Any scenario that makes popular sovereignty disagree with individual rights or that forces a choice between them is a perfect scenario of conflict. We've discussed most but if you can come up with more, absolutely go for it.

### **4. Don't define your way to success.**

It's called a tautology, a fallacy of circular reasoning. It eliminates all substantive debate on the resolution and turns the debate into an argument about whether something is really something—a topicality debate, if you will, with “debaters shouldn't be running logical fallacies” as a standard. Is that a legitimate debate? Sure, though you'll probably lose it.

#### **Legitimacy as a value**

Just because it's in the resolution doesn't mean it's the go-to thing of the year or that it's a value at all.

#### **[Your side here] as value**

It's easy to try to run individual rights or popular sovereignty and argue that your side best reaches it; however, this alone is also tautological. Individual rights or popular sovereignty must be run very carefully. Imagine it. By upholding individual rights, the government is legitimate because legitimate governments uphold individual rights, and you know what value that gets you? Individual rights! Muy bien, muchachos. If you want to use either of the sides as a value, you must break it down into more intrinsic values or reasons why your side is better than the other, not simply that your side leads to individual rights or popular sovereignty.

### **5. Don't bring back competition vs. cooperation**

It's last year's deal. But seriously. This year is a whole new universe.

While some may think that Majority Will vs. Minority Will is exactly what went down last year, it is not true. Majority vs. Minority doesn't correspond directly with Collectivism vs. Individualism, which doesn't correspond directly with Cooperation vs. Competition.

Last year's resolution didn't involve government, discussions of legitimacy, forms of government, or duties of government. So don't try to bring it back.

# Values.

Note: Values under this resolution are only needed for value interpretations of the resolution because fact debates don't involve values. Fact rounds are based on which side is true, not which provides the best value. Also note that a value discussion can occur under both positive and normative legitimacy.

## Changing the way we think about values

### Arguments First, Values Second

How values are viewed in Lincoln Douglas debate on the homeschool circuit needs a paradigmatic shift. We shouldn't "come up" with them. Values aren't things we "pick." We first have arguments, then we find out what *fits* with those arguments. Whatever your argument, find the benefit we would gain from your side of the debate, and use that as your value. Values don't matter so much as the arguments that lead up to those values.

Debaters can still prefer to run certain arguments based on the values that come attached to them, but they must always consider the arguments they have to run to support those values as an integral part of that decision.

### Values as impacts

An analogy for this way of thinking about values is thinking of values as the impact level of LD debate. For those unfamiliar with impacts, they are the ultimate real-world effects of something. For example, if I argue that popular sovereignty enables slavery, the impact to that argument is a loss of freedom, and ultimately, dehumanization. The "ultimate impact" is also called a terminal impact. Thus, my side of the debate would support human rights.

## The Values

Finding values for this year isn't complicated. There aren't even three steps. First, write down a bunch of values—the cliché ones like human rights and justice. Second, cross out legitimacy, individual rights, and popular sovereignty. The rest are this year's values.

Under normative legitimacy you can basically run any justifiable value. Because what makes a government normatively legitimate is completely arbitrary, you can say that any value is a requirement for a government to be legitimate—and the lack of that value makes the government illegitimate. A government that upholds Human Rights could be a legitimate government, or one that upholds Justice could be considered legitimate. The values discussed here are things the government should uphold.

Also, you'll notice that these values are all closely interact and almost form part of the same argument. The difference between the values is what part of the argument to focus on.

## **Trust**

From the 4<sup>th</sup> edition of the *American Heritage Dictionary of the English Language*. **"The condition and resulting obligation of having confidence placed in one."**

All human interaction requires trust. A family, group, or society with trust always operates more smoothly than one without; the same holds true for trust between the electorate and the government. Trust in a political sense is the government upholding the people's trust in it. Citizens trust that their government will

faithfully represent their interests. When government breaks that trust, it causes political alienation. People who become disillusioned with the political process and become less and less involved, which leads to a voting populace uneducated about the issues and ultimately breaking down any semblance of an effective democracy.

Innovation and economic performance in the business sector are all tied to the amount of trust they have in the government at that time. This is also called business confidence. Without business confidence, the economy slumps and the livelihoods of millions of people vanish.

This Year in Debate: Trust is mainly used with normative legitimacy cases to give them positive legitimacy impacts. Trust would be what justifies the government (makes it more morally acceptable than the other side). Trust doesn't really work for positive legitimacy because trust leads to positive legitimacy and not the other way around, or in some definitions of positive legitimacy, trust is legitimacy.

Related Concepts: Social Capital, Political Alienation, Political Trust, Voluntary Organizations, Business Confidence.

## **Stability**

From *Wordnet 3.0*. **Stability:** “**A stable order (especially of society).**”

From *Wordnet 3.0*. **Stable :** “**1. firm and dependable; subject to little fluctuation. 2. maintaining equilibrium.**”

Personally, of the various perks of having a stable society, not having to deal with bloody revolutions alone seals the deal for me. Stability provides the environment for people to thrive.

Stability should not be confused with stagnation — that's called stagnation. Stability is the ability of society to stay in equilibrium. A society that's changing at a steady rate can be described as reliable. For example, after the founding of the United States, historically marginalized groups have been gaining more and more rights at a steady pace.

This Year In Debate: Stability works with both positive and normative legitimacy. Cases using positive legitimacy can argue that legitimacy creates a more stable society. Alternatively, cases could argue that positive legitimacy leads to hegemony, which leads to stability. Cases using normative legitimacy can argue that their respective sides of the debate are superior because of their effectiveness in achieving a stable society. Specifically, this value works for the argument that not upholding popular sovereignty breaches the social contract and justifies revolution.

Related Concepts: Social Contract, General Welfare, Prosperity, Peace, Hegemonic Stability Theory.  
**General Welfare**

From *Merriam Webster*. **Welfare:** “**The state of doing well especially in respect to good fortune, happiness, well-being, or prosperity**”

General welfare is just a way of saying “There are so many good effects coming from my side of this debate, I can't limit it to just one thing.” Somewhat like a sort of net benefits for LD, except limited to impacts to a specific society. This makes it applicable to every case ever.

That the preamble of the Constitution talks about government upholding the general welfare makes this value even more delicious. General welfare can be used two ways. One type is literally “welfare in general”; the other is a legal term related to the power of Congress to tax, which doesn't matter here.

This Year in Debate: Works with every value case.

Related Concepts: Net Benefits, Well-being, Eudaimonia, Quality of Life.

## Justice

Aristotle, *Nicomachean Ethics*. “**Equals should be treated equally, and unequals unequally, in proportion to relevant similarities and differences.**”

Cicero, *On the Nature of the Gods*. “**Justice [...] renders to everyone his due.**”

There are various different theories of justice, but they all expand on the basic concept of justice as defined by Cicero and Aristotle. Justice is the concept of giving people what they deserve. In a world with limited resources, justice is politically about resolving conflicts and deciding who should get what, when where, and how.

This Year in Debate: While justice can be run with positive legitimacy, it’s the easiest to run it with a normative legitimacy case.

Related Concepts: Fairness, Equality, Morality.

## Equality

From *Encarta*. “**State of being equal: rights, treatment, quantity, or value equal to all others in a specific group.**”

Closely related to justice is the concept of equality. Essentially a different way of looking at justice, equality places an emphasis on the implementation of justice. Equality categorizes people into groups and assigns different things as being due to those groups. The standards for this categorization vary as much as the theories of justice do. Types of equality include equality before the law, equal opportunity, racial equality, and gender equality.

Equality is commonly misunderstood as all things being equal for all people, leading to arguments against communism and socialism. However, equality can be interpreted in a myriad of ways that make it impossible for any one interpretation to be representative of the word “equality.” Equality is just as valid or reasonable as justice as a value and concept.

This Year in Debate: Same as justice.

Related Concepts: Distributive Justice, Natural Rights, Legal Egalitarianism, Social Equality.

## Human Rights

From *Britannica Concise Encyclopedia*. “**Rights that belong to an individual as a consequence of being human.**”

Locke called them natural rights because they were rights that people naturally had. In his *Second Treatise of Government*, Locke enumerates these natural rights as life, liberty, and property. Human rights is one of the most accepted ideas in America and thankfully, the debate community.

The concept of Human Rights itself has been behind some of the most valuable progress in society for the past several centuries. The American experiment was partially based on the concept of every person having rights as a result of being human. The current near-international ban on the millenia-old practice of slavery came partly from the Enlightenment of all humans having rights.

This Year in Debate: Human Rights is relevant to pretty much every case. Ultimately, any case has (or should have) effects that can impact to life, liberty, or property.

Related Concepts: Natural Rights, Civil Rights, Negative and Positive Rights.

## **Community**

From the *New Oxford American Dictionary*. **“A feeling of fellowship with others, as a result of sharing common attitudes, interests, and goals.”**

Community fosters social cohesion, which means that people in a group work better together. This sense of camaraderie allows for grassroots movements and political activism to take place. These various movements and factions form groups which represent the various interests of the people in a society with a republican form of government.

This Year in Debate: Use Community like you would Democracy. Community enables the representation of the people’s will in government. Alternately, you could evaluate individualism and collectivism from a social perspective as opposed to a political perspective and argue that your side leads to more social cohesion on a personal or group level.

Related Concepts: Social Cohesion, Patriotism, Pluralism.

# **Break It Down.**

# Legitimacy.

The resolution is fundamentally a question of legitimacy. Then I was like, what is it?

## What is it?

My bacteria-filled<sup>1</sup> gut told me legitimacy had to do with whether a government “should” be there, but it was only half right. It turns out, there are a ton of different ways people use “legitimacy” to describe different things. The best way to understand legitimacy is therefore to figure out what these terms describe, then match them with what the specific author calls them. Figure out what soccer looks like, then learn what other people call it. In researching the possible meanings for “legitimacy,” I concluded that there were two options. Legitimacy can refer to

- Morality of government [*Normative Legitimacy*]
- or
- Whether the government is accepted [*Positive Legitimacy*]

Well who could have known—Wikipedia had it right from the beginning. While the vast majority of political science literature deals with Positive Legitimacy, there were vast philosophical resources that dealt with Normative Legitimacy.

## But Really, What is it?

Any political system that satisfies a set of ethical requirements can be described as *normatively legitimate*. These requirements can be anything from having the consent of the governed or providing equal treatment under law to upholding societal justice or ensuring national security. Or anything else. Any governmental policy. Anything related to the government. A government is *positively legitimate* if people accept the government’s rules and authority. The factors leading to its acceptance can be, and usually are, normative.

Normative legitimacy starts with the moral requirements pertaining to governments, which vary from person to person. Thus, there isn’t one set of morals that is specified by normative legitimacy. Any moral requirement under normative legitimacy, arbitrarily defined by a group of people, represents what it would take for that group of people to accept a government. In the context of the resolution, normative legitimacy refers to what you think a justified government is.

Positive legitimacy starts off by looking at a government accepted by the people and looks at what seems to surround it, attempting to deduce the causes; it deals with the factors surrounding a legitimate, accepted, government. It can be said that normative legitimacy constitutes part of positive legitimacy. A government’s acceptance depends on the populace’s normative views of government.

Chris Gray in *The Philosophy of Law* says “Legitimacy, in both its meanings, is a relational concept. Both empirical and normative legitimacy can only be examined in relation to the audience to which the claim of legitimacy raised by the law is directed.” Normative legitimacy has a context: you must define who considers the government normatively legitimate, whether it be the people in a country or the debaters in the room. Positive legitimacy also has a context: the people under the jurisdiction of the government or institution must consider the institution legitimate.

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<sup>1</sup> My mother adds that they hail from organic yogurt.

## Which one should we be talking about?

The resolution doesn't specify which kind of legitimacy, so both types of legitimacy are valid under the resolution. It's a question of preference, unless you think that positive legitimacy is theoretically invalid. If you're more interested in discussing the actual process of gaining legitimacy, choose positive legitimacy; if you wish to debate the moral aspects of legitimacy, go with normative legitimacy. Also, the elements of both are not mutually exclusive. There can be political science discussions within normative legitimacy and there can be political philosophy discussions within positive legitimacy.

## Normative Legitimacy Explained

Normative legitimacy is a judgment of what a justified government looks like. A discussion of normative legitimacy is like any philosophical discussion because it *is* a discussion of models, philosophies, and values. Normative legitimacy includes any moral question relating to government. It becomes a debate over what the most justified, most moral system is. These questions can be questions about the correct form of government, or the correct duty of government.

Who determines what is really normatively superior? Since there is no official standard for what normative legitimacy is, the debaters can set a standard and decide whether that standard for normative legitimacy is reasonable. If this sounds arbitrary, think about how values are debated in the round: the debaters get to define the values, and as long as both agree on the definition of a value, it is accepted within the round. It is a *discussion* of what is morally right, not a definition.

This flexibility allows a normative legitimacy debate to turn into a debate about any governmental question relating to popular sovereignty or individual rights, effectively rendering the words "a government's legitimacy" useless. By that, I mean that the only thing "legitimacy" does is specify that the debate must be about government and a "should" question, but we can already gain "government" from "popular sovereignty" and "should" from "individual rights."

Since almost any discussion about government is valid under normative legitimacy, we can discuss values the government must uphold, philosophies, models of government, or any criterion you can justify.

If the resolution asks what leads to legitimacy, and you argue that these political models, philosophies, values, or sets of values are necessary for legitimacy, we can narrow down the debate to simply that area of debate.

Note that we are not discussing everything it takes for a government to be legitimate. We are discussing one requirement for a government's legitimacy, and arguing that your side provides it more than your opponent.

## Debating Normative Legitimacy

With the exception of political systems and duty of government, the following ways of defining legitimacy work with both forms and duties interpretations of the resolution.

### Value

The debater can state that their value is necessary for a government to be normatively legitimate. This is not difficult to do. No debater in their right mind would, on this circuit at least, attempt to argue that a government does not have to uphold, for example, Justice. The next step would be to develop an argument that shows how the other side values Justice like Zimbabwean currency.



## Political Systems

Most people think that democracy is a great form of government, but there are complex arguments for and against it. Ancient Greek philosophers did not view democracy as the best form of government, and they had reasons. There is a lot of room for discussion about the merits of different forms of political systems: monarchy, anarchy, communism, to start.

## Duty of Government

If you're passionate about a particular issue, this is the resolution to run it under, because normative legitimacy lets you. Minority rights, government regulation, welfare, and many other policies can be discussed.

## Philosophy

Take any philosophy that you can justify and see if it does not contradict with the side of the debate you're trying to write a case for. If it meets both criteria, you can use that philosophy as part of the debate. Will Theory and Interest Theory of rights are examples of philosophies not directly tied to the resolution, but can be run because they mesh with popular sovereignty and individual rights directly.

## Any arbitrary Criterion you can justify

If you can successfully argue that your criterion is a necessary component of government, it can be substituted for "a government's legitimacy" in the resolution.

## **Positive Legitimacy Explained**

Positive legitimacy is also called empirical, descriptive, or political legitimacy, depending on who you're reading. As "empirical" suggests, positive legitimacy, at its core, is an issue of fact. Whenever a scholarly paper references facts, one can safely assume it discusses positive legitimacy. Positive legitimacy is how accepted something is. This can refer to laws, governments, institutions within those government—anything that could use acceptance.

Many factors apart from popular sovereignty and individual rights contribute to positive legitimacy. They aren't inherently part of positive legitimacy, but can be defined circumstantially as such.

Objectively, **positive legitimacy is perceptual**. It looks at how people perceive truth. It's relative to each person, but as a whole, people have certain things they agree that a government must do to cross over the threshold from being an unaccepted government to an accepted government or from accepted to unaccepted.

**Empirical legitimacy has a normative basis**. If "a state is more legitimate the more that it is treated by its citizens as rightfully holding and exercising political power," it's based on whether the people accept it, and the people evaluate it based on whether it meets their normative views of government. In general, there is a set of normative views that a lot of people share. Chris Gray writes in *The Philosophy of Law: An Encyclopedia*, "If the yardsticks of normative legitimacy are seen as culturally and historically located, a link can be established between empirical and normative legitimacy. It can be argued, namely, that the law cannot maintain its empirical legitimacy if it stands in flagrant and permanent contradiction with the ethical and normative beliefs of the audience to which its claim of legitimacy is directed. These beliefs, in turn, manifest the basic values and principles, which determine the criteria of normative legitimacy." A government can be normatively legitimate without being positively legitimate, but it is unlikely that the it

can be positively legitimate without being normatively legitimate at least for an influential segment of the population.

**Positive legitimacy is a pragmatic concept**—all governments need positive legitimacy to operate. Institutions want legitimacy because it helps them achieve their goals. The lack of legitimacy leads to inefficacy, noncompliance, and if things get really bad, the need for armed suppression of opposition. Thus legitimacy is an integral part of any government. Even the Chinese government has legitimacy in this respect.

**Positive legitimacy can be thought of as a social contract.** The people as a whole agree to give the government some of their rights, and they expect some benefits; if they don't get something back, they won't accept the government.

### Weber's Three Categories

Social theorist Max Weber (vey-ber) theorized three sources of institutional legitimacy, that while old and soundly criticized, should be common knowledge. The three types are best explained by Weber himself:

“There are three pure types of legitimate domination. The validity of the claims to legitimacy may be based on:

1. Rational grounds—resting on a belief in the legality of enacted rules and the right of those elevated to authority under such rules to issue commands (legal authority).
2. Traditional grounds—resting on an established belief in the sanctity of immemorial traditions and the legitimacy of those exercising authority under them (traditional authority); or finally,
3. Charismatic grounds—resting on devotion to the exceptional sanctity, heroism or exemplary character of an individual person, and of the normative patterns or order revealed or ordained by him (charismatic authority).”

### Causes of Legitimacy

There are undoubtedly an infinite number of variables which affect the legitimacy of government but these are two major ones.

1. Performance of the government. What are some of the things that seem to cause positive legitimacy? A paper entitled “Determinants of State Legitimacy: Results for 72 Countries” by Bruce Gilley found that citizens “evaluate their states partly based on some notions of ‘performance’ over which the state might be expected to exert some influence.” In the end “That leaves us with three variables that can form the basis of a causal hypothesis that is both parsimonious and robust. General governance, democratic rights, and welfare gains are three distinct, politically manipulatable, and strongly correlated factors, all of which have a good claim to being major causes of legitimacy in a cross-national setting.”
2. Adherence to procedure. From Chris Gray's *Encyclopedia*: “The relevance of the issue of normative legitimacy has not been unanimously conceded. Thus, in Niklas Luhmann's view, modern law has managed to solve its problems of empirical legitimacy through particular systems of procedure, which make no reference to ethical or moral reasons. His view is, however, contradicted by, for instance, the pertinent phenomenon of civil disobedience, which is justified by these very reasons.”

## **Debating Positive Legitimacy**

Because a discussion of solely positive legitimacy would amount to a fact debate, it is not intended for value debate. A debater must discuss positive legitimacy as a criterion of normative legitimacy for it to be theoretically valid. In other words, the debater must show that the people's acceptance of a government's rule is what makes a government normatively legitimate. This allows the debate to be a value debate while involving discussions of positive legitimacy.

### **Questions:**

Q: Can a government be normatively legitimate but receive no positive legitimacy?

A: Yes. Because normative legitimacy is what is normatively right according to a standard, and people don't always follow that standard, it is more than likely that normatively legitimate government are not positively legitimate as well. The opposite is true: people can accept the rule of governments they don't agree with. This is because there may be an influential minority in the nation that exerts influence over the government or because the institution has enough legitimacy in its reservoir of political goodwill to cause acceptance.

Q: Is the ability to get things done a result of the government being moral?

A: Yes and no. It's not a direct result of normative legitimacy; it's a result of positive legitimacy, which has a normative basis. However, that normative basis is relative to the people that the institution governs over. The ability to get things done is not always related to how moral the debaters think the government is.

Q: Is legitimacy (normative or positive) something you reach?

A: Legitimacy is more of a question, not a goal. For normative, the question is "Is this moral?" For positive, the question is, "Is this acceptable?" It is not an end in and of itself in the context of the resolution.

Q: So can I use it as a value?

A: No. Take whatever good results you think your side of the debate leads to, and use it as your value. Legitimacy has no inherent value.

# Popular Sovereignty.

## What is it?

The Oxford Guide To Government: “Popular sovereignty is government based on the consent of the people. Government, established by free choice of the people, is expected to serve the people, who have sovereignty, or supreme power.” Popular sovereignty is not democracy; democracy is a specific implementation of the principle of popular sovereignty.

Popular sovereignty is rooted in the idea of self-government, which is rooted in the idea of self-determination. It is hard to argue against the ability of people to determine for themselves what they want to do with their lives; it is possible however, to argue against the specific implementation of popular sovereignty.

There are various way to implement this principle. One could argue that political systems ranging from direct democracy to monarchy, or basically every political system, all respect popular sovereignty. Most people would agree that governments need not be direct democracies to respect popular sovereignty; most people believe that republics respect popular sovereignty. The argument is simply that if one hundred people can represent the three hundred million citizens of the US in the Senate, a few people or even one person can do the same, as long as the people consent to the political system.

The problem that arises at this point is that many dictators can claim to have the consent of the people but don't actually have it. One might suggest that a better way of determining if a government respects popular sovereignty is to look to the policies of the government to see if they match with the people's will. This is possible; however, it also means that anything apart from a direct democracy would have a hard time meeting the criterion of “respecting popular sovereignty.” Thus, the question still remains: when does consent become tyranny?

## How is it used in this resolution?

Even though all these options are available, popular sovereignty will be equated with democracy in many debates. This is acceptable because democracy is a subset of popular sovereignty. Many negative attacks within these debates will focus on the deficiencies in democracy. The following are just a few examples of the attacks on democracy; many additional arguments are further explained in the arguments section.

- True popular sovereignty is mob rule

There's good literature backing for this claim (you can find some cards on this in the briefs section). The argument is that any government will ultimately fail to uphold popular sovereignty, and true popular sovereignty is mob rule. Mob rule means that the rule of law is dissolved and the whims of the people win out.

- Tyranny of the majority

The majority can elect to remove the rights of the minority and oppress them, because there are no inherent safeguards for rights within majority rule. This has been done many times in the history of the United States alone.

- The uninformed citizen

If each citizen has a vote in democracy, each citizen must also be informed about the issues, his or her position on the issues, and the candidate's position on the issues. If citizens are not informed about each of those, democracy will fail to be effective.

# Individual Rights.

There are several ways Individual Rights can be used.

## **1. As Individualism**

The American Heritage Dictionary notes that “the noun individual is normally used to refer to an individual person as opposed to a larger social group or as distinguished from others by some special quality.” In the context of the resolution then, this definition makes the debate an individual rights vs. group rights debate, or the conflict between individualism vs. collectivism.

If you want to use Individual Rights this way, there’s an advantage and disadvantage that comes from having to discuss individualism and collectivism. The awesome thing is that you get to discuss individualism vs. collectivism. The horrible thing is that that is probably the only thing you’ll get to discuss. Individualism vs. Collectivism is very broad; it is a debate in itself.

## **2. As all rights**

It is useful to look at individual rights as a descriptive term and not a prescriptive term. A descriptive definition describes the concept of individual rights and how the word is used, while a prescriptive definition talks about what individual rights should be.

Instead of talking about what should be included in individual rights, simply describe the “Individual Rights.” For descriptive, you are basically relating how people use the term Individual Rights. And people call a lot of things rights. Since a descriptive definition does not talk about whether something should be a right, we cannot differentiate between these competing rights claims. We have to say that Individual Right refers to all of those claims.

Thus, descriptively, individual rights refers to everything that has been and can be labeled an individual right—essentially anything. This is fine and acceptable for debate. This interpretation of individual rights combined with popular sovereignty allows us to create engaging conflict scenarios. We can equate individual rights to the wants and desires of a minority and popular sovereignty to the will of the majority. This is the basis of the majority vs. minority conflict scenario.

Affirmatives in general will want to expand the definition of individual rights to create a larger target to attack. Obviously, negatives in general will try to limit Individual Rights. If, however, the debate has already been framed as a majority vs. minority debate, the negative does not need to take that route, the majority vs. minority debate opens up vast new ground for the negative to argue on.

## **3. As specific rights**

We can limit Individual Rights to simply one or two rights for discussion—life, liberty, and property, for example. It could be argued that the resolution provides the phrase “Individual Rights” as a guideline or criterion for what the negative should uphold, and that as long as the negative upholds something that falls under them, negative burdens have been upheld. It could also be viewed as somewhat unreasonable to insist that the negative defend every rights claim in the world.

# The Arguments.

# The Arguments.

Most cases can be constructed around one main argument. For variety, mix and match the following. Many of the following arguments only have one articulated impact. This is because we are not going to do all the work for you. If you can think of additional impacts, add them yourself.

## Aff Arguments

### 1. Collective infinitely more important than individual.

**Both individualism and collectivism can be utilitarian, but individualism is destructive to those ends.**

Both individualism and collectivism are means to an end and not ends in themselves. They are opposing philosophies about how conflicts should be resolved, about the priority of interests. There is no inherent link to deontology or teleology from individualism or collectivism. This means that individualism can be justified from a utilitarian viewpoint, because it could be argued that upholding the individual rights of the many leads to the most happiness for the most people. Therefore, if both individualism and collectivism can aim for the greatest good, we can determine whether individualism or collectivism is superior on the basis of which achieves the greatest good.

### **The hypothetical**

Hypotheticals are justified under this resolution because the resolution is a hypothetical: popular sovereignty and individual rights do not conflict in real life. The argument under this specific hypothetical is that if individual rights are infinitely valuable and unquantifiable, the collective's rights are infinitely more important than individual rights. This argument preempts the negative argument that individual rights are equally as important as majority will.

In the hypothetical, we have two groups of people with competing interests, one larger and one smaller, all else being the same. We cannot pass judgment on the relative moral correctness of the positions that the two sides take. Their positions may be equally justifiable by themselves. At the point which we introduce a conflict between the two, the only information we're given to distinguish between the opposing sides is the number of people who support them. Thus, when we're asked to decide between the two, we can only use the fact that one side is larger than the other to decide which side wins. In this hypothetical, we always prefer the majority because it produces the most good for the most people.

The negative may say "How can you say that? If you were in the minority how would you feel? Those in the minority are just as human!" The response is that yes, in fact everyone is the same, but because the majority has even more individuals in that group, the more the negative argues for individual rights, the more the affirmative wins. There are even more reasons to vote affirmative because there are more people on that side.

**No chance of individual rights being preserved if collective rights are violated.**

Popular sovereignty and individual rights can be seen as steps in a process that starts with least happiness and ends with the maximum amount of happiness. In the beginning of the process, we have a totalitarian government which affords no rights to the majority or minority, a system that yields no happiness. Following that, we have the government that respects popular sovereignty, which affords as much happiness to the majority as possible. Finally we have the government that respects individual rights, which produces the maximum possible amount of happiness.

The conflict between individualism and collectivism happens at the transition between the second and third steps. For example, when the United States was created, slaves did not have individual rights, but the country was founded regardless, because popular sovereignty had to come before individual rights. The founders knew that slavery was bad, but it was a process because it is impossible to free the slaves before the more basic rights had not been established. Only after the collective will was upheld were we able to deal with individual rights and abolish slavery.

Individual rights are inextricably tied to respect for popular sovereignty. If a government has no respect for the rights of many, there's no chance it will respect the rights of a few, because governments by nature cater to the will of the powerful majority, not the minority. The argument is thus that in a conflict between collectivism and individualism, you would always prefer the collective because it is the basis for individual rights.

## **2. Our society values the collective over the individual.**

This argument is that society gets to decide whether its own government is normatively right, for one of several reasons (I'd go with the first one):

1. The social contract means that each society gets to decide their own government's form and duties.
2. Practically, governments can only look to popular will. The people are always ultimately in control.
3. Truth or morality is defined by each society. (cue "relativism" arguments)

If our society in general sees the collective as more important than the individual, that becomes our society's standard for whether a government is legitimate. And our society does value the collective over the individual in several crucial ways.

National Security: As opposed to the views of the ancient Greeks, contemporary views on war are much more collectivist. When our country is attacked, it represents a breach of our collective rights. It's not an attack on a single warrior or king. When a soldier is killed, it is no longer an individual's accomplishment or loss.<sup>2</sup>

Economy: Americans view the economy as a collective. The details of the individual parts don't matter, as long as the economy on a whole profits. The various economic maneuvers by the government attempt to boost the economy as a whole. For our economy, trends are more important than details. Our view on the government's role in the economy is also collectivist: regardless of whether people supported the bailouts, they framed the issue in terms of whether it benefitted the economy as a whole.<sup>3,4</sup>

Philosophy: In America, ideas are viewed as a whole, and individual, radical views are largely ignored. The Westboro Baptist Church is widely viewed as a radical anti-homosexual group. Known for its protests at the funerals of gay individuals, it has also picketed at the funerals of American soldiers and outside Holocaust museums, proclaiming that "American taxpayers are financing this unholy monument to Jewish mendacity and greed and to filthy fag lust."<sup>5</sup> Fortunately, society doesn't view Christianity as the sum of the parts. Society places priorities on ideas based on their dominance.

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<sup>2</sup> Temes, Peter S. "The Just War." Ch 1.

<sup>3</sup> [http://www.nypost.com/p/news/opinion/opedcolumnists/item\\_AvDoXaR4cefGu1L5GbRigI](http://www.nypost.com/p/news/opinion/opedcolumnists/item_AvDoXaR4cefGu1L5GbRigI)

<sup>4</sup> <http://reason.com/archives/2008/09/25/the-case-against-the-bailout>

<sup>5</sup> [http://www.adl.org/learn/ext\\_us/WBC/WBC-on-Jews.asp](http://www.adl.org/learn/ext_us/WBC/WBC-on-Jews.asp)



### **3. You give up individual rights for society when you join it.**

#### **The Social Contract**

Society is naturally anarchic, and people have absolute freedom under anarchy; but in order to get protection and order, individuals agree to give up some of their natural freedoms to form a government. Political philosophers from Hobbes to Locke to Rousseau all agree that the existence of a government necessitates the transfer of at least some individual rights. This is the social contract. Social contract theory explains how and why a person's freedoms are limited and what he gets in return.

#### **Why the Social Contract is necessary**

Government is necessary because it can achieve what people cannot independently attain. For example, people have the right of self defense, thus, they can come together to form a government for that purpose.<sup>6</sup> A form of this is the establishment of a police force for maintaining order, which has the advantages of not only being more specialized but also wielding more authority—commanding more respect—than a single vigilante. They don't get it for nothing though: citizens must accede to the possibility of being arrested and agree to go through the criminal justice system if they themselves disrupt the peace. Thus, while people gain benefits they wouldn't be able to independently gain, the social contract always involves a tradeoff.

#### **The Argument**

Government by definition must have powers delegated to it and citizens by definition must cede rights. The rights that you don't have represent the authority of the government. The Tenth Amendment is the same idea presented in reverse order: powers not specifically given to the federal government are powers of the states or rights of the people. Thus, when individual rights conflict with popular sovereignty, it is simply an example of a power that has been ceded to the democratic government via social contract.

### **4. The will of the people is what ultimately matters because power is from the people. The impact is a loss of order.**

Just like a company is subject to the will of the shareholders, a government is subject to the will of the people. Power is ultimately from the people. Even for non-democracies, the will of the people matters because people could still revolt if they wanted to. The government has an inherent duty to please the people it governs; a failure to do so violates the trust between the government and the people.

#### **The Social Contract Argument**

The social contract functions like a business contract: when one side breaks their end of the deal, the other gets compensation. In this case, the compensation is the right to remove the offending government. As Thomas Jefferson said in the Declaration of Independence, governments are created by the consent of the governed to uphold certain unalienable rights. When the government fails to uphold them, the people have the right to abolish it. Revolutions sparked by a government's failure to uphold rights have occurred more than several times in history.

Impact: If government does not follow the will of the people, the probability of citizens justifiably revolting skyrockets. Unless we are talking about the peaceful revolution, which is pretty much an endangered species, revolution always brings with it deaths, wasted resources, and disorder.

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<sup>6</sup> Bastiat, Frederic. *The Law*. p. 2.

## **Criticism of the Social Contract**

A common criticism of the social contract argues that it doesn't exist—nobody ever drafted it and nobody ever signs it. Additionally, a contract is by definition an agreement; in a society, you have no choice but to stay (unless you have the resources to move). After the government gets in power, they have the power to decide whether to give or deny people rights, and the people can't really do anything about the government's decision. Critics argue that the social contract is but a figment of people's imagination. They argue that it is not the social contract that makes governments legitimate; rather, it is the belief in the social contract that makes governments legitimate.

## **The Consent of the Governed Argument**

What do liberals, conservatives, socialists, feminists and Marxists all agree on? This fact: that all power comes from the people. The people can decide to devise a democracy, create a classless community, or defer to the demands of a dictator; they can do whatever makes them happy. If this is the case, governments with reasonably selfish officials should follow the will of the people, because it is the only way they can stay in power for the long haul. The consent of a majority of the population is necessary, although sometimes a powerful minority like the military in a coup can make all the difference (for example if the military sides with, you, there could be a military coup).

Impact: If government does not follow the will of the people, discontentment rises and increases the risk of revolution, which brings with it death and wasted resources.

The strength of this argument is that it avoids criticism of the social contract. A system that receives the consent of the governed amounts to one in which people can finally write their own social contract. Popular sovereignty allows the people to take control and have freedom.

## **5. Tyranny of minority. Individualism destroys equality.**

### **The Basis**

1. Our world is a chaotic system, which spits out random combinations of misfortune and good luck to random people. As such, inequality is natural in our system. Humans, as creatures from a higher level of order and intelligence than nature itself, attempt to disrupt this chaos and assemble it into order; humans attempt to create equality from inequality. The destructive nature of inequality means that a higher amount of equality possible is always preferable to a lesser amount of equality. We also realize that complete equality is impossible to achieve, because that would require a perfectly orderly system.
2. Assuming one, that we need a government, and two, that all people have the right of self-determination, the goal now is to create a system that allows for the most self-determination for as many people as possible, because it is impossible to have complete equality.
3. There isn't one single rights claim that represents all "individual rights," but since the hypothetical assumes that a majority will exist and conflicts with individual rights, we can infer that minority will consist of individual rights claims that did not fall into the majority.
4. This hypothetical scenario is pretty bleak. The human rights of the majority can't coexist with the human rights of the minority.

## **The Argument**

Popular sovereignty represents the maximum amount of equality possible in a system. Popular sovereignty means that at least half the population gets self-determination. Any deficit of rights remaining in the system after the democratic decision is inevitable. Thus, popular sovereignty produces the best outcome.

Conversely, if individual rights prevail over majority will, this is tyranny of the minority because the majority is either stripped of its right to self-determination or is swindled into not getting what it would otherwise have wanted. It forces the collective, the popular will, to cower in deference to an individual or small minority's will. The impact to individualism is inequality. Inequality leads to a larger number of people losing self-determination, which leads to the terminal impact of dehumanization.

This argument would be furthered by the idea that individual rights are not merely natural rights, but also the positive rights that various individuals want or claim. A definition of individual rights as positive claims would gain you considerable advantage on the judge's mental flow.

### **6. Popular sovereignty is enough; the government doesn't need to primarily uphold individual rights.**

This argument and its negative counterpart play an interesting role in shaping the forms vs. duty debate. The entire argument is arguing that the structure of government doesn't matter but the actions of the government do. It is also possible for affirmatives to argue that only the structure or origin of power matters and thus justifying popular sovereignty, brushing aside whether government has the duty to uphold individual rights.

An additional scenario of conflict: popular sovereignty is enough vs. a society must have individual rights. Will Theory (aff) and Interest Theory (neg) come into play strongly in this debate. Will Theory is the notion that people's free will is paramount, whereas interest theory says that upholding the people's interests is like, the most important thing ever. Will Theory says that self-determination should be upheld, even when the person wishes to harm his own interests, while interest theory holds that nobody should ever harm human rights, not even the person himself.

This argument has several levels. You can run them independently, but they make more sense built on top of each other.

#### **Part one: Popular sovereignty alone is enough**

People have the right to self-determination. This means that people have the choice of whether they wish to exercise their rights or not, similar to how you must assert your Miranda rights so police will not assume that you have relinquished them.<sup>7</sup> Thus popular sovereignty is the only correct form of government or way of administering a government. If you try to force a policy on people, no matter how good it is, it violates their free will.

#### **Part two: Popular sovereignty leads to individual rights**

Furthermore we have to realize that most people are self-interested and thus will choose individual rights if given the choice. Who doesn't want life, liberty, and property, at the most basic interpretation of what individual rights are?

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<sup>7</sup> [http://www.cbsnews.com/8301-504564\\_162-20006441-504564.html](http://www.cbsnews.com/8301-504564_162-20006441-504564.html)

### Part three: Popular sovereignty leads to more than individual rights

Furthermore we note that individual rights is a very rigid, narrow standard for government. Given a scenario that forces a choice between individual rights and popular sovereignty, we have to assume that if we pick individual rights, that's all we're getting. Just three things. Life, liberty, and property. Popular sovereignty, however, refers to an entire philosophy of governing, which includes much more than just life liberty and property when put into practice. See below for reasons why democracy is the bomb.

#### Teleological Arguments

##### 1. Equality

Democracies give each man the same voice—equal representation—in the policy-making process. While we realize that not everyone's opinion will actually be represented in the final policy, it is the representation that matters. The colonists didn't complain that there were taxes; they complained about the lack of representation.

##### 2. Freedom

The only way for a person to have freedom in a society, apart from vouching for anarchy, is to be able to control the laws that control him. This is self-government. Popular sovereignty is the only way for people to get freedom.

#### Consequentialist Arguments

##### 1. Good Policies

In a democracy, collaboration is inevitable. Because it brings together many people in the lawmaking process, it results in policies more sound than those from any other form of government. A democracy also generates criticism of its own policies and encourages discussions which makes citizens more informed.<sup>8</sup> The dialectical process in a democracy allows policies to be improved and power to be transferred without violence.<sup>9</sup>

##### 2. More transparency, less corruption

Democracies are more transparent because citizens demand to know what is going on in their government and because voters have the power to remove those who deny them information. While we complain all the time about a lack of transparency, it's relatively not that bad compared to other forms of government.<sup>10</sup> A result of having more transparent government is also less corruption.

##### 3. Less war.

Democracies go into war less because people don't like going into battle, do not like conflict, and although bombs are incredibly cool, people don't like paying for them.<sup>11</sup> Supporting this is the Democratic Peace theory, which suggests that democracies have never battled each other because they're democracies.<sup>12</sup>

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<sup>8</sup> <http://plato.stanford.edu/entries/democracy/#Ins>

<sup>9</sup> <http://www.democracyweb.org/elections/principles.php>

<sup>10</sup> [http://transparency.org/policy\\_research/surveys\\_indices/cpi/2009](http://transparency.org/policy_research/surveys_indices/cpi/2009)

<sup>11</sup> See Benjamin Goldsmith's "Democracy and the Defense Burden: Do Democracies Spend Less on the Military?" and p. 20 of Casey B. Mulligan, Ricard Gil, and Xavier Sala-i-Martin's "Do Democracies Have Different Public Policies than Nondemocracies?"

<sup>12</sup> [www.saramitchell.org/dempeace.ppt](http://www.saramitchell.org/dempeace.ppt)

## **Neg Arguments**

### **1. Our society values the individual over the collective.**

Again, the argument here is that the legitimacy of each government is relative to the views of its populace. The idea is that we need to examine the view of each society to see if its government is legitimate. The same three reasons that society gets to decide legitimacy for itself apply here: self-determination, the people's ultimate authority, and society-specific truth.

Diversity: We not only value diversity, we are diverse. We're a melting pot of...everything. This means not only that we value diversity over conformity, but also that building consensus is impossible in our society. The idea of a democracy is not to squash the individual but to harness the ideas of even the smallest individual.

Federalism: Individualism is embodied in the Tenth Amendment. Instead of creating a overbearing, do-all federal government, the Founders created a structure that placed the majority of power in the states. The Tenth Amendment gives the states the powers not delegated to the Federal Government. Justice Brandeis noted that this structure allows for more experimentation and diversity in policy, coining the term "laboratories of democracy" to express this idea.<sup>13</sup>

Freedom: Collectivism means that people become slaves of the society.  
Ms. Rand, what do you have to say about this?

"Collectivism holds that man must be chained to collective action and collective thought for the sake of what is called 'the common good.'" Oh, and "fascism and communism are not two opposites, but two rival gangs fighting over the same territory . . . both are variants of statism, based on the collectivist principle that man is the rightless slave of the state."<sup>14</sup>

Alright. Strong words, Ms. Rand. Assuming what you say is true, Americans can't possibly like collectivism, because we loves freedoms!

### **2. Individualism is just as important as the majority.**

Since the resolution places the burden on the affirmative to prove that popular sovereignty is positively more moral than individual rights, proving that individual rights is just as morally important as popular sovereignty is sufficient to win you the round.

#### **Part one: Individual Rights just as important as Popular Sovereignty**

The individual is no worse than the majority. Collectivism creates inequalities between people based on whether the numbers they're assigned are big enough. If numbers alone determine morality, then my goodness, I need to study math. That would be a disaster. Backing the negative position is the philosophy of deontology: numbers can never determine morality because morality is determined by the morality actions themselves. The opposite of deontology is teleology, or the philosophy that the results of actions determine their morality.

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<sup>13</sup> <http://laws.findlaw.com/us/285/262.html>

<sup>14</sup> <http://aynrandlexicon.com/lexicon/collectivism.html>

## **Part two: Individual Rights are more important than the majority will**

1. The basis of popular sovereignty is that people have the right of self-governance, which is essentially liberty. Even the most basic definitions of individual rights include liberty as a human right. This means that individual rights always includes popular sovereignty; individual rights subsumes it.

2. If your opponent feels like playing the classic Hasbro game, Chicken or Egg?, you can play that too. Arguments that self-determination is the most fundamental of rights are futile. Can people have popular sovereignty without life? BAM. The answer is no. Guess what individuals rights just happens to include? Yes, you are correct, it is life.

### **3. Moral standard. The only moral side of the resolution is the negative.**

This argument makes the assumption of human dignity.

#### **The Resolution**

Under a resolution that pits popular sovereignty against minority will, the desires of the two groups could be anything. There aren't opinions that are inherently "majority" or "minority," which means we can't compare the morality of two unknown policies based on the fact that they're held by 51% of a group.<sup>15</sup>

Well great news: the resolution doesn't say majority vs. minority, but popular sovereignty vs. individual rights. There's inherent morality in the latter. The resolution amounts to a question of "should we do what the majority wants, or should we follow individual rights?"

#### **Part one: no morality in numbers.**

The issue of slavery has always been deeply rooted in the debate over popular sovereignty. In fact the term "popular sovereignty" originated from "squatter sovereignty," which is the idea that each state had the right to determine whether slavery would be allowed in there.<sup>16</sup> Defenders of popular sovereignty will argue that it is key to allowing people to exercise their right of self-determination, but what is also true is that letting people have their individual rights doesn't all of a sudden gut the majority's self-determination. I would argue that popular sovereignty can violate other minority's will up to the point that it begins to violate their individual rights as well. The fact is that popular sovereignty does not have any standard of morality, and the only side that provides any moral guidance is the negative.

#### **Part two: inherent morality in individual rights**

Popular sovereignty amounts to a philosophy that rubber stamps as moral all that society says, and society has the potential to say a lot of things. There is no moral philosophy to guide the majority (unfortunately, self-interest is not a moral philosophy). Instead of giving the majority free reign, the negative proposes that society operate by the standard of individual rights. Since we've made the assumption of the morality of human dignity, allowing us to conclude that slavery is bad, we can conclude that individual rights is the only moral standard in this debate.

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<sup>15</sup> You *could* argue when you're affirmative that more people supporting a position means more self-determination, but the policies that those people support still can't be compared because we don't know what they are.

<sup>16</sup> <http://www.infoplease.com/ce6/history/A0839723.html#axzz0x0DwiSn8>

#### **4. Popular sovereignty is bad.**

Popular sovereignty is letting the people's will prevail. While democracies such as ours don't actually follow popular will all the time<sup>17</sup>, popular sovereignty translated into a political system would be a much more direct system of representation than our arguably hyperpluralistic society.

##### **Popular sovereignty is unreliable.**

Public opinion polls don't hold a lot of credibility. The background information presented, wording of questions, and the available response options all make polls unreliable.<sup>18</sup> Polls have the ability to distort the true will of the people by mishandling of poll options and sample sizes. Even assuming the complete accuracy of polls, they are unreliable because people influence by what other people think in the Bandwagon Effect.<sup>19</sup>

Elections are essentially public opinion polls: the context can be manipulated, and people are easily swayed. Early primaries have effects on later primaries because of the Bandwagon Effect.

Popular sovereignty is legislation by the whims of the people—people change their minds on everything, all the time. Now take the volatility of public opinion will and apply it to your individual rights. Your individual rights are at the mercy of the whims of the people.

##### **Popular sovereignty can harm the collective.**

Just as people can commit suicide, societies can commit suicide, or at least harm themselves. Popular sovereignty lets societies do that. That's bad. Will Theory's contention that people should be able to give up their own rights is self-contradictory: it is impossible to waive the right not to be enslaved or the right not to be tortured.<sup>20</sup>

##### **Popular sovereignty leads to legalized theft.**

Democracy is antithetical to property rights. In a democracy, whether it be direct or indirect, people will vote for more benefits for themselves at the expense of others' property rights. All over the world, people vote for politicians who legislate benefits programs for themselves, in what amounts to legalized theft.

The only system that is compatible with property rights is a government that follows the principles of individual rights, which include life, liberty, and property. Property rights are necessary for a functional capitalistic society. This is a reason to reject the affirmative position that governments are more legitimate when they respect popular sovereignty.

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<sup>17</sup> Alright, it feels more like never.

<sup>18</sup> [http://www.balancedpolitics.org/editorial-the\\_case\\_against\\_polls.htm](http://www.balancedpolitics.org/editorial-the_case_against_polls.htm)

<sup>19</sup> <http://www.historians.org/projects/giroundtable/Polls/Polls6.htm>

<sup>20</sup> While it is possible to torture yourself, it is impossible to give up your right not to be tortured. Right not to be enslaved: <http://plato.stanford.edu/entries/rights/#2.2> Section 2.2.2. Right not to be tortured: Cruft, Rowan. "Rights: Beyond Interest Theory and Will Theory?" *Law and Philosophy* 23.4: 386.

## **Popular sovereignty degenerates into elite theory**

### 1. Degeneration

People in a democracy tend to think that they are in control of the government; while this may be true in the beginning of the democracy, as time passes, the power structure changes. People become lazy and indifferent about politics, which combined with the popular notion that the better-educated are more fit to serve in office, propels the elite into office. This means that a specific class of people have the most power. As democracy becomes more and more indirect, as the distance grows between the electorate and the lawmaking process, representatives become less and less faithful to the wishes of the people. Effectively, democracy melts away, with only the illusion of popular sovereignty remaining. This is known as the Elite Theory and the Iron Law of Oligarchy.

### 2. Impacts

Fake democracy is worse than overt oligarchy. Because people will blindly support a government they think has their best interests in mind, a fake democracy garners much more clout than an oligarchy. Furthermore, attempts at reform will be ignored because the population at large believes there is no underrepresentation of their will.

## **5. A government that upholds individual rights is enough, even if it's a monarchy.**

This argument is the inverse of the “popular sovereignty is enough” argument.

### **A. Government's most basic duty is to uphold rights**

#### Warrant 1: Interest Theory

Rights exist solely because people have an interest in having them, not because people choose to have them. Rights functionally protect the right-holder's interests. Interest theory allows all entities with interests to hold rights, meaning that those who cannot decide for themselves, such as fetuses and those in comas, can maintain their rights. Conversely, will theory says that rights exist because people make the conscious decision to exercise them, eliminating rights for those who cannot decide for themselves. Interest theory does not present a barrier to giving animals, social groups, or artifacts rights, as long as they have interests that need to be protected.<sup>21</sup>

#### Warrant 2: Social Contract

Since it's pretty much universally accepted that the people are ultimately in control, and people generally don't like to be dead, imprisoned, or penniless, the most basic duty of government under the social contract is to protect the rights of those under the government.

#### Warrant 3: Violence is only justified in the protection of rights

Violence is hard to justify. However, most moral philosophies provide exceptions for violence in the protection of rights. Self-defense, the establishment of a military, and the justice system are all examples of violence that is theoretically justified in the protection of rights. Since governments are all violent by nature, they must uphold rights, or lose the justification for their existence.

### **B. Governments that don't uphold rights should be abolished**

Since a government's most basic duty is to uphold rights, if a government cannot uphold rights, we need to get rid of that government even if it's a democracy. A government that institutionalizes slavery isn't moral, even if it is democratic.

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<sup>21</sup> Edmundson, William A. “An Introduction to Rights.” New York: Cambridge University Press, 2004. p. 121.



### **C. Governments that uphold individual rights are awesome, even if they are not democratic.**

On the other hand, there have been monarchs in history who have done a great amount of good for those under their jurisdiction: Catherine II of Russia, Joseph II of Austria, and Frederick the Great of Prussia. Historically, these dictators followed what is now known as Enlightened Absolutism. These governments are generally called benevolent dictatorships.

### **6. The majority violates the minority for more benefits; the minority just wants basic rights.**

This argument is reliant on having a definition of individual rights that says they are just the three natural rights. Natural rights are negative rights, meaning the right to not have certain things done to you, murder for example. Popular sovereignty, however, can obtain with its authority positive rights—things people get, like welfare, housing, healthcare, and unemployment benefits.<sup>22</sup>

#### **The Argument**

In a conflict between majority and minority, when the majority prevails over the minority, it is often for more benefits, but when the individuals prevail, you're often just not harming them. This is true by the very nature of the power of the majority and minority.

The impact is that individual rights produces the least harm in society, in line with the philosophy of negative utilitarianism. We're essentially implying that the negative side is the less greedy side and the side that needs more compassion, because all they want is BASIC HUMAN RIGHTS! The benefits the general population can acquire for itself through a democratic process often requires violating individual rights. As Bastiat said, the redistribution of wealth is nothing but legalized theft. "See 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."<sup>23</sup>

#### **Negative utilitarianism is the most important**

Negative utilitarianism is the idea that causing the least harm is the most important. It prioritizes utilitarian concern to the reduction of suffering. Negative utilitarianism ensures that there is a baseline of equality of happiness. In other words, there aren't just two immensely happy people on earth and 6.7 billion insanely depressed people.

### **7. Collective good is inevitable, which means government should focus on individual rights.**

#### **The Argument**

There is power in numbers. Ants, aliens, and people are all more powerful when there are a lot of them. In a showdown between the majority and the minority, I'd bet on the majority every time.

Since the collective already generally gets its way—this includes acquiring more benefits, more power, and rights—the only disadvantaged group consists of those who are fighting to keep their individual

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<sup>22</sup> Narveson, Jan. *The Libertarian Idea*. pp. 57-58.

<sup>23</sup> Bastiat, Frederic. *The Law*. p. 17.

rights. Essentially, there is a strong predisposition towards the majority getting their will. We need to maintain a tension there between that and individual rights, which means that the government should focus on upholding individual rights. We don't run the risk of harming the collective because they are much more powerful and have a much louder voice.

### **The Impact**

Because collective good is inevitable, the minority will be harmed if the government doesn't focus on helping those who can't help themselves.

### **What to do with these arguments**

As you'll see in the next section, just one paragraph from one of these arguments can be turned into an entire case. These arguments form the basis of your cases. This is by no means a complete list of arguments; it is simply a list of the arguments that I came up with over the course of several months. It is simply a starting point for your argumentation.

# The Cases.

## **The Cases.**

The cases in this section are not meant to be run as is; doing so never produces a winning case. They are meant to be modified to suit your knowledge and style of debating. They are the foundation for showing the way cases this year can be constructed.

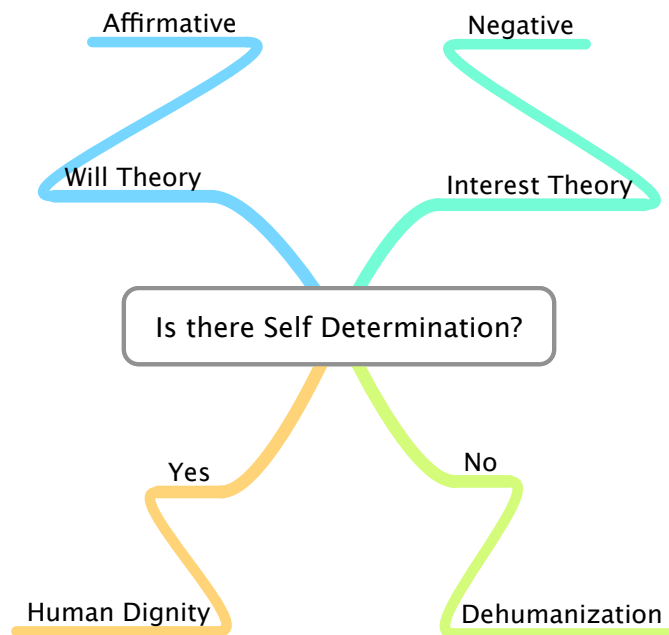
Many of the cases include more material than you can read in a 6 minute AC or 3.5 minute NC. We included more material because it is always better to allow the debater to remove the sections that he or she finds less engaging or persuasive than for us to do that for them. The additional material also gives the debater more ideas on different directions to take the case in.

## **Affirmative Cases.**

# Popular Sovereignty is Enough.

*Value Debate > Normative Legitimacy > Duty of Government*

This case frames the debate as a clash between Will Theory and Interest Theory, arguing that self determination is always needed to have human dignity. It also preempts a negative argument about the people who can't make rational decisions by excluding it from the debate through analysis of the assumptions in the resolution.



This case takes portions from the consent of the governed argument under Argument 4 (consent is important because revolution is justified otherwise) and parts two and three from Argument 6 (popular sovereignty is enough).

This case uses a definition of Individual Rights as life, liberty, and property, because it is not necessary to define it more broadly to gain a sizable advantage over the negative.

This case runs a bit long; the best places to cut it would be at the second resolutional analysis point, in the examples of Contention 1, and the four examples of waivable rights. Choose what you want to keep.

Advantages of this case include strong rhetorical force, case appeal, and literature backing.

# Popular Sovereignty is Enough.

Eating good food is always enjoyable, but when someone forces you to eat, it's a form of torture: force feeding. Getting a ride with friends, against your will, is kidnapping. Staying up late, against your will, is sleep deprivation, another form of torture. We see through all these examples that self determination is key. Without it, anything we do can become torture. And that's the affirmative thesis today: Human dignity lasts only so long as people have self determination.

To provide a basis for this round, I will define four terms from the resolution:

**Government** is "the governing body of a nation, state, or community."

-New Oxford American Dictionary

**Legitimacy** is the "state of being legitimate," and legitimate is "justifiable or justified."

-Webster's New World College Dictionary

**Popular Sovereignty** is "government based on the consent of the people."

-From the Oxford Guide to the United States Government

**Individual Rights** is natural rights, which are life, liberty, and property. Individual Rights are the same as natural rights because there is a broad consensus that all individuals have these three basic rights.

## Resolutional Analysis

### 1. The resolution assumes the ability to consent.

Consent is the ability to make decisions and express them. In order for popular sovereignty to exist, people must have awareness of their situations, the rational ability to consent, and the ability to express that consent. Thus, this resolution only calls on us to debate those scenarios in which rational consent is possible.

### 2. Conflict is necessary

Normally, popular sovereignty and individual rights don't conflict. In fact, if we take a look at democracies like the US, we have the semblance of both. Thus, in order to uphold the resolution, it is necessary to search out a conflict scenario, a hypothetical in which popular sovereignty and individual rights cannot coexist. Instead of the affirmative saying, "We need popular sovereignty and individual rights" and the negative responding, "I agree," and shaking hands and walking out of this round, I'm presenting a conflict scenario of unconditionally upholding the will of the people on the affirmative vs. upholding the rights of the people even against their will on the negative. This ensures clash in today's round. If my opponent avoids clash with me, he/she has to present a reason why this conflict scenario is completely invalid.

The value I will be upholding is Human Dignity, and the means of attaining that is my criterion of Self Determination.

## Contention 1: Human Dignity is paramount.

Why are human rights so important? It is because of human dignity. The opposite of Human Dignity is dehumanization, which is bad whether you look at it through the lens of consequentialist morals or

deontological ethics. Dehumanization is removing an element of humanity from a person, which often causes people not normally sadistic to commit horrible atrocities that victimize the dehumanized. There are two fairly recent examples of this. The first is war. During World War II, general dehumanization of the Japanese Americans after Pearl Harbor led to the infamous Japanese Internment Camps, in which hundreds of thousands of Japanese Americans were corralled and sent into exclusion areas by virtue of their ethnicity.<sup>1</sup> The dehumanization of the Jewish people also encouraged the Holocaust. The second example is how abortion advocates label unborn children fetuses in an attempt to dehumanize them and consequently, legitimize abortion.<sup>2</sup> All of these are examples of how dehumanization leads to atrocities that are occurring this very day.

The will and ability to choose for yourself is a key part of Human Dignity, without which an element of humanity would be missing. The lack of self determination leads to dehumanization.

## **Contention 2: Individual Rights harm Human Dignity when forced.**

### **A. All rights are waivable**

Will Theory tells us that the reason we have rights is because we choose to exercise them. The corollary is that it's alright for a person to waive the ability to exercise his or her rights. It's part of self determination. The opposing theory, the Interest Theory of Rights, says that the reason people have rights is because rights act in their interest, not because people choose to exercise their rights. Thus, Interest Theory views all rights as unwaivable because the act of relinquishing rights could possibly harm the person's interests. Interest Theory makes it impossible for the individual to choose.<sup>3</sup> Contrary to what Interest Theory proposes, in reality, not only are all rights waivable, there are rational reasons for people to waive their privileges. Here are four examples.

The right to remain silent, or Miranda rights, are read to those under arrest. Now, the individual in custody can claim these rights by telling the officer, "I assert my Miranda Rights," or choose to set them aside by speaking to the officers when they ask questions.<sup>4</sup> All persons also have the right to a trial in court. However, the vast majority going through the criminal justice system elect to waive those rights by pleading guilty, which not only gives them a reduced sentence, but also saves the criminal justice system valuable time and money.<sup>5, 6</sup> Even in the Bible, we see the example of Esau giving away his birthright, for, well, a bowl of soup. He was starving. Finally, contracts are agreements signed by two or more parties. If one party breaches the contract, the rest have a legal right to sue for damages. However, they also have the right to waive that right and say, "We won't sue you." A more commonplace example of that are the casual promises people always make to us, with which they fail to follow through. We could take them to small claims court, but we usually waive that right.

We see through all this analysis that since all rights are waivable, the most basic right is then the ability to waive other rights: the most basic right is self determination, as Will Theorists confirm.

### **B. Self determination is harmed if anything is forced**

Force is the opposite of Self Determination. As we've already seen in Contention 1, self determination is key to having Human Dignity. Since the most basic right we have is Self Determination, it is impossible to claim to support Individual Rights if we force them on people against their will. Any such coercion is dehumanizing.

Again, as I previously noted in the Resolutinal Analysis, this resolution only asks us to consider the instances in which people have the ability to self determine.



### **Contention 3: Respecting Popular Sovereignty is respecting Dignity.**

Popular sovereignty refers to an amalgamation of individuals in a nation. If a person has the right to self determination, a nation also has the right to popular sovereignty. It's the same principle.

#### **A. Government's Only Duty is Popular Sovereignty**

Will Theory shows us that people have the ability to choose. Even relinquishing their own rights is okay. Rational reasons exist for waiving rights. This means that all a government must do is respect the people's will. Now, because people are concerned about protecting their self interests, if the government upholds popular sovereignty it will essentially mean protecting individual rights, without violating self determination. The government's only duty is to respect popular sovereignty.

#### **B. Popular Sovereignty Truly Leads to Individual Rights.**

Popular sovereignty, or self determination, is the basis of Individual Rights. People can only truly have Individual Rights when they choose to exercise them. Forcing people to exercise their rights whether they like it or not is conceptually, logically, and practically incompatible with individual rights, because the liberty in life, liberty, and property is removed.

### **Conclusion**

Eating food, hanging out, and staying up late are by themselves fine, when we remove the element of choice, something good becomes something malicious.

### **Evidence**

<sup>1</sup> [http://www.americanhistory.si.edu/perfectunion/non-flash/loyalty\\_main.html](http://www.americanhistory.si.edu/perfectunion/non-flash/loyalty_main.html)

<sup>2</sup> <http://www.wisegeek.com/what-is-dehumanization.htm>

<sup>3</sup> <http://plato.stanford.edu/entries/rights/#2.2>

<sup>4</sup> [http://www.cbsnews.com/8301-504564\\_162-20006441-504564.html](http://www.cbsnews.com/8301-504564_162-20006441-504564.html)

<sup>5</sup> "Plea-bargain." *Encyclopedia of American History*. <http://www.answers.com/topic/plea-bargain>

<sup>6</sup> Olinn, Dirk. "The Way We Live Now: 9-29-02: Crash Course; Plea Bargain." *The New York Times*. 29 Sept. 2002: section 6, page 29, New York edition. <http://www.nytimes.com/2002/09/29/magazine/the-way-we-live-now-9-29-02-crash-course-plea-bargain.html?pagewanted=all>

## Equality.

*Value > Normative Legitimacy > Duty of Government/Forms of Government*

There are several ways to argue that a democracy gives a population more equality than a non-democracy. One could argue that democracy gives more people their right of self-determination and removes the most inequality. The problem with that argument is that it can be difficult to accept the idea that there is “more equality” for some people, even though it really just means that we are giving the maximum number of people what they want. An alternative would be to argue that democracy gives all people an equal right to representation, removing all doubt that everyone is equal.

This case specifically frames the debate as one in which the majority has decided something by majority rule, but the minority disagrees. This case puts the focus on representation, not the results of that representation. It argues that the use of correct procedure is all that is needed for equality.

# Equality.

You're at the local fair and there's a competition for the heaviest pumpkin. One farmer becomes too fixated on winning and adds additional weight onto his side of the scale, literally tipping it in his favor. We would say that even if he wins, the process has not been fair and equal. However, consider that the same farmer decided not to add additional weight. Even if his side of the scale is heavier at the end, we would still say that the process has been fair and equal. The affirmative thesis is this: popular sovereignty provides the most fair and equal process of determining winners, and what the majority had decided through a fair process should not be overruled by a minority.

## Resolutional Analysis

### **A. Definitions**

Government is "the governing body of a nation, state, or community."  
-New Oxford American Dictionary

Legitimacy is the "state of being legitimate," and legitimate is "justifiable or justified."  
-Webster's New World College Dictionary

Popular Sovereignty is "government based on the consent of the people."  
-From the Oxford Guide to the United States Government

Individual Rights are all entitlements belonging to individual people.

### **B. Interpretation**

The resolution asks us to evaluate whether a government should follow minority will in spite of a conflicting majority decision.

### **C. Justification**

Popular sovereignty is essentially majority rule. Realistically, Individual Rights is used to describe all the rights claims of individual people. Since the resolution requires conflict, one instance of conflict is when the minority disagrees with a majority decision.

### **D. Observation**

Individual Rights and Popular Sovereignty doesn't normally conflict, but since the resolution mandates it, the resolution has effectively given us a hypothetical question to debate.

## Contention 1: Equality

### **Subpoint A: Equality from Inequality**

Our world is a chaotic system, which means numerous unpredictable events occur. Good luck and random misfortunes arbitrarily happen—and people benefit and suffer—whether they deserve it or not. These incidents give some people certain advantages over others. Inequalities, thus, are inherent to our system. In a perfect system, these inequalities wouldn't exist, but thankfully, humans are intelligent

creatures and we have the ability to bring order into the chaotic system and create equality out of inequality. We realized that equality is more beneficial for all of us, because anybody could potentially be the disadvantaged person. We said, "What if it were us? You know what, let's just level the uneven playing field created by chance and establish equality."

### **Subpoint B: Modern Equality**

Even through all the effort that man has put into creating a more orderly system, our world is still fundamentally chaotic. Thus, complete equality is impossible. However, if given a choice between more equality and less equality, we would still pick more. In the modern campaign for equality, the direction of our endeavors has slightly changed. Because the vast majority of the world now has governments, creating an equal system is now a quest to strive for equal representation within those governments or to institute the most equal form of government.

## **Contention 2: Popular sovereignty is equality**

### **Subpoint A: Democracy is Equal Representation**

Democracy is one man, one vote. The Supreme Court recognized this principle in *Reynolds v. Sims*, where it ruled that districts must be roughly equal in size, so as to ensure a balanced ratio of representation within state legislatures.<sup>1</sup> A prerequisite of popular sovereignty is that everyone receives equal representation; it would probably be called unpopular sovereignty otherwise.

### **Subpoint B: Procedural Fairness is Equality**

It is usually impossible to have everyone's desires implemented because consensus rarely exists. Crucially however, there has already been equality of representation. Under a democracy, equality always exists regardless of whether everyone gets their way; this is procedural fairness. Procedural fairness is the basis of having a level playing field. The beauty of popular sovereignty is that it provides the same representation for all, even those who end up in the minority.

## **Contention 3: Upholding minority will is tyranny**

If a government, regardless of majority will and equality of representation, decides to let the minority get its way, this is tyranny of the minority. Tyranny of the minority was exemplified in the policy of apartheid during the 50's in South Africa. The process of the white minority gaining power over the majority began with redistricting. This allowed the Reunited National Party to win the elections.<sup>2</sup> In 1950, they passed the Suppression of Communism Act, Act No. 44. Communism was defined as any opposition to the government, including opposition to the government's racially discriminatory policies. The following year, they passed the Separation of Voters Act, Act No. 46 of 1951. The act was passed with the intention of stripping black people of their right to vote. It removed them from the common voters roll and created a separate voters' roll on which those the white nationalist government labeled as Black and Colored could vote.<sup>3</sup> These laws stripped the majority of the people in South Africa of their right of representation, making it devoid of equality. These laws paved the way for the perpetuation of apartheid in South Africa, some of the most despicably racist policies ever created in recent history.

## **Conclusion**

Equality can only be attained when we have a system that allows conflicts to be resolved in a fair and equal process. Popular sovereignty, or democracy, is that process.

## **Evidence**

<sup>1</sup> [http://www.oyez.org/cases/1960-1969/1963/1963\\_23](http://www.oyez.org/cases/1960-1969/1963/1963_23)

<sup>2</sup> <http://africanhistory.about.com/od/apartheidfaq/f/HowIntoPower.htm>

<sup>3</sup> [http://www.sahistory.org.za/pages/governence-projects/liberation-struggle/legislation\\_1950s.htm](http://www.sahistory.org.za/pages/governence-projects/liberation-struggle/legislation_1950s.htm)

## Hobbesian.

*Value > Normative Legitimacy > Duty of Government*

This affirmative relies on very simple and very persuasive logic. The key linchpin is the fact that anarchy is in fact not legitimate. It is neither possible nor is it desirable. That will not be a difficult point to make. The second major argument is that all governments violate and restrict our rights in some way. I wouldn't argue this with a smile on my face by any means, but I would argue as an affirmative that by virtue of living in a society, we all have to give up rights. Do not paint it necessarily in a negative light but rather in a manner that emphasizes responsibility and the good of the whole. A few more points,

- Read up a lot on the Social Contract theory. This will make your job of saying "All governments violate human rights" a lot easier.
- Find arguments against individualism and for the collective. Emphasize the needs, rights and good of the community as opposed to the single individual. Argue that an individualistic emphasis on how society should be run is selfish and simply wrong so that you don't end up on the defense.

## Hobbesian.

“During the time men live without a common power to keep them all in awe, they are in that conditions called war; and such a war, as if of every man, against every man.” — Thomas Hobbes

### Observation: Res Analysis

#### a. Definitions

**Government:** the political direction and control exercised over the actions of the members, citizens, or inhabitants of communities, societies, and states; direction of the affairs of a state, community, etc.; political administration

-Random House Dictionary, © Random House, Inc. 2010.

**Legitimacy:** The justification of the government's existence. According to the Stanford Encyclopedia of Philosophy<sup>1</sup>, there are two main categories of legitimacy, descriptive and normative. Since value debate makes a normative statement we will go with the normative or ethical definition. The question of a government's legitimacy is the question of whether or not that government's existence is justified.

**Determined:** to decide upon.

-Random House Dictionary, © Random House, Inc. 2010.

**Respect:** the condition of being esteemed or honored

-Random House Dictionary, © Random House, Inc. 2010.

**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, © Random House, Inc. 2010.

**Individual rights:** The basic rights of individual human beings; namely life, liberty and property. This was considered the most common of the basic individual rights in rights theory.<sup>2</sup>

#### b. What does the resolution mean?

Now that we know the definitions, the resolution, rephrased, becomes,

“The justified existence of the organization that governs is decided more by it's esteem for the general will of the people than their basic right to life, liberty and property.”

My Value Today: is General Welfare.

### Contention 1: General Welfare should be the lens of the resolution.

#### a. General welfare is universal.

There is no society and no sane individual that does not value general welfare. All seek a better life for themselves, their family and a better society in general. Every ideology and political system is crafted in the hopes of creating a better society. Furthermore, nearly every mass action of the people is for the general welfare. When people vote out a political party, they do so in the hopes of a better society. When people protest, it is because they are expressing anger at their government not providing the society they believe would provide the best general welfare. It's as our former President Jimmy Carter once said, “We've always had a faith that the days of our children would be better than our own.”

## **b. General welfare is the summation of the value system.**

We value concepts and ideas because we believe they lead to a better life. Why do we value justice, rights or prosperity? Because we believe a more just, more prosperous society with rights would be a more desirable society than without. It's clear that every other value is merely just one facet, one expression of our overarching desire to live in a better world and in a better society.

## **c. Conclusion.**

Thus we shall see that General Welfare is the highest value and the lens by which we view the resolution. Like Arthur Griffith, Irish statesman, we find "The true wealth of nations is the good of the people."

## **Contention 2: We need government.**

### **a. Anarchy simply isn't an option.**

The vision of anarchists of a classless, stateless society simply isn't achievable. In the pre-history of histories, we had anarchy - a stateless society - however society naturally progressed to a society with class and government. Naturally people look to order, naturally classes are created and naturally government of sorts becomes created. One of the main reasons why we need government is that government is a simple fact of our lives. Naturally human beings will create the state and therefore it simply isn't possible to talk of an existence without government.

### **b. Anarchy isn't a desirable option.**

Before we had the term anarchy, we had another term for it. "The state of nature". Philosophers prior to the modern idea of anarchy realized that anarchy would be a truly horrifying notion. Philosopher Thomas Hobbes called anarchy a "war of one against all." In a society where man's passions and intentions aren't restrained by the state, it would result in a complete flood of depravity and violence. European history professor Carl Landauer, author of *European Socialism: A History of Ideas and Movements*<sup>3</sup>, explains that we in fact need government to constrain the basic depraved nature of humanity. To believe that ill intentions would subside without a government is an "absurdity".

A poignant example of human depravity unleashed in a state of anarchy is Albania in the late 90s<sup>4</sup>. The government had endorsed a series of Ponzi scheme scams that over two thirds of Albanians had invested in for their future. As the people of Albania lost over 1.2 billion dollars in a country of a mere 3 million, nearly the entire southern half the country fell into anarchy as the government focused on uprisings and revolts in the north. The southern half of the country naturally fell under the control of criminal gangs and violent organizations who abused the people with no government to turn to. Eventually UN forces had to be called in and by the end of the impromptu experiment in anarchy, nearly 2,000 Albanians had died.

### **c. Conclusion.**

Therefore it's clear that anarchy is not only unachievable but truly horrifying thing that, for the general welfare of society, we must avoid.

## **Contention 3: Every government violates human rights.**

Every government will violate human rights. Period. Not only is this a historical guarantee but also in principle, an absolute. American philosopher Lysander Spooner explains that<sup>5</sup>, "The principle that the majority have a right to rule the minority, practically resolves all government into a mere contest between two bodies of men, as to which of them shall be masters..."



Because the basic element of government is force, therefore government will always be in the business of forcing people to do things against their will and will violate some level of rights. While we try to avoid it when we can, it is a natural result of government itself and is a necessary evil.

#### **Contention 4: Therefore popular sovereignty is justification for government.**

##### **a. The only just government.**

To base a government off of anything else beyond the general consent of the people is in fact unjust and an unjust society would be a society that no one would care to live in. Popular sovereignty is basic fairness.

In 1320 the Declaration of Arbroath<sup>6</sup>, the Scottish people declared that the Pope must recognize their chosen king, King Robert the I, as the rightful sovereign on the basis that he was chosen as the King of the Scots. They argued that to force them to accept a king's rule without giving them any say in the issue was wrong. To lay taxes, force them to fight in the king's wars and to demand loyalty without any say in the government is equivalent to setting the king up as a bandit as opposed to a legitimate government.

English philosophers Thomas Hobbes and John Locke explained it in the matter of a contract or covenant set up between the government and the people. To set demands on an individual in business without them agreeing to some kind of contract between you and them is unjust and that individual is under no obligation to follow their requests. The same is with a society. A government that governs without the consent of the governed is no government at all, but merely a crime family.

##### **b. Basic stability demands popular sovereignty.**

To base a government on anything else besides the consent of the governed invites utter disaster and the ruination of society. Look to Iran<sup>7</sup>. After the election of President Mahmoud Achmedinejad which was widely claimed to be rigged, Iran erupted into continuing protests over the fact that much of the country felt that the government no longer had their consent. People were willing to do battle with the Basij state paramilitaries over the concept of popular sovereignty. To date, anywhere between 30 and 200 people have been murdered by the state. Clearly the basic good of society is based on popular sovereignty itself.

##### **c. Conclusion.**

Therefore a few facts can be found,

1. We need government. Anarchy is neither possible, nor desirable.
2. Governments will eventually violate some amount of rights.
3. Since governments are legitimate and will violate rights, the only just thing to base the existence of the government must be the unfettered consent of the people themselves, the popular sovereignty.

## **Evidence**

<sup>1</sup> Fabienne, Peter. "Political Legitimacy". *The Stanford Encyclopedia of Philosophy* (Winter 2003 Edition), Edward N. Zalta (ed.) <http://plato.stanford.edu/archives/win2003/entries/davidson/>.

<sup>2</sup> Powell, Jim. "John Locke: Natural Rights to Life, Liberty and Property". *The Freeman: Ideas on Liberty*. <http://www.thefreemanonline.org/featured/john-locke-natural-rights-to-life-liberty-and-property/>.

<sup>3</sup> Landauer, Carl. *European Socialism: A History of Ideas and Movements* (1959)

<sup>4</sup> Farvretto, Marcella. *Anarchy in Albania: Collapse of European Collective Security?* (1997)

<sup>5</sup> The Declaration of Arbroath in English. [http://www.geo.ed.ac.uk/home/scotland/arbroath\\_english.html](http://www.geo.ed.ac.uk/home/scotland/arbroath_english.html)

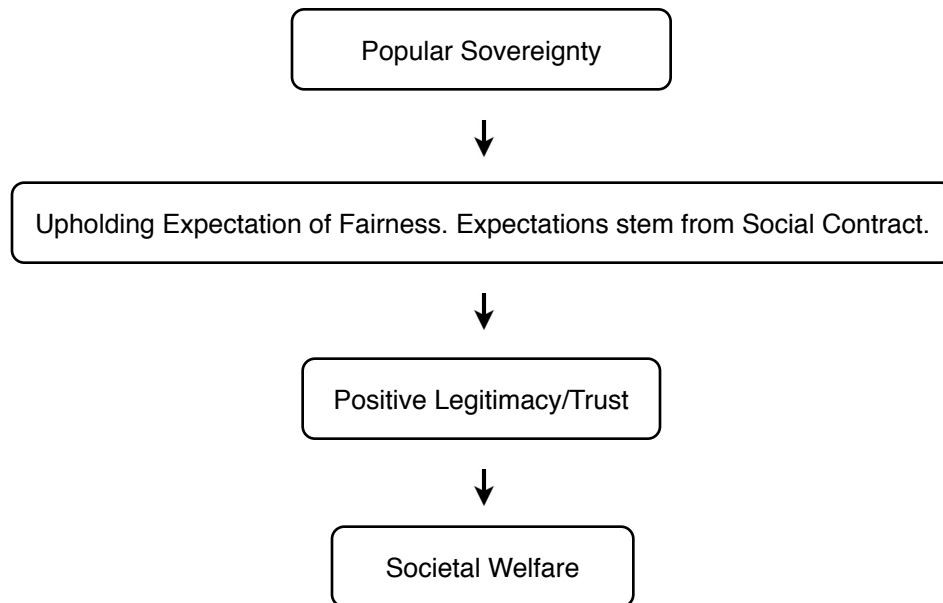
<sup>6</sup> Spooner, Lysander. *No Treason*. (1867)

<sup>7</sup> CNN. "Iran opposition leaders request OK to commemorate dead." June 26<sup>th</sup> 2009. <http://www.cnn.com/2009/WORLD/meast/07/26/iran.demonstrations.request/index.html>

## Positive Legitimacy.

*Value > Positive Legitimacy > Duty of Government*

This is a slightly more complex case. It involves adding the additional link of positive legitimacy into the argument. Instead of arguing that violating the consent of the governed destroys order and harms societal welfare, it argues that violating the consent of the governed breaches the people's belief in the social contract, thus decreasing the legitimacy of the government and harming societal welfare.



While it is a more realistic description of how consent of the governed leads to order in society, it may be harder to run because it labels the notion of the social contract, which many people have, as merely a belief.

Positive Legitimacy is associated with fact debate but can be the basis of an engaging value debate as well. Since values simply ask, "What is the impact of this," we simply find the effects of acceptance. And there are many of them, some of which are listed in Contention 3. This is known as Democratic Legitimacy, which "reduces the normativity of political legitimacy to a single dimension: only the quality of the outcomes a particular political regime generates is relevant for political legitimacy."<sup>24</sup>

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<sup>24</sup> <http://plato.stanford.edu/entries/legitimacy/#PolLegDem>

## Positive Legitimacy.

Blackberry was losing market share in the North American phone market, and decided to launch a rival to the iPhone. Its CEO called it "a quantum leap over anything that's out there." It wasn't. When the Blackberry was finally launched, its sales of a mere 150,000 in the first three days, a drop in the bucket compared to the iPhone's 1.7 million, disappointed the entire tech world. A hundred and fifty-thousand wasn't bad—on par in fact with the industry average—but Blackberry's failure to meet sky-high expectations led to criticism.<sup>1</sup> It is the affirmative contention today that people also have expectations of their government, which the government must meet, or face consequences.

### Resolutional Analysis

First defining some terms from the resolution,

**Government** is "the governing body of a nation, state, or community."  
-New Oxford American Dictionary

American political sociologist Seymour Lipset says that **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."

**Respect for Popular Sovereignty** is "government based on the consent of the people," which works out to mean the consent of the majority of the people.  
-Oxford Guide to the United States Government

**Individual Rights** describes the entitlement claims of individuals.

Next I'd like to note two things about the resolution:

#### 1. Interpretation

In order to uphold the resolution, I must establish conflict between popular sovereignty and individual rights. Popular sovereignty or sovereignty of the populace, is essentially majority rule. Objectively, all rights can be called rights by individuals. Individual rights as a term can be used to describe every possible rights claim by individuals. Thus my interpretation of this resolution is that it is asking us to evaluate the majority will when it conflicts with the minority will. This ensures clash in today's round. If my opponent avoids clash with me, he/she must prove that this scenario is invalid.

2. The resolution assumes there's a majority will for the claims of the minority to conflict with, which means the resolution assumes a system of democracy.

My value today is societal welfare, or the general good of the society.

### Contention 1: The Social Contract

#### **Subpoint A: The Social Contract means expectations**

The Social Contract is the idea that people give something to society, whether it be rights or taxes, and receive something in return, such as order in society or a criminal justice system (called social goods). The people's acceptance of the government is contingent on conception of the social contract—it is the

basis of the legitimacy of government.<sup>2</sup> Expecting something of your government is deeply rooted into the human mind: philosophers all the way from ancient Greece to the Enlightenment all shared this notion.<sup>3</sup>

### **Subpoint B: Fairness is expected**

There are many things that people can reasonably expect from their government, but there are some things that are more fundamental than others. Because it is one of the most basic parts of justice, fairness is always expected of government.<sup>4</sup> The element of fairness relevant to today's debate is this: because people know that resources are limited and that not everyone can have everything all the time, they understand that there must be procedures for determining who gets what, when, and how. In our system of democracy, people expect the mechanism that determines that to be free and fair elections. People expect the majority to win. If the opposite occurs and the minority becomes in control, this is seen as unfair. In other words, popular sovereignty embedded into people's expectation of government.<sup>5, 6</sup>

### **Subpoint C: Fairness Leads to Political Legitimacy and Trust**

Legitimacy is essentially whether or not a government is accepted as an authority; it's also closely related to political trust.<sup>7</sup> A fair government leads to both. Marcia Grimes noted in the *European Journal of Political Research* that "**people who feel that the government is neutral and cares what people think, and that politicians pay[s] attention to the people that elected them** also tend, for example, to **profess higher levels of political trust. Similarly, people who perceive that the Supreme Court conforms to certain standards of procedural fairness also tend to report a higher willingness to accept the court's rulings.**"<sup>8</sup> Thus, fairness leads to political legitimacy and trust.

## **Contention 2: Legitimacy leads to societal welfare**

Legitimacy leads to society's wellbeing politically, economically, and socially.

### **Subpoint A: Politically**

When trust is broken, people feel that the government is distant and unreliable. This is known as political alienation. Political alienation causes cynicism towards the system and feelings that the system is irreparably broken, and it is especially dangerous in a democracy, which requires a high degree of citizen involvement. Thomas Jefferson said that an educated and informed populace is crucial for the preservation of liberty.<sup>9</sup> Political alienation estranges people from participation in the system and decreases education about politics. In the end, political alienation leads to a small minority of people being in charge, because the rest have been alienated from the system. This means that a majority of people don't get their interests represented in government, which harms their welfare in society. A legitimate government encourages involvement and thus adds to society's wellbeing.

### **Subpoint B: Economically**

Political trust also affects business confidence. When the government breaks trust, businesses lose confidence in the stability of future transactions and scale back operations. When this happens on a large scale, the economy slumps and millions of people are harmed.

"In 1980 social trust **in Finland** was at a very high level; by 1990 it was even higher: in the same period, **confidence in parliament fell heavily from 65 percent in 1981 to 34 percent in 1991. Confidence in the police and civil service also declined steeply in this period.** The reason for **such a steep decline in confidence** in public institutions **does not lie in crumbling social trust** or decay of social capital. **On the contrary,** social trust was high and the country maintained its unusually vibrant associational life, as measured by the rate of formation of new

associations, and by organizational membership. As Siisiainen (1999: 139) states "The number of memberships in voluntary associations has not been declining in Finland in the 1990s; the 1990s saw the foundation of more than 2 000 new registered associations per year. So there is no general crisis of voluntary associations, or of social capital manifest in association membership or activism involving the use of associations to further political goals." The causes of **Finland's decline of political confidence lies in the severe political problems caused by the collapse of its neighbour and crucial trading partner, the Soviet Union. In 1990 Finland started a deep economic recession in which unemployment grew to an all time historical high, government deficits trebled, taxes increased, and services and wages were cut.**<sup>10</sup>

A bad economy decreases the quality of life for the entire society. On the other hand, a legitimate government encourages economic growth and prosperity.

### **Subpoint C: Socially**

If a government had absolutely no legitimacy, revolution would break out, obviously resulting in unrest and bloodshed. Robert Grafstein of the University of Georgia notes that all other things being equal, "a legitimate regime is more likely to be stable [...] than an illegitimate one."<sup>11</sup> This alone is a big reason for government to respect popular sovereignty.

Now revolution doesn't break out every day because most governments have some degree of legitimacy, but on a more common, day-to-day level, governmental legitimacy ensures order in society. Tom Tyler of New York University notes that "Police research suggests that the police cannot secure public compliance and cooperation without some sense within the public that they are entitled to make decisions and issue directives." He says that "legitimacy is the widespread belief among members of the public that the police, the courts, and the legal system are authorities entitled to make decisions and who should be deferred to concerning matters of criminal justice."<sup>12</sup> A historian at Ohio State University, Columbus, confirmed this when he found that legitimacy had a much stronger correlation to murder rates than poverty and unemployment or locking up criminals and using the death penalty.<sup>13</sup> Political legitimacy has a huge impact on our quality of life.

### **Conclusion**

We realize that government must uphold the people's expectation of popular sovereignty or risk losing the people's trust. When that happens, societal welfare is harmed, and losing societal welfare is much more serious than losing market share in the cell phone market.

## **Evidence**

<sup>1</sup> <http://gizmodo.com/5614843/the-blackberry-torches-biggest-failure-rims-ridiculous-expectations>

<sup>2</sup> See sections 2.1 and 2.2 of <http://plato.stanford.edu/entries/legitimacy/>, where Locke and Hobbes, respectively, are discussed.

<sup>3</sup> <http://www.iep.utm.edu/soc-cont/>

<sup>4</sup> See Grimes, Marcia. "Organizing consent: The Role of Procedural Fairness in Political Trust and Compliance." Göteborg University, *Sweden European Journal of Political Research* 45 (2006): 285–315, the entirety of which is a discussion on the expectations of fairness. The specific use of the word "expectation" can be found on pages 287, 292, and 308.

<sup>5</sup> See Rawl's idea of public reason, which is key to this case: <http://plato.stanford.edu/entries/legitimacy/#PubReaDemApp>

<sup>6</sup> A link from fairness to trust can be found in the example of the California Public Utility Commission Study. Grimes, Marcia. "Organizing consent: The Role of Procedural Fairness in Political Trust and Compliance." Göteborg University, *Sweden European Journal of Political Research* 45 (2006): 288.

<sup>7</sup> *Ibid.* "Several studies have documented that perceived procedural fairness correlates with institutional legitimacy defined either as institutional trust or willingness to accept decision outcomes."

<sup>8</sup> *Ibid.*

<sup>9</sup> <http://www.brainyquote.com/quotes/quotes/t/thomasjeff135368.html>

<sup>10</sup> Newton, Kenneth. "Trust, Social Capital, Civil Society, and Democracy." *International Political Science Review* 22.2 (2001): 209.

<sup>11</sup> Grafstein, Robert. "The Legitimacy of Political Institutions." *Polity* 14.1 (1981): 51-69.

<sup>12</sup> Tyler, Tom R. "Legitimacy Perceptions in Corrections." *Criminology & Public Policy* Volume 9.1 (2010): 127-134. American Society of Criminology.

<sup>13</sup> "Mistrust in Government Elevates Murder Rates." *USA Today* Apr. 2010.

## **Negative Cases.**



## Moral Option.

*Value > Normative Legitimacy > Duty of Government*

This in my opinion is the simplest and also the most persuasive negative. The value is a very popular one and several of the sources, for instance Bastiat, are quite well read within this debate league. The one thing that will be difficult is convincing some judges that the government is basically organized force. Explain that you are not saying that government is all of a sudden terrible or evil, but rather that violence is neutral. A violent act to steal a purse from a retiree is evil, whereas an act of violence to save a child from a predator is morally commendable. A few tips,

- Hammer home the fact that if government is in fact just force, then ask the judge what they would rather that force be based on; a protection of one's rights or because the majority in the room raised their hands?
- A common affirmative argument will be, "Your value is circular reasoning." There are two approaches to this. Ask them how that is true. Saying that individual rights is more important than popular sovereignty because individual rights are more valuable is hardly circular. Also ask them what their value is on the negative. Five bucks says it is related to individual rights.

## Moral Option.

“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.”-- Frederic Bastiat.

It is because of the truth of this quotation that I stand against today’s resolution: A government's legitimacy is determined more by its respect for popular sovereignty than individual rights.

### Observation: Resolutinal Analysis

#### a. Definitions

**Government:** The organization that maintains the monopoly of violence in society. There have been many definitions offered of government however this is the most relevant and useful for us today for many reasons. Firstly, it comes from German sociologist Max Weber<sup>1</sup> who dealt extensively with the concept of legitimacy. Secondly, Weber argues that a necessary condition of government is that violence is in the hands of only the governing organization. In a country with a functioning government, political parties, churches and private groups do not use violent force. Countries that have many organizations that use force are said to have no government.

**Legitimacy:** The justification of the government’s existence. According to the Stanford Encyclopedia of Philosophy<sup>2</sup>, there are two main categories of legitimacy, descriptive and normative. Since value debate makes a normative statement we will go with the normative or ethical definition. The question of a government’s legitimacy is the question of whether or not that government’s existence is justified.

**Determined:** to decide upon.

Based on the Random House Dictionary, © Random House, Inc. 2010.

**Respect:** the condition of being esteemed or honored

Based on the Random House Dictionary, © Random House, Inc. 2010.

**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.

Based on the Random House Dictionary, © Random House, Inc. 2010.

**Individual rights:** The basic rights of individual human beings; namely life, liberty and property. This was considered the most common of the basic individual rights in rights theory.<sup>3</sup>

#### b. What does the resolution mean?

That’s a lot of words and concepts there. Now that we know the definitions, the resolution, rephrased, becomes,

“The justified existence of the organization that has a monopoly on violence is decided more by it’s esteem for general will of the people than their basic right to life, liberty and property.”

Very simply the resolution is a question of: Is a government justified more by its respect for basic rights or the general will of the people? As the negative today I will be arguing our basic rights are the key decider in a government's justification as opposed to the whims of the people.

My value that I will be upholding today will be that of Life, Liberty and Property, our basic rights as people.

### **Contention 1: Life, Liberty and Property is the most valuable concept in today's society.**

#### **a. Without each of these rights being upheld in society, society becomes dysfunctional.**

Imagine you could pick a society to live in, much like you pick a car, grocery store or coffee shop. As you stroll down the aisle, you see a society where your property will not be stolen from you without your consent and the majority cannot impose their will on your life. This look appetizing but then you see that your very life is constantly at risk. You continue down the aisle. You see a society that keeps you and your property safe but your decisions are not your own as a free man or woman but rather decided by the group's personal choices. The very essence of your being is no longer in your hands. Once again you continue down the aisle. You see another society that protects your life, allows you to make your own decisions, but deprives you of property. Your ability to live and make choices is allowed but the actual way this is done, your property, is constantly under threat. What you earn is not yours but rather belongs to the group. Finally you see a society at the end of the aisle. It's not very popular, nor as well-worn but it protects all three conditions for a desirable life; life, liberty, and property. Who wouldn't choose a society like this? Who would let a society like this be threatened?

#### **b. A society is built upon these rights.**

French statesman Frederic Bastiat<sup>4</sup> explains that the government itself is based upon this concept. He argues that each of us has a right to defend these as individuals. Therefore the government is merely a compilation of the individual right, into a collective right. We allow the government to wield force to defend our rights because each of us are allowed to do so individually. However just as we cannot individually use force against our neighbors to threaten their rights, so therefore it is unjustified for the government to do so.

#### **c. Conclusion.**

Therefore it is clear that life, liberty and property is the highest and most valuable concept in our society today. Without it we cannot have a functioning society that anyone would want to live in and they make up the very reason why we allow our government to exist. Therefore life, liberty and property will be the lens by which we view the resolution. When we decide the question of the resolution, we must do so in deference to life, liberty and property. Life without them would be frightening indeed.

### **Contention 2: Government is Force.**

#### **a. The government requires force.**

The government's ability to use force is what makes it different from other organizations. A church may make demands on it's members, but cannot force them to follow it's commands. The Salvation Army doesn't collect donations at the point of a gun. Only the government is allowed to use force. Even the most benign of government regulations are backed up by the threat of force on the part of the government. Consider the stop-sign. If you were to simply ignore it, one day you will be stopped by the

police. If you refuse to stop, you will be forced to do so by the police. If you refuse to abide by their demands to show license and registration, they will use force to convince you. Continue to resist and they will eventually force you into jail. Attempt to escape and they will use force against you, even to the point of lethality. Every level of government regulation from the speed limit to high treason is backed up by force. If a government had no ability to use force, would anyone listen to it's demands? History tells us no.

## **b. Conclusion.**

If the basic essence of government is violence, then we must understand that the government can be quite a double edged sword. On one hand it protects from violent criminals, marauding rebels and other governments that would take our life, liberty and property. However on the other hand lies the possibility of the very danger coming from those who would protect us. Our first President George Washington once argued, "Government is not reason; it is not eloquent; it is force. Like fire, it is a dangerous servant and a fearful master."

## **Contention 3: The only choice is the negative.**

### **a. The danger of the general will.**

To lay the justification of government at the feet of the general will is a dangerous move indeed. It invites a violation of our basic rights and the ruination of society. The fact of the matter is that when we allow the general will to determine the justification of government, our very rights are threatened. Take for instance the democratic experiment in the Middle East.

According to the White House under President George W. Bush<sup>5</sup>, "In his Second Inaugural Address, President Bush pledged America to the ultimate goal of ending tyranny in the world. He has promoted the spread of freedom as the great alternative to the terrorists' ideology of hatred, because expanding liberty and democracy will help defeat extremism and protect the American people."

Two years later in the Gaza Strip, the people elected Hamas to it's government. Hamas is an organization that is antithetical to the basic rights of individuals. Reuters newspaper found that<sup>6</sup>, "Human Rights Watch, in the report released on Wednesday, cited a pattern of politically motivated arrests, mock executions and severe beatings in detention centers run by Hamas Islamists in the Gaza Strip and President Mahmoud Abbas's secular Fatah faction in the West Bank."

The National Review even found that<sup>7</sup>, "According to the London-based Arabic newspaper al Hayat, on December 23rd Hamas legislators voted to introduce Sharia — Islamic law — to the Palestinian Territories, *including crucifixion.*"

Despite all this, when polled a year later in the Pew Global Attitudes Survey<sup>8</sup>, 62% of Palestinians had a favorable opinion of Hamas.

## **b. Conclusion.**

This last example was but one of many in our sad history as humans. Consistently the general will of the people will violate our basic individual rights, the very things that allow us to live and function. Clearly when we decide what makes a government legitimate or justified we must keep a few facts in mind,

1. Our basic individual rights are the most valuable concept that we have and is the highest value.
2. The government is most simply, force that we all agree to.

3. When we base the justification of this governing violence on the general will of the people instead of our basic rights, we find ourselves with dystopias of violence and capricious government power. To go back to the analogy of shopping for a society, your choice today is simple. Do you decide the society of violence and slavery? Or do you choose a society that uses that force only for the sake of protecting our lives, liberty and property?

## **Evidence**

<sup>1</sup> Weber, Max. *The Theory of Social and Economic Organization* (1964). p. 154

<sup>2</sup> Fabienne, Peter. "Political Legitimacy". *The Stanford Encyclopedia of Philosophy* (Winter 2003 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/win2003/entries/davidson/>.

<sup>3</sup> Powell, Jim. "John Locke: Natural Rights to Life, Liberty and Property". *The Freeman: Ideas on Liberty*. <http://www.thefreemanonline.org/featured/john-locke-natural-rights-to-life-liberty-and-property/>.

<sup>4</sup> Bastiat, Frederic. *The Law* (1850). p. 2.

<sup>5</sup> White House Archives. No date given. <http://georgewbush-whitehouse.archives.gov/infocus/freedomagenda/>.

<sup>6</sup> Reuters News Service. July 29<sup>th</sup> 2008. <http://www.reuters.com/article/idUSL926295820080730>

<sup>7</sup> Steyn, Mark. "Clashing Civilizations". *The National Review*. <http://article.nationalreview.com/381976/clashing-civilizations/mark-steyn>

<sup>8</sup> Pew Research Center Global Attitudes Survey: [Global Unease With Major World Powers](#), June 27, 2007.

# Popular Sovereignty is Unreliable.

*Value > Normative Legitimacy > Form of Government*

This case is used to refute any case that argues for the supremacy of democracy: the Hobbesian case, the Equality case, or the Positive Legitimacy case.

It argues that a crucial part of those cases is incorrect: popular sovereignty, or democracy isn't as good as they make it sound. The entire negative case is used to take out the one link of affirmative cases that justifies why democracy is necessary. As such, it is not a standalone case that argues for the supremacy of individual rights. It simply argues that the affirmative case is incorrect. The good news is that it applies to many affirmative cases this year.

This case has strong backing in political science literature and thus appeals most to those politically knowledgeable.

If you're interested in running this case, make sure to look up the following terms and concepts:

- Associationism
- Iron Triangle
- Pluralism
- Elitism
- Hyperpluralism

# Popular Sovereignty is Unreliable.

Many things are overhyped: things labeled “all natural,” a college education, fame and wealth. Democracy is also overrated. Many people think democracy is the ultimate form of government, that it allows for the most freedom and self-governance, but democracy doesn’t live up to its hype. It doesn’t do what people think it does. Today I’m going to be arguing that because democracy doesn’t live up to the hype, the affirmative case will crumble like a cookie.

Here are the key definitions.

Government — the United States’ government, or any democracy’s government. (as long as the affirmative case focuses on the United States or a democracy, their definition’s fine)

Legitimacy — a “justifiable or justified” government.  
-Webster’s New World College Dictionary

Popular Sovereignty — “government based on the consent of the people” or democracy.  
-The Oxford Guide to the United States Government

Prefacing my remarks with some observations on burdens: The resolution places a positive burden on the affirmative to prove that popular sovereignty is better than individual rights in some way. But the negative only has to prove that the affirmative hasn’t done his job, which means that if I can show that popular sovereignty’s benefits don’t stand, the negative wins this round.

My criterion will be self-determination. My argument is that everything, including my opponent’s value, requires self-determination, and whichever side best reaches self-determination should win this round.

## **Contention 1: Self determination is key**

If we think about some of the things out there considered rights — freedom of thought and religion, equality before the law, assembly, and property,<sup>1</sup> the ability to choose for yourself is necessary for all of them. Without self determination, we are mindless cyborgs— we are no longer human. Self determination is the most basic of rights—this means that [opponent’s value] also requires self determination.

All humans inherently and naturally have self determination by virtue of them being human. This also means that self determination has inherent limits. If all people have this right, using your freedom to deprive others of theirs would be inappropriate and unacceptable under a philosophy of universal self determination.

Philosopher Immanuel Kant’s Categorical Imperative has three formulations. The first formulation states that one should “act only in accordance with that maxim through which you can at the same time will that it become a universal law.”<sup>2</sup> A world where nobody has self determination is inconceivable, which means that self determination is necessary from a rational perspective.

## **Contention 2: Political Structure**

### **A. Pluralistic Beginnings**

Pluralism is the idea that people in a nation form various interest groups to represent their own interests. The variety in interest groups creates a tension, a balance that keeps a democracy healthy.<sup>3</sup> The interest

group makes representation of the people's will easier, as an association of people is more effective than an individual. French statesman Alexis de Tocqueville visited the United States in the 1830's and was impressed by how Americans organized into political, religious, and economic interest groups to get closer to their government.<sup>4</sup> Pluralism was the representation of all people, as opposed to elitism, in which the country was controlled by a few elite interest groups.<sup>5</sup> Interest groups influencing elections was seen as a positive thing, because interest groups represented the people's will.

## **B. Devolution to Hyperpluralism**

After the Constitutional Convention of 1787, a lady walked up to Benjamin Franklin and asked him what form of government they decided on. Franklin said, "A republic, if you can keep it."<sup>6</sup> Unfortunately it is unrealistic to expect any pluralistic society to be "kept." A pluralistic society naturally devolves into one in which some groups turn political advantages into economic advantages and economic advantages into political advantages.<sup>7</sup>

Typically, as groups gain economic power, they gain the ability to influence voters, which is political power. Instead of voters dictating how their interest groups influence the government, interest groups influence voters to form a government favorable to them. When the pro-interest group politicians enter government, these groups gain political power. They leverage this political power to gain beneficial legislation that gains them financial advantages and restarting the whole cycle.

When this happens on a large scale, public policy simply caters to the interest of the elite few, which results in public policy that lacks a clear direction and simply caters to interest groups.<sup>8, 9</sup> An example of this is American health care legislation in general. Daniel Callahan, cofounder of the Hastings Center said "too many things have to be changed at the same time by too many people and interests with too many different perceptions and agendas. What we have is piecemeal incrementalism, improved coverage of children (a liberal effort on the whole) but not of adults, and the George W. Bush Medicare pharmaceutical plan (a conservative effort on the whole)."<sup>10</sup>

The upshot of all this is that the commonweal is rarely represented in legislation.<sup>11</sup>

## **Contention 3: Self determination is lost**

As a result of hyperpluralism, we lose self determination because special interests almost exclusively dictate public policy, whether we know it or not. A hyperpluralistic society means that whether voters take action or not, the most powerful interest groups get their way.

### **Subpoint A: Voters take action**

Apart from lobbying officials directly, interest groups also engage the government indirectly. Indirect techniques involve influencing voters to adopt their point of view. This is done through a public education campaign funded by the interest group, and may involve internet, television, print, and radio ads. Next interest groups prod voters to contact their legislators, making it seem as though there is a groundswell of public support for a certain side of an issue. By using what are called indirect techniques, interest groups turn the electorate into an America-shaped rubberstamp for their ideologies.<sup>12</sup>

### **Subpoint B: Voters don't take action**

As we've seen, in a hyperpluralistic society like the one we have today, there's a sizable gap between citizens and their government. Citizens become alienated from their government. Dr. Priscilla Southwell of the University of Oregon writes,



“The root of this concept, ‘alien,’ underscores the perception of distance or feeling of separation behind these alienated attitudes. [...] Voting is seen as an infrequent act that bears little meaning to his daily life, and politics and government often appears remote and irrelevant to his immediate concerns. [...] Political alienation, as Neuman suggests, can include a sense that one is powerless to influence the political system. Such individuals often feel incapable of having any meaningful impact on political events or developments.”<sup>13</sup>

Political alienation decreases voter turnout, which means that the powerful interest groups have a much easier time targeting their message to voters and getting their message out.<sup>14</sup>

These are just two examples of how democracy does not ensure voter self determination, but in fact leads to the opposite: a system in which the powerful gain control over the many.

## **Evidence**

<sup>1</sup> Universal Declaration of Human Rights. <http://www.un.org/en/documents/udhr/>.

<sup>2</sup> <http://plato.stanford.edu/entries/kant-moral/#ForUniLawNat>

<sup>3</sup> Hepburn, Mary A. “Concepts of Pluralism and the Implications for Citizenship Education.” *Social Studies* 84.1 (1993): 20. *Questia*. Web.

<sup>4</sup> *Ibid.*

<sup>5</sup> The Concise Oxford Dictionary of Politics. <http://www.answers.com/topic/pluralism>

<sup>6</sup> <http://bartleby.com/73/1593.html>

<sup>7</sup> <http://homepages.udayton.edu/~aherndaw/hyprplu.htm>

<sup>8</sup> [http://wps.ablongman.com/long\\_edwards\\_ga\\_12/33/8516/2180246.cw/index.html](http://wps.ablongman.com/long_edwards_ga_12/33/8516/2180246.cw/index.html)

<sup>9</sup> [http://wps.ablongman.com/long\\_edwards\\_ga\\_12/33/8514/2179657.cw/content/index.html](http://wps.ablongman.com/long_edwards_ga_12/33/8514/2179657.cw/content/index.html)

<sup>10</sup> <http://www.thehastingscenter.org/Bioethicsforum/Post.aspx?id=128>

<sup>11</sup> [http://wps.ablongman.com/long\\_edwards\\_ga\\_12/33/8514/2179657.cw/content/index.html](http://wps.ablongman.com/long_edwards_ga_12/33/8514/2179657.cw/content/index.html)

<sup>12</sup> <http://xroads.virginia.edu/~ma98/pollklas/thesis/techniques.html#indirect>

<sup>13</sup> Southwell, Priscilla L. “The Effect of Political Alienation on Voter Turnout, 1964-2000.” University of Oregon. *Journal of Political and Military Sociology* 36.1 (2008). pp. 132-133.

<sup>14</sup> *Ibid.* p. 131.

## Individual Rights is Enough.

*Value > Normative Legitimacy > Duty of Government*

This case is different because of its almost fact-like analysis and case structure. It doesn't really pass any judgment on whether individual rights are good or not—it just analyzes whether it's normatively legitimate according to a standard. While this seems like a normative judgment, it merely evaluates whether the standard is met without making a judgment on the standard itself.

Partially, this is due to strategy. Making the value judgment implicit means it becomes harder for opponents to attack it in front of a lay judge. It's not easy to say, "Judge, my opponent makes the incorrect assumption of life, liberty, and property being good." Assuming that throughout the case sets the issue of the normative validity of the standard for legitimacy aside and focuses on the strengths of this position.

Also, not making a normative judgment allows for in-round adaptation. Take whatever normative judgment the affirmative makes and turn it using this case. This means you won't have to justify your standard: your opponent will do it for you.

This case is the negative counterpart to Popular Sovereignty is Enough. It argues that Will Theory is incorrect, that it does not apply to democracies, and that the most basic duty of government is not to enable the people to make a choice regarding rights, but to uphold the people's rights themselves.

It doesn't champion anything by itself. It responds to the affirmative position, made possible by the resolutions positive burden of proof on the affirmative. In this respect it is similar to a Flex Neg—adaptation to the specific affirmative is necessary for this case to be effective. If a certain affirmative doesn't use Will Theory as a warrant for why popular sovereignty is the government's only duty, Subpoints C and D are useless.

Also of note: it is possible to run this case under forms of government. Instead of arguing that only the actions of the government matter and that the negative side of the debate represents the true duty of government, use a completely different scenario: the affirmative argues that the duty of government determines legitimacy, while the negative argues that the form of government is what matters.

## Individual Rights is Enough.

In the Bible's parable of the Good Samaritan, a Jewish man was on a road trip when he was robbed, beaten and left for dead by the side of the road. Several religious leaders passed by, but ignored him and went on with their lives. However, a Samaritan, someone from a place on less-than-friendly terms with the Jews, saw the assaulted man, offered care, transported him to safety, and offered to pay his medical bills. When Jesus asked, "Who was a neighbor to the man," his Jewish audience reluctantly replied, "the one who had mercy on him." What mattered were the actions taken, not nationality. Today I'll be showing that the legitimacy of a government rests on its actions and that the form of government doesn't matter as long as they uphold this basic duty.

First defining the key terms from the resolution:

**Government** is "the governing body of a nation, state, or community."  
-New Oxford American Dictionary

**Legitimacy** is the "state of being legitimate," and legitimate is "justifiable or justified."  
-Webster's New World College Dictionary

**Popular Sovereignty** is "government based on the consent of the people." Basically it means democracy.  
-From the Oxford Guide to the United States Government

**Individual Rights** is natural rights, which are life, liberty, and property. Individual Rights are the same as natural rights because there is a broad consensus that all individuals have these three basic rights.

Before we get to the contentions, I'd like to note two things about the resolution:

1. Conflict is necessary for debate. The conflict between popular sovereignty and individual rights occurs within this scenario: we have a democracy that does not consistently uphold individual rights on the affirmative, and we have a government that does uphold individual rights on the negative, which can be any form of government.
2. The affirmative has a burden to argue that a democratic government is enough while the negative has the burden to argue that any form of government is fine as long as it upholds individual rights.

My value is Human Rights. My criterion is Consistency.

### **Contention 1: Violating rights is not an option**

#### **Subpoint A: Government's most basic duty is to uphold Individual Rights**

Government must always uphold Individual Rights because it is foundational to all other actions of government. The Social Contract tells us that the government has various duties to the people it governs. The government must provide certain services to the people, or the Social Contract is breached. In order for government to provide any services, it must first protect the most basic of rights. If the government fails to protect individual rights, all additional actions taken by the government are superfluous. This means that the most basic duty of government is to uphold individual rights.

## **Subpoint B: Protecting rights is the only justification for power**

Philosopher J.S. Mill said, “the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.”<sup>1</sup> The use of power is only justified in the protection of rights. If the government fails to protect these rights, it loses its justification as well.

## **Subpoint C: Will Theory is flawed**

The affirmative says that democracies are fine even if they don’t always uphold individual rights because it’s the people’s own choice that matters. The idea that popular sovereignty is all that is necessary stems from the idea that each individual is the sole arbitrator of whether his or her rights are to be exercised. This is Will Theory. There are two main theories of rights: Interest Theory and Will Theory. Interest Theory says that rights exist because they benefit the right-holder’s interests in having basic things like life, liberty, and property. If a right harms the rights-holder, there’s no point in having the right.<sup>2</sup> Rights are moral concepts that benefit the individual. If it violates the individual’s interests, it is no longer a right. Will Theory, on the other hand, says that people decide whether they want to exercise their rights or not, giving rise to the violation of rights. There are several problems with Will Theory:

First, it assumes that we can waive all our rights like Esau’s waived his birthright. This is not true. You can’t waive your right not to have your freedom taken away. It violates your humanity. You cannot waive your right not to be tortured. You can choose to be tortured, such as Christopher Hitchens choosing to undergo waterboarding to experience it, but you cannot waive the right to not be tortured.<sup>3</sup> Christopher Hitchens still had the right to not be tortured that he could not waive.<sup>4</sup>

Second, Will Theory cannot account for the rights of those who cannot have sovereignty over their rights, such as infants and people in comas. It’s obvious to all of us that they have rights like all the rest of us do, but under Will Theory, they do not. Interest Theory allows anyone or anything to have rights, as long as they have interests in being protected. There are no theoretical limits within Interest Theory that deny the possibility of allowing animals, plants, and artifacts the ability to have moral rights.<sup>5</sup>

Thus there is no real philosophical basis for basing rights on the decisions of individual people.

## **Subpoint D: Will Theory is incompatible with Popular Sovereignty**

Let’s assume that Will Theory is completely correct. Bringing Will Theory to democracy means that if 51% want to pass a law that relinquishes the right of the whole population but 49% don’t, the majority still wins. What’s worse, the majority can decide that only the minority needs to relinquish rights. Will Theory is supposed to give sovereignty to people, but putting it in a democracy takes it away. This is a contradiction within the affirmative position. We’ll grant that Will Theory upholds an individual’s ability to self-determine, but applying it to democracy removes all credibility of such self determination claims.

## **Contention 2: Upholding individual rights determines legitimacy**

Based on the previous contention we can draw several conclusions:

### **1. Actions determine legitimacy**

If a government’s most basic duty is to uphold rights, then its legitimacy rests on whether it fulfills that duty. If it does not fulfill that duty it cannot be legitimate. It turns out, any government has the potential to violate Individual Rights, including democracies, which means the form of government doesn’t matter; the actions matter.

## 2. Not upholding Individual Rights removes legitimacy

All governments can violate Individual Rights, including democracies. Even if the government that is violating rights is a democracy, a failure to uphold its most basic duties makes the government morally unjustified and illegitimate. Slavery in the United States is an example of how violating individual rights is not bound to a specific form of government.

## 3. Upholding Individual Rights gives legitimacy

Just as democracies can violate rights and become illegitimate, alternate forms of government can uphold rights and become legitimate. Individual Rights have been upheld by various monarchies, some of whom followed the same Enlightenment ideas the Founding Fathers shared. Among these leaders were Catherine II of Russia, Joseph II of Austria, and Frederick the Great of Prussia.<sup>6</sup> Since their governments upheld Individual Rights, their rule can be considered legitimate.

Returning to the story of the Good Samaritan, the Good Samaritan's actions made him the hero; the religious leaders' inaction was what made them the story's villains. Nationality did not make the man the Bad Samaritan, and nationality did not make the religious leaders good. The type of government doesn't matter. It's actions do.

## **Evidence**

<sup>1</sup> Mill, John Stuart. *On Liberty*. Forgotten Books, 2008. p. 12.

<sup>2</sup> Section 2.2.2: <http://plato.stanford.edu/entries/rights/#2.2>

<sup>3</sup> <http://www.vanityfair.com/politics/features/2008/08/hitchens200808>

<sup>4</sup> In other words, he had an active right to ask for torture, but he could not waive his passive right not to be tortured. Active and passive rights are different from positive and negative rights, which are both subsets of passive rights.

<sup>5</sup> Edmundson, William A. "An Introduction to Rights." New York: Cambridge University Press, 2004. p. 121.

<sup>6</sup> <http://www.answers.com/topic/enlightened-despotism>

# Anarchy.

*Value > Normative Legitimacy > Form of Government*

Obviously this is a riskier case to run. A Christian debate league designed for those who are home educated is inherently going to be more conservative. Something that is seen as “eccentric” at the least and “radical or dangerous” at the most, is going to be a harder strategy to win by. However it may be something that an affirmative simply isn’t ready for. Furthermore it puts the affirmative more on the defense. The focus on the case won’t be whatever arguments they can provide for popular sovereignty but rather the existence of the state itself. Also, the time skew will inevitably run in your favor. Run this case and pair it with quick, concise arguments against the affirmative side of the flow that require a large amount of response time. That will allow you to pick and choose which arguments you feel can win the debate and will give you the ability to really focus on those, whereas the affirmative will only have three minutes to recover.

A few things to keep in mind,

- Acknowledge that your case seems radical. It’s obvious that anarchism in our society is synonymous with crazy, violent radicals. Calmly explain that is not the case.
- Don’t pretend that anarchy and anarchism has all the answers. One of the failures of anarchism is the fact that they somehow believe that all of the world’s problems will go away with the state. Explain that while there are some foreseeable issues with a stateless society, there are fewer and far less harmful to our rights than a state which steals our resources, tells us what to do and kills us.
- Remind the judge continually that their job is to judge the debate and which points they think were argued better, not better inherently. A good judge may think anarchism is the stupidest thing they have ever heard of, but still vote for a negative that has argued it in a manner than won them the debate.
- Americans and conservatives in particular have a connection to the American government. It’s a simple fact. We are proud, patriotic Americans. Remind us to be loyal to the ideas that we cherish (life, liberty, property and etc...) rather than some state.

# Anarchy.

“A man is none the less a slave because he is allowed to choose a new master once in a term of years.”  
-- Lysander Spooner

It is because of the truth stated in this quotation, that I am proud to stand negative in today's resolution: A government's legitimacy is determined more by its respect for popular sovereignty than individual rights.

## **Observation: Resolutinal Analysis**

### **a. Definitions**

**Government:** The organization that maintains the monopoly of violence in society. There have been many definitions offered of government however this is the most relevant and useful for us today for many reasons. Firstly, it comes from German sociologist Max Weber<sup>1</sup> who dealt extensively with the concept of legitimacy. Secondly, Weber argues that a necessary condition of government is that violence is in the hands of only the governing organization. In a country with a functioning government, political parties, churches and private groups do not use violent force. Countries that have many organizations that use force are said to have no government.

**Legitimacy:** The justification of the government's existence. According to the Stanford Encyclopedia of Philosophy<sup>2</sup>, there are two main categories of legitimacy, descriptive and normative. Since value debate makes a normative statement we will go with the normative or ethical definition. The question of a government's legitimacy is the question of whether or not that government's existence is justified.

**Determined:** to decide upon.

Based on the Random House Dictionary, © Random House, Inc. 2010.

**Respect:** the condition of being esteemed or honored

Based on the Random House Dictionary, © Random House, Inc. 2010.

**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.

Based on the Random House Dictionary, © Random House, Inc. 2010.

**Individual rights:** The basic rights of individual human beings; namely life, liberty and property. This was considered the most common of the basic individual rights in rights theory.<sup>3</sup>

### **b. What does the Resolution mean?**

The resolution today is a question of what makes the existence of a government, the organization that we allow to use violence in society, valid or legitimate? Some would base it on popular sovereignty or whether or not the “general will” of the people would support it. Others base it on government's alleged ability to uphold our rights. As the negative today I will be taking a third choice. As someone who believes in the sanctity of our lives, our liberty and our property, I will be arguing that each government has in fact no legitimacy. Therefore if it is impossible for governments to be legitimate then this resolution is false on it's face.

My value today will be that of human rights, or the basic individual rights that each human being is entitled to, chiefly life, liberty and property.

## **Contention One: Human rights is the highest value.**

### **a. Human rights are a moral obligation.**

Brian Orend explains in his book, "Human Rights: Concept and Context",<sup>4</sup>

"In general the objects of human rights are those fundamental benefits that every human being can reasonably claim from other people, and social institutions, as a matter of justice. Failing to provide such benefits, or acting to take away such benefits, counts as a rights violation. The violation of human rights is a vicious and ugly phenomenon indeed; it is something that we have overriding reasons to resist, and ultimately, remedy."

### **b. Human rights violations rob us of our humanity.**

Michelle Maiese of the Conflict Research Consortium<sup>5</sup> explains that human rights are the essence of humanity and to violate human rights, we must psychologically strip others of their humanity in a process of dehumanization. "Dehumanization is a psychological process whereby opponents view each other as less than human and thus not deserving of moral consideration. Psychologically, it is necessary to categorize one's enemy as sub-human in order to legitimize increased violence or justify the violation of basic human rights." It's clear that if in order to violate human rights we must dehumanize first, then it is doubly clear that human rights thus form the backbone of human nature itself.

### **c. It is clear that human rights is the only value in this round that forms the basic essence of humanity and also is the highest of moral obligations.**

Thus it will serve as the highest value today and the lens through which we look at the resolution.

## **Contention Two: Existence without Government is possible.**

### **a. Anarchy isn't violence and chaos.**

Many people malign an existence without the state as a dystopia of violence and mayhem. However as Prof. Peter Leeson of George Mason University<sup>6</sup> explains, "Ironically, the case for anarchy derives its strength from empirical evidence, not theory." Consider your life as it unfolded today. You get up, eat breakfast, share time with the family, go to work, go on errands, maybe engage in a bit of leisure time, and share dinner with the family, go to bed. This entire day went without government supervision and government control. Founding Father and American philosopher Thomas Paine once wrote, "Private society can do for itself everything the state can."

Many point to chaotic scenarios and argue that, "That is anarchy." However the history of stateless societies isn't that simple.

According to economic historian, Joel Mokyr<sup>7</sup>, "In England," for example, "there was not even a professional police force to protect private property" until the 19th century.

Or take for instance the case of medieval Iceland. According to Professor Jared Diamond<sup>8</sup>, "Medieval Iceland had no bureaucrats, no taxes, no police, and no army. ... Of the normal functions of governments elsewhere, some did not exist in Iceland, and others were privatized, including fire-fighting, criminal prosecutions and executions, and care of the poor."

Even Somalia, constantly used as an example of anarchy, has been found by the Independent Institute<sup>9</sup>, to have a lower level of poverty, higher level of income distribution than most other African nations and that economic activity and prosperity has actually risen in regions of Somalia ungoverned by the central government.



## **b. Anarchy is possible.**

Another major criticism of a life without government is that of utopianism. Or simply put, "Anarchy is a great idea but not a real world solution." However not only do the above examples refute this, but history is replete with people and communities living outside of government's control. Just in this era alone communities like Freetown Christiania in Denmark, the Zapatista Autonomous Municipalities in southern Mexico and the Abahlali baseMjondolo community in South Africa. Life without government is not only a possibility but in light of government's record, a necessity.

## **Contention Three: Governments will violate human rights.**

Government is in the business of violating people's rights. In principle and in practice, the government will always abuse us of our rights as long as we tolerate it's existence.

### **a. Life.**

Political scientist R.J. Rummel<sup>10</sup> explains that democide, or the mass killing of the people by their own government, has been far more deadly than nearly any other source. After studying over 8,000 cases of government sponsored murder, he found that on average, in this century alone, there were 712 people murdered by their own government every day, or 262 million. This is more than the total casualty list of all participants of both world wars, multiplied by two.

Clear in this last century, the greatest danger to our human right of life isn't some foreign government, domestic criminals or elements, but rather the government itself.

### **b. Liberty.**

German thinker Max Weber explains in his book, *Politics as a Vocation*<sup>11</sup>, that government is very simply organized force. A government that cannot wield force to make it's citizens follow it's commands is no government at all. However this very nature of government makes it, in principle and in practice, a violator of the very liberty which we claim to champion. American philosopher Lysander Spooner explains<sup>12</sup> that, "The principle that the majority have a right to rule the minority, practically resolves all government into a mere contest between two bodies of men, as to which of them shall be masters, and which of them slaves; a contest, that -- however bloody -- can, in the nature of things, never be finally closed, so long as man refuses to be a slave."

### **c. Property.**

French philosopher Frederic Bastiat explains<sup>13</sup> that the government will always be in the business of what he calls plunder, or more simply put, theft. Governments by their nature will steal things from their members and give them to other members. The fact that government, sometimes, allocates these to laudable projects like the care of the poor, does not in fact justify the way it was acquired. The ends do not justify the means. The means in this case is theft by superior violence. Once again Lysander Spooner tells us that <sup>14</sup>,

"The fact is that the government, like a highwayman, says to a man: 'Your money, or your life.' And many, if not most, taxes are paid under the compulsion of that threat. The government does not, indeed, waylay a man in a lonely place, spring upon him from the roadside, and, holding a pistol to his head, proceed to rifle his pockets. But the robbery is none the less a robbery on that account; and it is far more dastardly and shameful. The highwayman takes solely upon himself the responsibility, danger, and crime of his own act. He does not pretend that he has any rightful claim to your money, or that he intends to use it for your own benefit. He does not pretend to be anything but a robber."

It's clear that if we value our lives, our liberty and our property we come to one conclusion. To paraphrase Oliver Perry, "We have met the enemy and it is government."

## **Contention Four: All governments are illegitimate.**

From all this information we can garner a few things,

1. Human rights is the highest principle that exists in today's world and thus the question of the resolution must be answered with deference to human rights.
2. We find that an existence without the government ruling over us is not only achievable but also quite desirable.
3. Government is in fact the biggest enemy of our basic human rights.
4. Thus it's clear that if life without the government is possible and that this very same government is responsible for daily robbing us of our rights, the highest principle, then government as a whole is not legitimate, ever. Thus if no government can be legitimate by their nature, then this resolution is false.

## **Evidence**

<sup>1</sup> Weber, Max. *The Theory of Social and Economic Organization* (1964). p. 154.

<sup>2</sup> Fabienne, Peter. "Political Legitimacy". *The Stanford Encyclopedia of Philosophy* (Winter 2003 Edition), Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/win2003/entries/davidson/>.

<sup>3</sup> Powell, Jim. "John Locke: Natural Rights to Life, Liberty and Property". *The Freeman: Ideas on Liberty*. <http://www.thefreemanonline.org/featured/john-locke-natural-rights-to-life-liberty-and-property/>.

<sup>4</sup> Orend, Brian. *Human Rights: Concept and Context*. Broadview Press, Ltd. 2002.

<sup>5</sup> Maeise, Michelle. "Dehumanization." *Beyond Intractability*. Ed. Guy Burgess and Heidi Burgess. 1 Jun. 2003. Conflict Research Consortium, University of Colorado, Boulder, Colorado, USA. <http://www.beyondintractability.org/essay/dehumanization/>.

<sup>6</sup> Leeson, Peter "Anarchy Unbound." Cato Institute. 2007. <http://www.cato-unbound.org/2007/08/06/peter-t-leeson/anarchy-unbound-or-why-self-governance-works-better-than-you-think/>

<sup>7</sup> Mokyr, Joel. "Mercantilism, the Enlightenment, and the Industrial Revolution," mimeo, 2003, p. 18.

<sup>8</sup> Diamond, Jared (2002-05-23). "Living on the Moon". *The New York Review of Books*. [http://www.nybooks.com/articles/article-preview?article\\_id=15414](http://www.nybooks.com/articles/article-preview?article_id=15414).

<sup>9</sup> Benjamin Powell; Ryan Ford, Alex Nowrasteh (2006-01-30). "Somalia After State Collapse: Chaos or Improvement?". *Independent Institute*.

<sup>10</sup> Rummel, R.J. "Death by Government." 1994.

<sup>11</sup> Weber, Max. "Politics as a Vocation." 1919.

<sup>12</sup> Spooner, Lysander. "No Treason." 1867.

<sup>13</sup> Bastiat, Frederic. "The Law." 1848.

<sup>14</sup> Spooner, Lysander. "No Treason." 1867.

# The Briefs.

# Positive Legitimacy Brief.

## General

1. *Legitimacy is long-term acceptance or loyalty towards an institution*
2. *Legitimacy is fundamentally based on following appropriate procedures*
3. *Acceptance is most undermined by perceptions of unfairness*
4. *Perceived procedural fairness leads to legitimacy*
5. *Democracies lead to legitimacy because they are procedurally just*
6. *Democracies lead to legitimacy because they absorb opposition*

# General

## 1. Legitimacy is long-term acceptance or loyalty towards an institution

**Gibson**, James L. "Why Do People Accept Public Policies They Oppose? Testing Legitimacy Theory with a Survey-Based Experiment." *Political Research Quarterly* 58.1 (2005): 187-201.

Diffuse support—a synonym for "**legitimacy**"—refers to "**a reservoir of favorable attitudes or good will that helps members to accept or tolerate outputs to which they are opposed or the effects of which they see as damaging to their wants**" (Easton 1965: 273). The most useful way to conceptualize diffuse support, we argue, is to **think of it as** institutional **loyalty—support not contingent upon satisfaction with the immediate outputs of the institution**. Easton's apt phrase—a "reservoir of good will"—captures the idea that some people have confidence in institutions to make, in the long run, desirable public policy. "**Loyalty**" **embodies the notion that failure to make policy pleasing in the short-term does not necessarily undermine the basic commitment to support the institution**. Institutions without a reservoir of good will may be limited in their ability to go against the preferences of determined majorities (e.g., Tsebelis 2000, Gibson and Caldeira 2003, Gibson, Caldeira, and Baird 1998).

## 2. Legitimacy is fundamentally based on following appropriate procedures

**Grafstein**, Robert. "Legitimacy of Political Institutions." *Policy* 14.1 (1981): 51-69.

**In the purest sense, a legitimate institution secures obedience** to its decisions **by** the very fact of **having made them through appropriate institutional procedures**. Its outcomes are accepted, in the behavioral sense, when they are generated through the decision-making process of the institution. **The process might be a highly ritualized procedure used by a jungle tribe, or it might be a vote taken by the nine members of the United States Supreme Court**. If by virtue of the ritual having been followed or the vote having been taken obedience to the decisions ensues as a matter of course, the respective institutions are legitimate.

The preceding remarks are meant only to serve as a guide to the theoretical use of the term legitimacy. Others may interpret the behavioral phenomenon of legitimacy differently, but I doubt that the reference of the term is clear enough to assure it a uniquely right interpretation. In Jeremy Bentham's words, I am attempting to "fix" its import, not to "teach" it.

### 3. Acceptance is most undermined by perceptions of unfairness

**Gibson**, James L. "Why Do People Accept Public Policies They Oppose? Testing Legitimacy Theory with a Survey-Based Experiment." *Political Research Quarterly* 58.1 (2005): 187-201.

The data reveal that the Court is perceived as more legitimate than Congress, but not by much. On the first item—positing that the institution should be eliminated if it does not perform well—the responses are nearly identical, with large majorities expressing loyalty toward both institutions. Similarly, on the last item, nearly everyone recognizes an obligation to obey the decisions of both the Court and Congress, with a slight edge for the Court. The Court is trusted more than Congress, and people are considerably more likely to say that the Court is unbiased. **Loyalty toward Congress is most undermined by the perception that the institution favors some interests more than others**, a view held by two-thirds of the respondents. Overall, the average number of supportive statements endorsed for the Court is 2.9, compared to 2.5 for Congress.

### 4. Perceived procedural fairness leads to legitimacy

**Grimes**, Marcia. "Organizing consent: The Role of Procedural Fairness in Political Trust and Compliance." *Göteborg University, Sweden European Journal of Political Research* 45 (2006): 285–315.

Several studies have documented that perceived procedural fairness correlates with institutional legitimacy defined either as institutional trust or willingness to accept decision outcomes (Hibbing & Theiss-Morse 2001). **People who feel that the government is neutral** and cares what people think, and that politicians pay attention to the people that elected them also tend, for example, to **profess higher levels of political trust** (Ulbig 2002: 798–799). **Similarly, people who perceive that the Supreme Court conforms to certain standards of procedural fairness also tend to report a higher willingness to accept the court's rulings** (Tyler et al. 1996: 924). In a study focusing on the California Public Utility Commission, respondents were asked to anticipate the treatment they would receive if they went before the Commission to influence water consumption regulations. Respondents who anticipated that the Commission would be polite, considerate and fair in decision making also felt a somewhat stronger obligation to comply with the Commission's rulings on restricted water consumption (Tyler 1997: 327).

## 5. Democracies lead to legitimacy because they are procedurally just

Fabienne **Peter**. "Political Legitimacy." *Stanford Encyclopedia of Philosophy*. **2010**.

The account I have just given supports a procedural interpretation of Rawls' idea of public reason (Peter 2008). In this interpretation, public reason only applies to the justification of the constitution that constrains the process of democratic decision-making, but is not required to extend to the substantive (as opposed to the procedural) reasons people might hold to justify a decision. That is to say, **it is sufficient for political legitimacy that the process in which decisions are taken and people exchange reasons for and against particular decisions is appropriately constrained.** This interpretation of the relationship between democratic legitimacy and public reason **suggests that because people regard a properly justified process of democratic decision-making as the source of the legitimacy, they will accept a democratic decision even if they disagree substantively with it.** Such a conception of legitimacy takes the form of pure proceduralism (section 4.2.).

## 6. Democracies lead to legitimacy because they absorb opposition

**Grafstein**, Robert. "Legitimacy of Political Institutions." *Policy 14.1 (1981)*: 51-69.

**A political institution is legitimate**, in effect, **when the individual as a matter of course confines his behavior to** some subset of institutionally relevant choices—**the "legal" ones.** This view of legitimacy thus **puts greater stress on the extent to which the range of existing alternatives is** either **confined** to or biased toward this special subset. In the remaining space, I want to indicate briefly some of the aspects of legitimation that such a theoretical turn might highlight.

Internal **characteristics of institutions** may also **affect the degree of institutional closure on existing alternatives.** Institutions, for example, are better able to absorb variations in behavior when so-called reflexive mechanisms are built into their decision-making structure. The capacity to make laws about laws and thus alter them is a notable instance. Liberal **democracy's institutionalization of opposition**, already discussed, **has the same effect of absorbing** potentially **illegitimate behavior**, an effect already recognized by some under the title "repressive tolerance." An added dimension of the institutionalization of opposition is that parts of the institution may deflect behavior that would otherwise delegitimize the institution as a whole. **Specifically, insofar as old and new political parties become the targets of support and opposition, the electoral institution itself is removed from direct contention.** Students of political support for institutions (note the psychological-behavioral ambivalence of the term support) have been puzzled over their findings that strong public support for the American electoral institution coexists with weak support for parties, which are seemingly among the institution's basic components. Some higher level psychological formulation may be able to restore consistency, but my main point is that under the institutional conception such inconsistency is not problematic in the first place.

# Popular Sovereignty Brief.

## General

1. *Democracy is a type of decision making*
2. *Democracy can be applied to many aspects of society*
3. *Popular Sovereignty is ultimate authority of the people and has different forms*
4. *There can be differing levels of equality in a democracy*
5. *Western democracies do not respect popular sovereignty*

## Affirmative

### Offense

6. *The lack of popular sovereignty leads to depression*
7. *Popular Sovereignty protects the well being of society and is an end to itself*
8. *To be governed and have no say over your government is slavery*

### Defense

9. *Popular Sovereignty is not mob rule*
10. *Mill's "no harm" principle guarantees minority rights*

## Negative

### Popular Sovereignty Harms Human Rights

11. *Swiss PopSov curtails liberties of Muslim citizens*
12. *PopSov in California and Maine violates the liberties of LGBT citizens*
13. *Governments that utilize popular sovereignty face inevitable tyranny and dependency*
14. *Popular Sovereignty does not guarantee equality*

### Popular Sovereignty Harms Stability

15. *Popular sovereignty justifies mob rule*
16. *Popular Sovereignty endangers stability*

### Democratic Policies Fail

17. *Direct Democracy fails to deliver*
18. *Democractic decision-making is infinitely regressive*
19. *Democractic policies tend to be popular, but not the best.*



# General

## 1. Democracy is a type of decision making

Tom *Christiano*. "Democracy." *Stanford Encyclopedia of Philosophy*. 2006.

To fix ideas, the term "**democracy**," as I will use it in this article, **refers very generally to a method of group decision making characterized by a kind of equality among the participants at an essential stage of the collective decision making.**

## 2. Democracy can be applied to many aspects of society

Tom *Christiano*. "Democracy." *Stanford Encyclopedia of Philosophy*. 2006.

Four aspects of this definition should be noted. First, democracy concerns collective decision making, by which I mean decisions that are made for groups and that are binding on all the members of the group. Second, this definition means to cover **a lot of different kinds of groups that may be called democratic.** So **there can be democracy in families, voluntary organizations, economic firms, as well as states and transnational and global organizations.**

## 3. Popular Sovereignty is ultimate authority of the people and has different forms

Thomas *Jefferson* to Thomas Pinckney, 1792. ME 9:7

**Every nation has a right to govern itself internally under what forms it pleases, and to change these forms at its own will;** and externally to transact business with other nations through whatever organ it chooses, **whether that be a King, Convention, Assembly, Committee, President, or whatever it be. The only thing essential is, the will of the nation.**

Thomas *Jefferson* to Edmund Randolph, 1799. ME 10:126

**The whole** body of the **nation is** the **sovereign** legislative, judiciary, and executive power for itself. **The inconvenience of meeting to exercise these powers in person, and their inaptitude to exercise them, induce them to appoint special organs to declare their legislative will, to judge and to execute it.** It is the will of the nation which makes the law obligatory; it is their will which creates or annihilates the organ which is to declare and announce it. They may do it by a single person, as an emperor of Russia (constituting his declarations evidence of their will), or by a few persons, as the aristocracy of Venice, or by a complication of councils, as in our former regal government or our present republican one. **The law being law because it is the will of the nation, is not changed by their changing the organ through which they choose to announce their future will; no more than the acts I have done by one attorney lose their obligation by my changing or discontinuing that attorney.**

#### 4. There can be differing levels of equality in a democracy

Tom **Christiano**. "Democracy." *Stanford Encyclopedia of Philosophy*. 2006.

Fourth, **the equality required by** the definition of **democracy may be** more or less deep. It may be the **mere formal equality of one-person one-vote in an election** for representatives to an assembly where there is competition among candidates for the position. **Or it may be more robust, including equality in the processes of deliberation and coalition building.** "Democracy" may refer to any of these political arrangements. It may involve direct participation of the members of a society in deciding on the laws and policies of the society or it may involve the participation of those members in selecting representatives to make the decisions.

#### 5. Western democracies do not respect popular sovereignty

John F. **Knutsen**. "Popular Sovereignty." Last updated 7/2/2004. <http://www.basiclaw.net/Principles/Popular%20sovereignty.htm>

According to the New Columbia Encyclopedia, sovereignty is "the supreme authority in a political community". It is that individual or group that has absolute power to make law. The term popular sovereignty is supposed to mean that this ultimate power belongs to the people, but what is the most common contemporary interpretation? **Most Western democracies claim to base their government on popular sovereignty, but in reality the people has little ultimate authority short of revolution. Most decisions, even fundamental decisions, are left to the legislatures. It is usually the legislature that controls the constitution, the most basic instrument of government, and the extent of popular authority is usually at this body's discretion. Even where popular consent is required, the legislature usually has the sole authority to propose amendments. In reality this means that sovereignty is most commonly placed in the legislature. It is this body, rather than the people, that has the ultimate power to make law.**

## Affirmative

### Offense

#### 6. The lack of popular sovereignty leads to depression

John F. Knutsen. "Popular Sovereignty." Last updated 7/2/2004. <http://www.basiclaw.net/Principles/Popular%20sovereignty.htm>

Ideas and thoughts legitimizing the rule of consent also may be found in many religious tracts. **The Bible sums it up quite nicely** and again not coincidentally: "**Love your neighbor as yourself.**" (Mark 12, 31), and "And as you would like that men would do to you, do exactly so to them." (Luke 6,31). In other words; since you like to control your life, let others control theirs. **The implied promise is that the individual and society will be happy and prosperous to the extent that this advice is followed and the people is [are] given the maximum amount of individual and group liberty and sovereignty.**

Contemporary psychologists as well, in their search for the sources of happiness and depression, have found the same result. Happiness, confidence and success are closely related to a belief in one's ability to influence one's own fate. Depression and failure are related to a feeling of inability to control one's own life, to a feeling of being controlled.

#### 7. Popular Sovereignty protects the well being of society and is an end to itself

*Patterson, Orlando. "Freedom in the making of Western culture." 1991.*

**Marsilius** of Padua (1275?- after 1343) **developed what would be the most radical theory of civic freedom in Europe** before Locke. Marsilius conceives of the state as a body not based on ideal ends but natural propensities. **It is natural for mankind to exercise will** and to want the sufficient life. Marsilius gives two arguments for popular sovereignty. One is that **only when the people legislate will the laws be made for the common benefit. Bad laws, according to him, leads to "unbearable slavery, oppression and misery of the citizens" and to the downfall of the state. Marsilius however uses another argument in defense of civic freedom - namely that self legislation is an end to itself. Majoritarian rule is justified not merely on utilitarian grounds, but as an expression of inherent value: the natural urge to exercise one's will, to share in the determination of everything that concerns one.**

## 8. To be governed and have no say over your government is slavery

*Patterson, Orlando. "Freedom in the making of Western culture." 1991.*

As Gewirth commented, "**The citizens become slaves when the laws under which they live are beyond their control and this is because both the nature of the freedom and the consequence of it's loss.**"

### **Defense**

## 9. Popular Sovereignty is not mob rule

*John F. Knutsen. "Popular Sovereignty." Last updated 7/2/2004. <http://www.basiclaw.net/Principles/Popular%20sovereignty.htm>*

Direct democracy means that the people directly decides all issues, instead of delegating decisions to representative bodies like national legislatures; while popular sovereignty means that the ultimate political authority is deposited in the people. It follows that **popular sovereignty and direct democracy are closely related, but they are not exactly the same. Crudely simplified we may say that popular sovereignty is political theory at a more basic level, while direct or semi-direct democracy is its practical and pragmatic manifestation.** Much of the discussion in the following chapters will therefore focus on (semi) direct democracy, its implementation and effects.

As an aside I might add that **it is possible to have direct or semi-direct democracy without popular sovereignty. Ordinary people may be allowed to make ordinary laws, but barred from changing the constitution. Such a combination was proposed in the United Kingdom around the turn of the century. Similarly, it is possible to have popular sovereignty without direct democracy in its purest form. This is the usual form of popular sovereignty; a combination of representative bodies and ultimate popular authority.** But it is not possible to envision popular sovereignty without such a form of semi-direct democracy.

## 10. Mill's "no harm" principle guarantees minority rights

*Democracy Web: Comparative Studies in Freedom. "Majority Rule/Minority Rights: Essential Principles"*

Democracy therefore requires minority rights equally as it does majority rule. Indeed, as democracy is conceived today, the minority's rights must be protected no matter how singular or alienated that minority is from the majority society; otherwise, the majority's rights lose their meaning. **In the United States, basic individual liberties are protected through the Bill of Rights**, which were drafted by James Madison and adopted in the form of the first 10 amendments to the Constitution. These enumerate the rights that may not be violated by the government, **safeguarding—in theory, at least—the rights of any minority against majority tyranny**. Today, these rights are considered the essential element of any liberal democracy.

The British political philosopher **John Stuart Mill** took this principle further. In his essay *On Liberty* he **wrote, "The only purpose for which power can be rightfully exercised over any member of a civilized community against his will is to prevent harm to others."** Mill's "no harm principle" aims to prevent government from becoming a **vehicle for the "tyranny of the majority,"** which he viewed as not just a political but also a social tyranny that stifled minority voices and imposed a regimentation of thought and values. Mill's views became the basis for much of liberal political philosophy since, whether it is free market or economic liberalism or social liberalism.

## Negative

### Popular Sovereignty Harms Rights

#### 11. Swiss PopSov curtails liberties of Muslim citizens

Hawthorne, Christopher. Dec. 1st 2009. "The Swiss Minaret ban: Anxieties, unveiled."  
<http://latimesblogs.latimes.com/culturemonster/2009/12/the-swiss-minaret-ban-islamophobia-lightly-veiled.html>

**When Mutalip Karaademi**, a furniture salesman and **a Muslim who lives in** the northern Swiss town of **Langenthal**, **proposed adding a** minaret, or **prayer tower, to his local mosque** several years ago, **he likely had no idea the suggestion would help spark international controversy.** After all, the structure he had in mind was only going to be 16 feet tall.

But **the plan prompted a backlash among some of Karaademi's non-Muslim neighbors**, who said they saw the proposed tower as the symbol of an intolerant religion. And **that backlash helped galvanize support for a national referendum, passed** on Sunday **with 57.5% of the vote, to ban the construction of new minarets across Switzerland.**

**The new law**, which **will add a single terse line to the Swiss constitution outlawing the towers** -- but says nothing about mosque design more broadly -- has drawn fire from religious leaders and editorial writers alike. ("The irrational fear of Islam has struck once again in Europe," the French paper Liberation said.) But the leaders of the referendum movement are uncowed. One legislator from the right-wing Swiss People's Party, Ulrich Schluer, told the Times after the vote that the minaret "is a political symbol against integration" and represents an effort to establish Sharia, or Islamic law, on European soil.

**It's still possible that** the Swiss government, concerned that **the new constitutional language runs counter to international human rights accords**, will work to modify the ban. But one thing is clear: At least for the time being, the minaret has replaced the veil as the dominant symbol of the tense relationship between Islam and the West.

## 12. PopSov in California and Maine violates the liberties of LGBT citizens

*Amicus Curiae Brief from the Southern Law Poverty Center. Dec. 14th 2009. [http://www.courtinfo.ca.gov/courts/supreme/highprofile/documents/South\\_Poverty\\_Law\\_Ctr\\_Amicus\\_Curiae\\_Brief.pdf](http://www.courtinfo.ca.gov/courts/supreme/highprofile/documents/South_Poverty_Law_Ctr_Amicus_Curiae_Brief.pdf)*

Indeed, the danger to the liberty of same-sex couples in California rises to the level of that warned by philosopher John Stuart Mill, who opined that in a representative democracy, safeguards are required against unfettered control by the 'tyranny of the majority.' (John Stuart Mill, On Liberty, The Library of Liberal Arts Edition, p.7.) Nowhere is this tyranny of the majority more evident than when the electorate of California approved Proposition 22 or the Governor vetoed contrary legislation 'out of respect for the will of the People.

## 13. Governments that utilize popular sovereignty face inevitable tyranny and dependency

*Farah, Joseph. April 27th 2007. "Why Democracy Doesn't Work." WorldNetDaily. [http://www.wnd.com/news/article.asp?ARTICLE\\_ID=55401](http://www.wnd.com/news/article.asp?ARTICLE_ID=55401)*

Democracy just plain doesn't work. And it inevitably leads to tyranny. In fact, America reached a critical breaking point in this process earlier this month. Gary Shilling, an economist in Springfield, N.J., released a study noting that 52.6 percent of Americans "now receive significant income from government programs." That's 52.6 percent – more than a majority. Just seven years ago, just about the time George Bush was preparing to enter the White House as a Republican president promising "compassionate conservatism," that number was 49.4 percent – still way too high, far too close to that breaking point, but at least slightly less than a majority. Go back a little further in time, to 1950, and the number was a mere 28.3 percent. How far and how fast into the depths of dependency Americans have fallen!

#### 14. Popular Sovereignty does not guarantee equality

Harrell R. **Rodgers**, Jr., of the University of Houston. "Civil Rights and the Myth of Popular Sovereignty." *Journal of Black Studies* 12.1 (1981): 53-70.

**The theory behind the civil rights movement was that, once freed from overt intimidation and given basic political rights, blacks would be able to translate their gains into political power and economic equality. These assumptions have, for the most part, proven wrong. In an elite/special-interest-dominated system heavily influenced by wealth and based on an economic structure that neglects and exploits millions of citizens, genuine political power and economic quality have eluded black American.** These points are easily proven and are increasingly obvious to blacks.

**The realities of the power structure in America severely limit the ability of some groups to exercise influence.** To have power in Washington **a group must be organized, active, well financed, politically sophisticated, and well represented by elected and appointed officials.** Washington is loaded with groups that meet these standards, but mostly they represent interests dedicated to the preservation of the status quo. **Minority groups do not have the organization, staffs, funds, expertise, or connections of groups that represent big business and the wealthy.**

**Additionally,** given the separation of powers in the American government and the decentralization of power in Congress, **it is much easier to defeat than to pass legislation. Thus, minorities who need to pass legislation are disadvantaged compared to groups that desire primarily only to maintain the status quo. It takes a great deal more power, for example, to pass a full employment bill than it does to defeat one.** A congressional committee or one or two senators can often kill or defeat legislation, easily stymieing a simple majority of Congress. Thus **any legislation that touches the power bases of America must have the support of at least three-fourths of the members of Congress, a rare and difficult coalition to muster.**



## Popular Sovereignty Harms Stability

### 15. Popular sovereignty justifies mob rule

Christian G. **Fritz**, member of the University of New Mexico School of Law. "Popular Sovereignty, Vigilantism, and the Constitutional Right of Revolution." *Pacific Historical Review* 63.1 (1994): 39-66.

The focus of this article is the interplay of an indigenous American idea—popular sovereignty—and two American traditions: **vigilante justice and constitutional conventions** during the nineteenth century. While the traditions **may seem unconnected, they are linked by the doctrine of popular sovereignty**, which was based on the notion that "the people" are the ultimate and only legitimate basis for government and that "the people" possess the right to reform, alter, or abolish their government at any time. What emerged in the debates over both the proposed California constitution of 1849 and the San Francisco vigilante activities of the 1850s were conflicting views about both the scope and means whereby the people could exercise this sovereignty.

**This does not mean that those who championed popular sovereignty in state constitutional conventions necessarily favored vigilantism, but that their argument about the nature of popular sovereignty itself gave important theoretical legitimacy to vigilance activities.**

**As popular government, majoritarianism, and democracy developed political meaning in the course of the nineteenth century, a natural connection emerged with vigilantism.** Nineteenth-century citizens, more than those of the twentieth, asserted a closer relationship between the people and their government, including a greater expectation of political accountability and responsiveness. **According to historian William C. Culberson, they "accepted more completely...the concept that government is the servant of the people, subject to their immediate control" and that the people had a "right to shortcut government and overrule officials."**

Attitudes toward popular sovereignty did not necessarily dictate reactions to vigilantism. Put another way, **not all vigilantes embraced a shared view of popular sovereignty. Still, those who accepted the more expansive aspects of that doctrine were more inclined to support vigilantism because they accepted the underlying rationale for extralegal action, although such a connection was not inevitable.** Indeed, most of those who became the leaders of San Francisco's 1856 vigilance committee were conservatives who shied away from the destabilizing implications of popular forces reforming government and only later adopted an expansive theory of popular sovereignty as a justification for vigilantism. These men—characterized by Josiah Royce as participants in a "Business Man's Revolution"—presented the irony of conservatives invoking constitutional theory to justify revolution. Their control of the movement convinced them that the right of revolution could be exercised safely. **In the mid-1850s, however, those who held a more expansive view of popular sovereignty tended to be the supporters of vigilantism.**

## 16. Popular Sovereignty endangers stability

Christian G. **Fritz**, member of the University of New Mexico School of Law. "Popular Sovereignty, Vigilantism, and the Constitutional Right of Revolution." *Pacific Historical Review* 63.1 (1994): 39-66.

**From popular sovereignty's earliest appearance, its revolutionary potential frightened some people enough to prompt a redefinition of the nature of sovereign power and how it could be exercised within the evolving American republic. Eventually, private power would be constrained by public institutions of justice,** and the almost limitless possibilities of constitutional conventions would be restricted by the ability of the people to amend existing constitutions. Ultimately, this limitation on the potential of popular sovereignty kept federal and state constitutional revision within a narrow channel.

Ultimately, however, **James Madison and other federalists argued successfully for limits to popular sovereignty by confining federal constitutional revision to the cumbersome procedures spelled out in Article Five or to judicial interpretation by the U.S. Supreme Court.** In effect, what Madison and others accomplished for the national government was to relegate popular sovereignty to a theory that commanded universal assent while suppressing its actual revolutionary possibilities. **The adoption of the Constitution in 1787 and John Marshall's assertion of the power of judicial review in Marbury v. Madison (1803) in large measure achieved the objectives of those who feared,** with Madison, **the political instability threatened by too much popular control.** Thus, the struggle between these two competing visions of federal constitutional revision was relatively quickly resolved by the early national period.

## Democratic Policies Fail

### 17. Direct Democracy fails to deliver

*Edwards, Gregg. President of Center for Policy Research of New Jersey. Sept. 8th 2003. <http://www.allbusiness.com/north-america/united-states-new-jersey/921624-1.html>*

A little-known fact is that **New Jersey's constitution provides for the recall of any elected official.** That's right, what is happening now in California could occur in New Jersey. What's more, the recall provision was added to the constitution through a ballot question, which is the only way our State's constitution can be changed. **So, not only does New Jersey have recall, it also has ample experience with statewide ballot questions. Since these forms of participatory democracy have not caused political upheaval, some ask why we don't take the next step by adopting a statewide initiative and referendum process (I&R)** that is available, in various forms, to the voters of 27 other states.

I&R **opponents** in New Jersey often **cite the California experience to highlight I&R's failings.** They argue that **the plethora of constitutional amendments and laws placed on the ballot and approved by the voters have made California ungovernable.** But in many respects, California-style I&R is the most "extreme" form of government by citizen petition, so it is easy to attack. I&R in other states does not wreak the havoc it does in California.

While an I&R process can be fashioned that mitigates some of California's failings, the New Jersey experience with **statewide ballot questions illustrates a serious problem endemic to I&R that is difficult, if not impossible, to correct. The unfortunate irony of I&R is that direct citizen participation in lawmaking often yields policies approved with little public support. Its promise of greater citizen engagement is unfulfilled.**

**In New Jersey, voter participation** in statewide ballot questions **is anemic. In the general elections from 1997-2000, 11 ballot questions were presented to and approved by the voters. On average, only 73% of those who went to the polls** in those four elections **actually voted on the questions.**

**This level of participation is especially pathetic** given the small pool of eligible participants we're dealing with. It's 73% of those who voted in that election-not 73% of eligible voters or even 73% of registered voters. **To describe the situation in real terms, one 1999 ballot question passed with only 16% of the registered voters supporting the measure. This raises the question of whether I&R actually promotes minority rule.**

## 18. Democractic decision-making is infinitely regressive

Tom *Christiano*. "Democracy." *Stanford Encyclopedia of Philosophy*. 2006.

One difficulty is that this view relies on agreement much as the liberty views described above. **What if people disagree on the democratic method or on the particular form democracy is to take? Are we to decide these latter questions by means of a higher order procedure? And if there is disagreement on the higher order procedure, must we also democratically decide that question? The view seems to lead to an infinite regress.**

## 19. Democractic policies tend to be popular, but not the best.

Tom *Christiano*. "Democracy." *Stanford Encyclopedia of Philosophy*. 2006.

Not all instrumental arguments favor democracy. **Plato** (Republic, Book VI) **argues that democracy is inferior to various forms of monarchy, aristocracy and even oligarchy on the grounds that democracy tends to undermine the expertise necessary to properly governed societies. In a democracy, he argues, those who are expert at winning elections and nothing else will eventually dominate democratic politics.** Democracy tends to emphasize this expertise at the expense of the expertise that is necessary to properly governed societies. The reason for this is that **most people do not have the kinds of talents that enable them to think well about the difficult issues that politics involves. But in order to win office or get a piece of legislation passed, politicians must appeal to these people's sense of what is right or not right. Hence, the state will be guided by very poorly worked out ideas that experts in manipulation and mass appeal use to help themselves win office.**

# Individual Rights Con.

## Affirmative

### Offense

1. *Focusing on individual rights cheapens political discourse*
2. *The language of individual rights actually leads to more rights abuses*
3. *"Human rights" in our Western context are used as tools of oppression*
4. *Focus on individual rights has harmed civic responsibility in society*
5. *Individual rights lead to people being separated from each other socially*

## Affirmative

### Offense

#### 1. Focusing on individual rights cheapens political discourse

*Neff, David. Interview with David Koyzis. "Avoiding Rights Talk." Christianity Today. June 1st 2003. <http://www.christianitytoday.com/ct/2003/juneweb-only/6-16-12.0.html?start=3>*

**In the abortion controversy, both sides talk about rights: the right to life of the unborn baby versus the woman's right to choose. Isn't this the thought framework of classical liberalism? To be true to a Christian worldview, should pro-life advocates be using a different kind of rhetoric? Yes. The whole of political discourse has been reduced to rights talk. And if you can somehow take refuge behind rights, then that presumably trumps all other considerations. Rights talk has only served to polarize further the two sides on the abortion issue.**

#### 2. The language of individual rights actually leads to more rights abuses

*Blattberg, Charles. "The Ironic Tragedy of Human Rights." Social Science Research Network. University of Montreal. 2009.*

**With the 1948 UN Universal Declaration of Human Rights, the idea of human rights came into its own on the world stage. More than anything, the Declaration was a response to the Holocaust, to both its perpetrators and the failure of the rest of the world adequately to come to the aid of its victims. Since that year, however, we have seen many more cases of mass murder. Think of China, Bali, Cambodia, Ethiopia, Guatemala, the former Yugoslavia, Rwanda, and now Darfur. Of course one could always claim that such horrors would have been even more frequent if not for the Declaration. But I want to argue otherwise. For I believe that human rights have contributed to making mass murder more, rather than less, likely. To be clear, my concern is specifically with the language of human rights, not the values it expresses, values which I certainly endorse. The problem with this language is that it is abstract. And the problem with abstraction is that it demotivates, it 'unplugs' us from the 'moral sources,' as Charles Taylor would call them, which empower us to act ethically.**

#### 3. "Human rights" in our Western context are used as tools of oppression

*Žižek, Slavoj. "Against human rights." February 19th 2010.*

The Marxist symptomal reading can convincingly demonstrate **the content that gives the notion of human rights its specific bourgeois ideological spin: universal human rights are effectively the right of white, male property-owners to exchange freely on the market, exploit workers and women, and exert political domination.**

#### 4. Focus on individual rights has harmed civic responsibility in society

*Maltese, John Anthony. Reviewing "Rights Talk: Impoverishment of Political Discourse" by Mary Ann Glendon. February 1993. <http://www.bsos.umd.edu/gvpt/lpbr/subpages/reviews/glendon.htm>*

In her wonderfully readable book, *Rights Talk*, Mary Ann **Glendon argues that Americans have a propensity to translate nearly every social controversy into a clash of rights.** She further argues that **the rhetoric used to describe those clashes is one that stresses both hyperindividualism at the expense of social responsibility and an absolutist formulation of rights at the expense of compromise.** She concludes that **this "American rights dialect"** is different from that of other liberal democracies, and that it **"promotes unrealistic expectations, heightens social conflict, and inhibits dialogue"; moreover, it fosters "a climate that is inhospitable to society's losers"** (p. 14). In short, Glendon argues that **America** is the land of the "lone rights bearer" -- "helmetless and free on the open road" (p. 46) -- who **treats rights as entitlements and who uses them as the ultimate weapon: a trump against opponents in which the "winner takes all and the loser has to get out of town"** (p.9).

**Glendon argues that our American rights dialect was strongly influenced by the language and images of John Locke as relayed in "the genial, garbled, and simplified version of Blackstone" (p.24).** Through them, Americans latched onto property as the prototypical natural right -- "the cardinal symbol of individual freedom and independence" (p.24). In contrast, the European rights dialect reflected the rather different view of property espoused by Jean-Jacques Rousseau who, by pointing out "the relationship of property to selfishness, greed, power, and violence...painted a serpent in the midst of Locke's garden of peaceful labor" (p.33). Drawing on the classical and the Biblical, Rousseau stressed that **notions of community and public good override property rights. Thus, while the American view of property led to an "exaggerated absoluteness" in our rights rhetoric (reflected in the Supreme Court's conception of property rights from the late 1800s through the 1930s, and in its more recent approach to individual rights), Europeans have been more wary of absolute formulations of rights. Moreover, modern European laws and constitutions couple rights with explicit responsibilities for its citizens (p.103).** In contrast, the language of responsibility is all but missing from the vocabulary of American public discourse.

For Glendon, **our simplistic and exaggerated rights talk and our virtually nonexistent responsibility talk reflects the impoverishment of our political discourse. The result is "a verbal caricature of our culture" that "captures our devotion to individualism and liberty, but omits our traditions of hospitality and care for the community"** (p.xii).

## 5. Individual rights lead to people being separated from each other socially

Marx, Karl. "On the Jewish Question." 1844.

Above all, **we note the fact that the so-called rights of man, the *droits de l'homme* as distinct from the *droits du citoyen*, are nothing but the rights of a member of civil society – i.e., the rights of egoistic man, of man separated from other men and from the community. Let us hear what the most radical Constitution, the Constitution of 1793, has to say:**

*Declaration of the Rights of Man and of the Citizen.*

Article 2. "**These rights**, etc., (the natural and imprescriptible rights) **are: equality, liberty, security, property.**"

**What constitutes liberty?**

Article 6. "**Liberty is the power which man has to do everything that does not harm the rights of others,**" or, according to the *Declaration of the Rights of Man* of 1791: "**Liberty consists in being able to do everything which does not harm others.**"

**Liberty, therefore, is the right to do everything that harms no one else. The limits within which anyone can act *without harming* someone else are defined by law, just as the boundary between two fields is determined by a boundary post. It is a question of the liberty of man as an isolated monad, withdrawn into himself.**



# Putting It Together.

# How to Write an Affirmative Case.

## Resolutional Analysis

The first thing one needs to do is the resolutional analysis. What does the resolution mean? In other forms of debate, this is sometimes referred to as the framework. It lets us know what will and will not be debated, what the “rules” of the debate are and how the debate will be won by one side or the other. Just as we must first create rules to the game before it can be played, so we must analyze the resolution before it can be debated. Without a resolutional analysis, it’s akin to a debate with no form or substance. For instance, “Is America a Christian nation?” Without analyzing what that statement, or resolution, means it will lead to a useless argument with no clash or education.

## **Definitions**

Definitions is the first part of any resolutional analysis. It gives meaning to the resolution and more important draws distinctions between what is and what is not resolutional, or as policy debaters refer to it, topical. It is akin to drawing lines of any ball game, for instance the foul line in baseball. A hit inside the foul lines are considered in play. A hit outside the foul line does not count for advancing bases or home runs. When looking for definitions it’s important to keep a few pointers in mind. First of all, usually keep the definitions common. Making them obscure will only confuse your opponent and more importantly your judge. Secondly, make sure they all fit when place together. Context is key. Sometimes just taking the most common definitions actually makes for a resolution that makes no sense.

Once the lines are drawn, then it’s usually helpful to write a few lines or to explaining what all those definitions mean when strung together in a sentence. Some judges may be able to hear you list off seven definitions and piece them all together, but most will not. This will especially help with your inevitable community and parent judges.

## **Lay Out Important Issues**

Furthermore it’s also very helpful to quickly lay out how the round will either be won or lost. In policy debate we’d refer to them as stock issues but in value it’s usually not as simple. Quickly lay out the important issues, how you must win them to win and lay out the affirmative and negative burdens.

## Case

Once all the resolutional analysis is done you can start into the case proper, specifically the value premise. This is the centerpiece of the entire case. Find a concept that you believe to be inherently valuable. One that our society values and you can find several reasons as to why it should serve as the most valuable philosophical concept in a debate round. There are a slew of choices, but you want to make sure that it will be relevant to the resolution and in addition something that can be strongly anchored to your resolution. In your contention defending your value you need to explain why not only your value is desirable but also preferable to all others.

## **Contentions**

Your contentions, or arguments, will be how you anchor your value to your side of the resolution. Now that you’ve defined the resolution, given a value premise, defended that premise now you must show how your side of the resolution upholds that value best and conversely explain how the other side of the resolution would not uphold your value and would in fact harm it. It’s important to understand that a

contention is not simply a paragraph or some kind of dumping ground for random arguments, founding fathers quote and words that have little to no connection to each other but rather is a single coherent argument. That's what the word contention means. So the tagline should be one concise sentence that explains the argument. Also, like any other argument a contention should be sub-divided somehow into claim, warrant and impact. You need to go beyond the simple claim, but also provide some reason why I as the judge should accept. Furthermore explain why this argument, if true, has any kind of impact on the validity of the resolution and the debate itself. The way I explain it is simple. Every argument you said should be followed by a "...therefore..." until you reach the conclusion of "...therefore the resolution is true" or "...the resolution is false."

## **AGD**

Finally, once the entire case is written you need an attention getting device or AGD for short. An AGD serves simply as it describes, to grab the judge's and audience's attention. Our brains work in such a way that it takes us a few moments to grasp what someone is saying in a formal setting. An AGD gives us those few moments for our brain to realize that you are talking and we should pay attention. Also it starts us on the right note, getting ready to listen to what you say and agree with it. There are generally two types of common AGDs in a debate case. Either a quick story or hypothetical scenario that draws your audience in while making a general point about your value, your side of the resolution or the main premise of the case. The second AGD type is the quotation. Now there are a few things to make your quotation AGD ideal. First of all it must be pithy. A long quotation will just bore and confuse people. Secondly, it should be eloquent or at least roll off the tongue well. Thirdly, it is helpful to have it from someone well known. Dr. King, George Washington, Mother Teresa are all examples of well known speakers and leaders. Lastly, it must be directly related to the case in some way.

Now it's important to understand that this process is not a one day or even one week process. It will be a continual process of renewal and revision. As it clashes against people in your club meetings and at tournaments it will be important to revise for the sake of clarity, stronger argumentation and competition.

# Prepping for Debate.

You've read through this book. This is a guide on what to do next.

## 1. Read it again.

There are concepts that are hard to get without thinking about them multiple times. This mess of a resolution is one of them.

## 2. Know about the topics.

Read up on the topics. These topics are discussed in this book—you could start with them if you want:

### Philosophy:

- Individualism and Collectivism
- Utilitarianism and Negative Utilitarianism
- Will Theory and Interest Theory
- Deontology and Teleology
- Negative and Positive Rights

### Political Philosophy:

- Self Determination/Self Government
- Social Contract

### Political Systems:

- Democracy
- Anarchy
- Elitism

### Political Science:

- Positive Legitimacy
- Hyperpluralism
- Trust
- Alienation

The Internet Encyclopedia of Philosophy and the Stanford Encyclopedia of Philosophy are two very valuable resources with articles on most of these topics. Take notes and write down ideas for arguments and cases as you think of them. Wikipedia is a good starting point, but don't rely on it. It often oversimplifies or misses large chunks of information. Look up the references in Wikipedia's articles, which are usually more credible. If your library or community college gives you access to scholarly journals, they can be a good source of credible peer reviewed information.

Knowledge is key. It's really easy to be tempted to not actually read these resources, but reading papers and books brings something that reading summaries and articles cannot. You gain a much deeper understanding of the subject, which is useful not only for this debate season, but for school and other understanding philosophy in general. Read to know more.

### **3. Create a List of Arguments**

Developing your own arguments is simply a matter of using the knowledge that you have and creating scenarios where your side is superior. Not every argument you think of will be a winning argument, and sometimes arguments that seem weak can be made strong through further thinking and research.

### **4. Preparing for Affirmative**

After you write your case using the arguments you've developed, debate it yourself. Create arguments to defeat it. There shouldn't be an argument you can't defeat, because if someone decides to run your argument against you, you're dead. If you do find an argument you can't beat, use it, and still find a way to beat it. That way, others won't know how to beat it but you will.

After you've found strategies against your cases, preempt them. Make your case invulnerable to those attacks, or make it so that you have an easier time responding to those attacks. There isn't a perfect case. There will be arguments against even the best case, which means that the best case is one that is easy to defend in the 1AR and the 2AR.

### **5. Preparing for Negative**

When you're debating an affirmative case, make sure that you respond to it with a similar case. Forms vs. Forms. Duty vs. Duty. Normative vs. Normative. This is critical. Also make sure that your neg case has the same conflict scenario as the affirmative case you're debating, or provide a strong reason why their conflict scenario is invalid.

This means that you must have multiple neg cases, or create a flex neg to match the specific aff case. Simply because the variety in cases this year will be so great, to truly respond to a case, it will be necessary to adapt your neg every round. Create sections of a negative case that respond to different elements of affirmative cases and put them together during the round.

For example, create a response to each conflict scenario you can think of. Then create responses to philosophical arguments, or essentially create "generics." During the round, pull files from your box or binder to match the affirmative case.

Finally make a table of case elements and your corresponding response strategies.

**It's been a journey.**

You're awesome. Go dominate.