

CHARLES UNIVERSITY IN PRAGUE
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Master's Thesis

**Liberal Democracy and the Limits of State Coercion:
The Detrimental Nature of Racial Policing in the United States**

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Declaration of Authorship

1. The author hereby declares that he compiled this thesis independently, using only the listed resources and literature.
2. The author hereby declares that all the sources and literature used have been properly cited.
3. The author hereby declares that the thesis has not been used to obtain a different or the same degree.

Prague, May 10, 2019

Signature

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Abstract

Liberal democracies sit on a foundation of popular sovereignty and the values of equality, liberty, and fairness. While some coercion by the state is necessary in order to maintain state sovereignty and provide a stable government, and excessive use of state coercion violates the liberty of its citizens. The harm and offense principles provide the boundaries of acceptable state coercion, but if these laws are unfairly enforced by police as the domestic arm of state authority, then the equality of liberty has been violated. United States' law enforcement has unfairly enforced just laws against black Americans, resulting in black Americans' overrepresentation in police brutality and killings. The implicit threat of police brutality against black Americans limits their liberty below that defined by the harm and offense principles. The unequal liberty between black and white Americans causes a potential lack of equal participation in political life, furthering an imbalance between races. Therefore American law enforcement should be considered a threatening obstacle to maintaining a healthy liberal democracy in the United States.

Keywords: liberal democracy, liberty, state coercion, police, United States

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Abstrakt

Liberální demokracie sedí na základech populární suverenity a hodnot rovnosti, svobody a spravedlnosti. Zatímco určitý nátlak státu je nezbytný pro udržení státní suverenity a poskytování stabilní vlády a nadměrné využívání nátlaku státu porušuje svobodu jeho občanů. Zásady újmy a přestupku poskytují hranice přijatelného nátlaku státu, ale pokud jsou tyto zákony nespravedlivě prosazovány policií jako domácí složka státní moci, pak byla porušena rovnost svobody. Vymáhání práva Spojených států nespravedlivě prosazovalo jen zákony proti černošským Američanům, což vedlo k nadměrnému zastoupení černých Američanů v policejní brutalitě a zabíjení. Implicitní hrozba policejní brutality proti černošským Američanům omezuje jejich svobodu pod úroveň definovanou zásadami škod a přestupků. Nerovnoměrná svoboda mezi černými a bílými Američany způsobuje potenciální nedostatek rovnoprávné účasti v politickém životě, což podporuje nerovnováhu mezi rasami. Proto by mělo být americké prosazování práva považováno za hrozivou překážku pro udržení zdravé liberální demokracie ve Spojených státech.

Klíčová slova: liberální demokracie, svoboda, státní nátlak, policie, Spojené státy

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1. Introduction

Liberal democracy has become associated with a societal victory of rationality and justice, a celebration of freedom and individuality, leadership and progress. For this reason, it has continued to be portrayed as the ideal form of government for most all states to strive toward. When democracy is promoted abroad, it is most often liberal democracy that is preached, and when democracy is spoken of academically, research and analysis is largely focused on liberal democracy. The United States, a world leader politically, economically, and militarily, is viewed as an example of liberal democracy. It boasts a representative, two-house legislature, an elected executive, emphasizes individual rights and liberties, and funds and supports democracy initiatives around the world.

For such a leader of liberal democracy, it can be unsettling for citizens to routinely hear about police brutality and killings, often of black or minority Americans. Although the United States emphasizes its commitment to equality, liberty, and fairness, domestic coercion at the hands of the police seems to be destructive to the fabric of a functioning liberal democracy. Liberal democracy requires an equality of liberty in order to function at its fullest potential, and if domestic police forces target certain groups and demographics over others, then this equality of liberty is compromised. I argue that because law enforcement in the United States limits the liberty of its citizen unfairly and unevenly, the police in their present state should be considered a threat to the health of the liberal democracy in America.

Based off the work of John Stuart Mill, John Dewey, and Charles Tilly, as well as scholars of police behavior and brutality, I will argue first for the basic attributes of a liberal democracy: equality, liberty, and fairness. These values are taken from the accepted historical understanding of a variety of political thinkers. Then, I will outline the idea the limits of state coercion, noting that a certain level of coercion is necessary to guarantee the preservation of liberal values. I will delineate the difference between acceptable coercion and destructive coercion within a liberal democratic society. From there, I will argue why these values are important to liberals and to the functioning of a liberal democratic government, and why an overreach of state coercion violating those values is problematic. Finally I will examine how the United States' police have ignored these principles, and have thus damaged the liberal democratic system of the United States, and what potential solutions there are to this problem.

This paper does not intend to completely touch upon all the causes of racial inequality in the United States, nor does it intend to completely outline all effects of police brutality on citizens as a whole or on black Americans specifically. It also does not mean to state that the behavior of law enforcement is the only source of unequal liberty, as it is understood that policy still exists in the United States that aims to maintain racist and sexist structures in society.

Instead, the goal of the discussion that follows is to illuminate the critical importance of the equality of liberty for all citizens under a liberal democracy, and why it is so important to the functioning of liberal democracy based upon American liberal's belief in negative liberty. By this understanding, the significance of police brutality, particularly when it is unevenly exemplified in interactions with black Americans, can be better appreciated and weighted when assessing the quality of a state's liberal democracy. If this significance argued successfully, it can

help to fuel policy measures that aim to remedy inequality. Furthermore, this understanding can be applied to a variety of other specific issues that unfairly limits the liberty of some citizens and ways that those issues can be tackled.

2. Literature Review

2.1 Assessing Democracy

Liberal democracy, positioned as the antonym of Soviet-style socialism during the Cold War, has been discussed at length both qualitatively and quantitatively throughout the past several decades. Literature has included journals, book, and papers that attempt to accurately define and assess liberal democracy in a variety of ways. Currently, several democracy indices exist to attempt quantitative measurements of democracies around the world. These indices are used to measure the changing international landscape of democracy, and are valued by the public, politicians, and journalists in order to quantify levels of democracy.

The first of these indices is the Varieties of Democracy (V-Dem) annual Democracy Report, which produces the largest global dataset on democracy and includes 201 countries and involves over 3,000 scholars and experts worldwide.¹ It operates, like many other indices, on the idea of a democracy-autocracy divide. The V-Dem Institute measures for both an Electoral Democracy Index and a Liberal Component Index. The liberal component contains three broad categories: equality before the law and individual liberty, judicial constraints on the executive,

¹ "V-Dem Annual Democracy Report 2018," V-Dem Institute, 4, accessed February 20, 2019, https://www.v-dem.net/media/filer_public/3f/19/3f19efc9-e25f-4356-b159-b5c0ec894115/v-dem_democracy_report_2018.pdf.

legislative constraints on the executive.² Their index has noted a backslide in the the quality of the United States' liberal democracy from 2015 to 2017, falling from seventh place to thirty first, but they largely attribute this to the weakening constraints on the executive branch of government.³ In the 2017 report, the V-Dem Institute notes that "only liberal democracies seem to be able to safeguard their citizens from gross inequalities in the protection of civil liberties, access to political power and the distribution of politically relevant resources, across gender, social groups, and socio-economic status."⁴ The Institute Report includes "transparent laws with predictable enforcement" in their analysis of a state's measure of "equality before the law and individual liberty index," and this score is ranked two places higher than the total aggregate score for the Liberal Component Index score for the United States, indicating that equality of citizens before law enforcement and in the eyes of the state is not contributing to the lower value of the total score.⁵

The Freedom House publishes a similar report, the Freedom in the World Index. Their methodology is to assign a score of 0 to 4 on 25 indicators for an aggregate score of up to 100, which determine numerical ratings of both political and civil liberties one a scale of one to seven, with one being the best.⁶ States can be classified as either free, partly free, or not free. Importantly, the Freedom House Index points out that United State's liberal democracy has been strained under multiple executives of recent decades, and is not a new phenomenon with the

² "V-Dem Annual Democracy Report 2018," V-Dem Institute, 25.

³ Ibid, 31.

⁴ Ibid, 36.

⁵ Ibid, 80.

⁶ "Freedom in the World 2019," Freedom House, 2, accessed February 20, 2019, https://freedomhouse.org/sites/default/files/feb2019_FH_FITW_2019_Report_ForWeb-compressed.pdf.

election of Donald Trump.⁷ However, their report on the declining quality of United States' liberal democracy does not mention infringement upon liberty by law enforcement, and instead focuses largely on executive power overreaches.

Finally, the Economist Intelligence Unit's (EIU) Democracy Report for 2018 also covers the majority of states and ranks them as either full democracies, flawed democracies, hybrid regimes, or authoritarian regimes. The EIU has ranked the United States as a flawed democracy since 2016, citing a growing distrust in institutions, as well as a decline in the functioning of government, in terms of the legitimacy of the legislature, freedom from undue pressure from special interest groups, and sufficient checks and balances.⁸ However, previously, the United States was listed as a full democracy - which would not indicate that police brutality, which has been widely publicized since before 2016, has an impact on this assessment.

The greatest takeaway from these democracy indices is that the quality of democracy is important for a great many actors, including politicians, academics, journalists, and nongovernmental organizations. The measurement of liberal democracy in a quantitative way has its problems, and these arise in that the three aforementioned reports have some conflicting information on the quality of democracy in various countries (for instance, the V-Dem Institute report ranks the Czech Republic higher than the United States for 2018, by 5 places, while the EIU Index ranks the Czech Republic a spot behind the United States for the same year). Accurately capturing the nature and quality of something as abstract and complex as a governmental system in numbers is very difficult to achieve.

⁷ "Freedom in the World 2019," Freedom House, 17.

⁸ "EIU Democracy Index 2018 - World Democracy Report," The Economist Intelligence Unit, 10, accessed January 20, 2019, <http://www.eiu.com/topic/democracy-index>.

And although the measurements can be flawed, the insight that they attempt to capture is important, and its findings and results can help to frame what is considered an important factor in liberal democracies. I found that each index lacked sorely in its consideration of police brutality and violence in terms of ranking and analyzing the status of a state's democracy. The United States' scores all declined since at least 2016 in the indices, but that decline was mostly due, according to the reports, to a decline on the checks on executive power and congressional functioning. I believe my arguments hereafter will emphasize a need for these reports to consider the treatment of citizens by its law enforcement in order to reach a more accurate scoring of liberties held by the citizens of a state.

2.2 Democratic Values and Coercion

In order to establish the relation between liberty and the state, classical thinkers like Mill are central to my argument. John Stuart Mill published *On Liberty* in 1859, which outlines how freedom and the state interact. *On Liberty* clearly outlines important boundaries for state coercion, the ways that liberals value individualism, and how liberty is best preserved in the face of the state.

Most importantly, Mill outlines the relationship between an individual's liberty and the authority of the state in Chapter 4, titled "Of the Limits to the Authority of Society over the Individual." This chapter is perhaps the most interesting and useful for the upcoming argument, as it places notable boundaries between the authority of the state and the freedom of the person. Mill rejects a social contract, but still characterizes the relationship between state and citizen as

an exchange of sorts, where everyone who receives the protection of society owes a return for the benefit, and the fact of living in society renders it indispensable that each should be bound to observe a certain line of conduct towards the rest.”⁹ In contrast, the state is only allowed to assert coercive action against its peoples when the harm principle is violated. The harm principle argues that the state is only justified in coercive action against citizens to prevent harm to others, and will be relevant in assessing police behavior toward black Americans.¹⁰

As a sort of modern reimagining and narrowed application of the principles and ideas put forth by Mill in *On Liberty*, Joel Feinberg reconstructs Mill’s central ideas in *The Moral Limits of Criminal Law*. Feinberg discusses liberty, coercion, and liberalism in his work that attempts to define which liberty-limiting principles are justified in a liberal society. Liberty is defined as the absence of legal coercion, into which he classifies both the prevention of performing an action by punitive measures, and the prevention of not performing an action by making the action a duty.¹¹ People are only have liberty in the realm that falls outside the category of crime and duty, as both are instances of legal coercion.¹² He defines a liberal as one who is committed to liberty so much so that liberals aim to limit the number of liberty-limiting principles to only those that are necessary, which many would argue is Mill’s original harm principle.¹³ Feinberg acknowledges that while liberals often aim to only justify state coercion via the harm principle, many have given ground and now consider the offense principle as well, which Feinberg argues is evidenced

⁹ John Stuart Mill, *On Liberty* (Kitchener, ON: Batoche Books, 2001), PDF, 69.

¹⁰ John Stuart Mill, *On Liberty*, 13.

¹¹ Joel Feinberg, *The Moral Limits of the Criminal Law, Volume One: Harm to Others* (New York ; Oxford: Oxford University Press, 1984).

¹² Joel Feinberg, *The Moral Limits of the Criminal Law, Volume One: Harm to Others*.

¹³ Ibid.

by the many criminal nuisance statutes present in many liberal democracies.¹⁴ Feinberg's work limits the vast scope of Mill's harm principle to the realm of criminal law only, excluding other state uses of force and coercion (indoctrination, taxation, etc.). This is helpful as his limitation of the harm principle aligns with the scope of this paper.

'Principles of a Free Society' by Nigel Ashford functions like a summary pamphlet for idealized norms that should be present and accepted in modern liberal democracies. He names democracy, equality, and freedom as 3 of his 12 principles for a free society, and largely advocates for a liberal democracy with limited government and a free market. His principles, though written from a libertarian lens, are largely shared by modern liberals. 'Principles of a Free Society' synthesizes the main characteristics of modern liberal democracies.

Coercion is a major theme within scholarship that argues for the bellicist account of state formation, which holds that state building and state making is an inherently violent and coercive process. I accept this line of thinking for my argument. Coercion, from this perspective, is discussed as a tool or method used by the state to guarantee territory and taxation, as well as supremacy over competing states. The bellicist account is supported in several references, including 'Democracy and the Monopoly on Force,' by Horwitz and Anderson, 'War and State Formation: Amending the Bellicist Theory of State Making' by Spruyt, and both Tilly's 'War Making and State Making as Organized Crime' and *Coercion, Capital, and European States, AD 990-1990*.

In *Coercion, Capital, and European States, AD 990-1990*, Tilly elaborates on this bellicist account of state making, which he develops based on the ideas of Max Weber's

¹⁴ Ibid.

monopoly of force.” In this work, Tilly explains how European states became strong, centralised entities of authority through the practice of war making. He explains how the build up of coercive means and the declining access of civilians to such means enhanced and strengthened the state’s ability to wage war and retain control of its population.¹⁵

Tilly’s understanding of the origins and importance of state coercion serve as a means of establishing why a certain level of coercion is present and necessary for states to exist. He makes observations and draws conclusions about the utility of war in forming European and Western states. Additionally, Tilly’s comments on the importance of state authority through the means of coercion emphasize the liberal idea that the monopoly of force protects people from the state of nature which make people more able to protect themselves from interpersonal violence and threats from other civilians.¹⁶

John Dewey and Isaiah Berlin are important philosophers regarding state coercion. The former discusses coercion at length in his work *Force and Coercion*, while the latter speaks of coercion in relation to the conception of liberty. Dewey published *Force and Coercion* in 1916, in which he explains the differences between violence, power, and coercion by illustrating that violence produces destruction and inefficiency, energy is constructive and productive, and coercion lies in between as a neutral force.¹⁷ Although we have simpler definitions of coercion from both Mill and Feinberg, Dewey’s illustration of force and coercion places it within the

¹⁵ Charles Tilly, *Coercion, Capital and European States, AD 990-1990*(Cambridge, MA: Basil Blackwell, 1990), 68, 69, accessed April 4, 2019.

¹⁶ Charles Tilly, *Coercion, Capital and European States, AD 990-1990*, 68.

¹⁷ John Dewey, "Force and Coercion," *Ethics* 26, no. 3 (April 1916): 361, accessed March 4, 2019, doi:10.1086/206986.

realm of easily confused terms like power, and violence, and attempts to delineate them, further clarifying the term.

Christopher Morris nicely summarizes and disputes some arguments over the almost automatic linking of the state and coercion, or force, in political philosophy. In *State Coercion and Force*,¹⁸ Morris outlines Rawls, Nozick, Nagel's conceptions of the relationship between the state and coercion, and argues against the idea that a state is defined by its legitimate use of force and coercion, which he links back to Weber.¹⁸ This Weberian viewpoint is shared by a variety of different political thinkers.¹⁹ But Morris opposes this characterization and offers a definition of state that does not necessarily include force and coercion, and argues that the Weberian definition that is so often cited does not necessitate the use of force by a state, and that, states can conceivably exist without coercion.²⁰

His argument illuminates a wider dialogue and understanding of how political authority and coercion are thought to be linked, and highlights the potential of states to exist without coercion. Although my argument does not emerge directly from this viewpoint, and instead begins from the accepted notion that modern states are coercive by nature, Morris succinctly outlines key authors and the variety of accepted perceptions of state coercion.

Coercive practices and different levels of coercion are not cited in democracy rating publications and are not frequently talked about in conjunction with the larger concept of liberal democracy. Instead, the mention of coercion is used when examining specific social or political

¹⁸ Christopher W. Morris, "State Coercion and Force," *New Essays in Political and Social Philosophy*, 2013, 33, December 14, 2011, accessed February 12, 2019, doi:10.1017/cbo9781139096812.003.

¹⁹ E. A. Goerner and Walter J. Thompson, "Politics and Coercion," *Political Theory* 24, no. 4 (November 1996): 621, accessed March 4, 2019, doi:10.1177/0090591796024004002.

²⁰ Christopher W. Morris, "State Coercion and Force," 33-34.

phenomena, when it could be examined for its larger effect on the health of the entire political system.

2.3 Police

The reasons for the high rates of police killings and police brutality are explored and assessed by Hirschfield in his article from the *Sociological Forum* in 2015. He looks at police killing data that includes racial figures and argues that the overrepresentation of minorities in deaths at the hands of the police is due to large scale cultural and institutional racism.²¹ Additionally, he further analyzes the larger scale trend that United States' law enforcement are far more likely to kill any citizen, of any race, than their counterparts in the rest of the Western world.²²

His explanations include America's values of individualism and self-reliance as they relate to gun ownership and gun culture, a lack of federal oversight for local police forces, as well as a shift from a patronage model of policing to a professional model.²³ As other authors cited in this paper, he highlights the consequence of these trends as amounting to a lack of public trust and lowered public cooperation with police, commenting that American police forces do not act in the public interest.²⁴ This research will be used to elaborate upon the realities of the conduct of American police officers.

²¹ Paul J. Hirschfield, "Lethal Policing: Making Sense of American Exceptionalism," *Sociological Forum* 30, no. 4 (December 2015): 1111, accessed March 4, 2019, doi:10.1111/socf.12200.

²² Ibid.

²³ Ibid, 1114.

²⁴ Ibid, 1115.

In "Police Departments as Institutionalized Organizations", Worden and McLean examine American police forces from an institutional perspective in order to better understand how and why reform initiatives have either succeed or fail. They emphasize the nature of a 'street-level bureaucracy' that is carried out by the law enforcement's lowest ranking members.²⁵ Through this understanding (and a cultural analysis of police values such as loyalty and individualism which are prevalent amongst street cops) they offer summaries of several commonly attempted reform measures carried out in the United States, which includes community policing, public accountability, and management accountability.²⁶ Additionally they characterize and assess reform initiatives in several case studies.

Their work provides an institutional perspective on police work, which serves to help analyze police as an institution in their role in limiting liberty. It also summarizes the main methods of reform that are tried in the United States, and touches upon key statistics in police brutality and public trust.

Public perception of police officers is also critical to understanding their role in the limitation of liberty. Lee, Welch, Bledsoe, and Combs study the effects of perception in police brutality and racial discrimination following the aftermath of the beating of Rodney King and Malice Green in their article "Police Brutality and Public Perceptions of Racial Discrimination". Their article provides color to the events themselves, offering a brief background on the initial events and reactions before examining their study results on the perception of racial discrimination and police brutality amongst white and black Americans in both local and

²⁵ Robert E. Worden and Sarah J. McLean, "Police Departments as Institutionalized Organizations," in *Mirage of Police Reform* (University of California Press, 2017), 14, accessed April 1, 2019, JSTOR.

²⁶ Robert E. Worden and Sarah J. McLean, "Police Departments as Institutionalized Organizations," 14, 23, 26, 30.

national contexts. The analysis of their data sheds interesting light on public perception of police brutality against African Americans, useful to illuminating how trusted police officers are amongst minorities.

Matthew, Papachristos, and Kirk provide further evidence of public distrust of law enforcement in their study that follows the recorded number of 911 calls in the Milwaukee area following the brutal beating of a local black man, Frank Jude, in "Citizen Crime Reporting in the Black Community." Their study utilized data of 911 calls in Milwaukee between 2004 and 2010, and focused on calls for police rather than calls for traffic accidents, fires, or medical emergencies.²⁷ Their data includes racial statistics and also measures the trends of 911 reporting following other highly publicized instances of police brutality and killings that occurred outside Milwaukee.

Their findings are highly relevant to understanding the effect of police brutality on black communities, and the ramifications of that consequential lack of trust. Their data and findings help to reinforce the notion that police behavior has far reaching consequences on the public. Further qualitative and quantitative studies on police, as well as accounts of their development and history, are used to provide a foundation to the argument.

²⁷ Matthew Desmond, Andrew V. Papachristos, and David S. Kirk, "Police Violence and Citizen Crime Reporting in the Black Community," *American Sociological Review* 81, no. 5 (October 2016): 861, accessed April 1, 2019, doi:10.1177/0003122416663494.

3. Coercion and Liberal Democracy

3.1 Liberal Democracy

Liberal democracy is often championed in western literature as an ideal to aspire to. Various aforementioned indices and scholarly works have focused on measuring liberal democracy and comparing these ideal societies with more authoritarian structures from history and around the globe. Other research attempts to discuss why liberal democracy is the superior form of government for most peoples. Liberal democracy as a concept itself can vary widely. For clarity, I will draw upon a variety of sources and scholars to put forth a simple, accepted definition of liberal democracy that is repeated through historic and recent literature. After outlining this definition of liberal democracy, I will discuss the nature of coercion and state coercion, what amount of state coercion is acceptable, and what level is unacceptable, in the context of a liberal democratic state.

The meaning of liberal democracy must be clearly defined as there is a rising collection of scholarship and discussion on different types of democracy, including illiberal, Confucian, Islamic, neoliberal. The following argument is only meant to apply to a liberal conception of democracy.

Such a limitless, malleable concept as democracy has seen much research and analysis on its meaning, and therefore, there are quite many sources with which to choose the most suitable definition from. One can understand democracy itself to refer to the classical idea of government that emerged from Athens - a government that required a majority of citizens for measures to be

passed, and a society who prided itself on the ability to innovate and change legislation.²⁸ While the Athenian conception of democracy was one of a direct democracy (only for free adult males), the size of modern populations have forced democracy toward a representative model, as the technical, administrative, and ethical problems of implementing and organizing a direct democracy in a country of many millions of people are still unanswered.

Today democracy has remained connected to the concept of popular rule, and we can define it in its most basic form as popular sovereignty; any further definition of the basic concept of democracy can be contested, but this much is agreed upon.²⁹ This most minimal form of democracy is one defined by Schumpeter, who says democracy is the holding of a series of elections where universal suffrage allows the public to select its rulers.³⁰ This minimalistic idea of democracy only extends upon the central kernel of popular sovereignty by specifying the method in which popular sovereignty is exercised: general election.

In his work, *The Public and its Problems*, Dewey offers an echo when defining democracy:

Democracy is a word of many meanings. Some of them are of such a broad social and moral import as to be irrelevant to our immediate theme. But one of the meanings is distinctly political, for it denotes a mode of government, a specified practice in selecting officials and regulating their conduct as officials. This is not the most inspiring of the different meanings of democracy; it is comparatively special in character. But it contains about all that is relevant to political democracy. Now the theories and practices regarding the selection and behavior of public officials which constitute political democracy have been worked out against the historical background just alluded to. They represent an effort in the first place to counteract the forces that have so largely determines the possession

²⁸ Melissa Schwartzberg, "Athenian Democracy and Legal Change," *American Political Science Review* 98, no. 2 (2004): 311, accessed April 8, 2019, doi:10.1017/s0003055404001169.

²⁹ David Owen, "Democracy," in *Political Concepts*, ed. Richard Bellamy and Andrew Mason (Manchester University Press, 2003), 105, accessed April 1, 2019, JSTOR.

³⁰ David Owen, "Democracy," 106.

of rule by accidental and irrelevant factors, and in the second place an effort to counteract the tendency to employ political power to serve private instead of public ends.³¹

Popular sovereignty, he posits, exercised through election is what constitutes the most basic definition of democracy.

Dewey's passage covers why voting is of critical importance to democracy. First, it allows a way to change and adapt the governments and its institutions without violence. Second, voting allows the people to vote in and out whomever they see fit, and therefore the elected rulers, whether they be an executive or a legislator, should be motivated to act in accordance with the aims and values of their people in order to best secure their opportunity to be elected once more, and limit the chance of them being voted out.³²

Indeed, it is this idea of popular sovereignty that remains the most important to American liberal democracy as well. As the American president Abraham Lincoln famously stated in his Gettysburg Address, the United States' government is a "government of the people, by the people, for the people," which emphasizes that American democracy is one that is composed of its citizens and works in service of them.³³ The most basic tenet of democracy is that there is popular sovereignty exercised through a representative system.

But popular sovereignty may be present in other forms of democracy. Beyond popular sovereignty, liberal democracy exhibits some differentiating foundational values not found together in other democratic systems. From here, I note that three values repeated in scholarship

³¹ John Dewey, *The Public and Its Problems* (Athens, OH: Chicago Gateway Books, 1946), 82-83, July 8, 2015, accessed March 30, 2019, <https://archive.org/details/in.ernet.dli.2015.190550/page/n90>.

³² *Ibid*, 107.

³³ Abraham Lincoln, "The Gettysburg Address" (address, Pennsylvania, Gettysburg, November 19, 1863), 2013, accessed April 10, 2019, http://rnc.library.cornell.edu/gettysburg/good_cause/transcript.htm.

by liberal thinkers and political philosophers that comprise the core of a liberal style of democracy. They are liberty, equality, and fairness.

The first component of a liberal democracy is its foundational commitment to equality. I believe equality is unlikely to be challenged as being a common element of liberal democracy. Although democracy in the United States has not always held to the standard of universal suffrage, the value of equality existed as a basic element of the founding of the United States in its various documents, arguing that all men are created equal, and endowed with John Locke's natural rights. These rights did not apply to all people of the United States for some hundreds of years, yet equality has been an American virtue since its founding.

This lack of equality was not only an issue for the United States, as equality was largely dismissed in favor of a natural hierarchy, or disregarded as unrealistic, until the 19th century when states began to abolish slavery.³⁴ So although the practice of political equality struggled to gain traction in the world, equality was important as an aspirational principle of America due to the influence of Locke. Locke's conception of natural rights, arguably influenced by Christianity at the time, led to equality being enshrined in the American ethos.³⁵

The second quality of a liberal democracy is liberty. Freedom and liberty (which I shall use interchangeably) are ideas that have long been contested by many, yet always present in a variety of writings in literature on democracy. One might think that liberty is necessarily attached to the basic conception of democracy (one of popular sovereignty, and nothing more), but this is not the case, as states can hold elections in the name of popular sovereignty without

³⁴ Nigel Ashford, *Principles for a Free Society*, 2nd ed. (Stockholm: Jarl Hjalmarson Foundation, 2003), PDF, 20.

³⁵ *Ibid*, 20.

their existing any real liberty for its citizens.³⁶ Other modes of government, dictatorships even, can grant liberty to their people, while some forms of democracies may deny a great many liberties - instead, it is not the source of liberty, but the 'area of control.'³⁷ Liberals desire the most maximum level of liberty, and it is this level of liberty that is crucial to liberal democracy.³⁸

Liberty can be defined as the absence of coercion, in that one is able to act without interference by others.³⁹ Liberty can be conceived of in many ways, but Isaiah Berlin identified two of the most important forms of liberty: positive and negative liberty. Berlin originally wrote about two distinct types of liberty in his pamphlet adapted from a speech titled *Two Concepts of Liberty*. In it, he outlines both positive and negative liberty. Negative liberty, which he describes as the notion of freedom that English political philosophers discussed, is simply the ability of one to act unobstructed by others.⁴⁰ Juxtaposed to this concept is positive liberty, which is described as a higher level of freedom, where one is able to fulfill a greater goals, such as justice or happiness, and presents more as a freedom to be fulfilled.⁴¹ Rather than being free to do as one wants, positive liberty instead invites people to be their own masters.⁴²

He argues that positive liberty tends to lead to equality of outcome. Positive liberty, as Berlin argues, has become equated with rationalistic thinking, and the denial of emotion, passion, and other irrational human capabilities.⁴³ He notes that, in places where positive liberty is highly

³⁶ Isaiah Berlin, "Two Concepts of Liberty," in *Four Essays on Liberty* (Oxford, EN: Oxford University Press, 1969), 7, accessed March 12, 2019, [http://cactus.dixie.edu/green/B_Readings/I_Berlin Two Concepts of Liberty.pdf](http://cactus.dixie.edu/green/B_Readings/I_Berlin%20Concepts%20of%20Liberty.pdf).

³⁷ Isaiah Berlin, "Two Concepts of Liberty," 7.

³⁸ Joel Feinberg, *The Moral Limits of the Criminal Law, Volume One: Harm to Others*.

³⁹ *Ibid*, 3.

⁴⁰ *Ibid*, 4.

⁴¹ *Ibid*, 8.

⁴² *Ibid*, 8.

⁴³ *Ibid*, 9.

valued over negative liberty, the elite can prescribe what a good life entails, and conformity entrenches.⁴⁴ One may say that positive liberty has been used to limit human creativity and opportunity, therefore suppressing negative liberty.

Negative liberty, conversely, can be thought of as the liberty that rejects interference from others, including interference from both individuals and the state (when absolute negative liberty is present). Negative liberty is what spurs differences in opinion, different vocations, and a changing populace. This type of liberty prevents conformity, and strengthens society and its government. It is what makes one human:

He who lets the world, or his own portion of it, choose his plan of life for him, has no need of any other faculty than the ape-like one of imitation. He who chooses his plan for himself, employs all his faculties. He must use observation to see, reasoning and judgment to foresee, activity to gather materials for decision, discrimination to decide, and when he has decided, firmness and self-control to hold to his deliberate decision. And these qualities he requires and exercises exactly in proportion as the part of his conduct which he determines according to his own judgment and feelings is a large one.⁴⁵

Mill, here, is highlighting the importance of negative liberty to liberal democracy itself. One must possess a negative sense of liberty in order to be able to vote according to one's own interests, as they must have the freedom to pursue and decipher their own interests in the first place. Only with negative liberty, can people pursue their own potential outside of what is held to as good or moral by elites.

Negative liberty is a founding principle of American democracy, as evidenced by the addition of the Bill of Rights designed to protect citizens from an overreach of federal power.

⁴⁴ Ibid, 15.

⁴⁵ John Stuart Mill, *On Liberty*, 55.

The United States was founded on values of liberty as the liberty to do as one pleases, without unneeded interference from the state. Economic and religious opportunity was a motivation for many colonists and early settlers who wished to pursue potential new wealth or practice a different religion without persecution. These histories remain as influential mythologies that support American values, and manifested in constitutional amendments that guarantee religious freedom and freedom of speech, further underscoring the individualism of America.

Positive liberty is more commonly evidenced in European style democracies, that typically offer greater safety nets and more opportunity for its citizens, which frequently comes from higher taxes on its people and businesses. But the United States largely rejects this version of liberty. Although progressive reform is sometimes advocated for in the United States, and is currently gaining traction, it remains the only developed nation without universal health care, employee job protection, affordable or subsidized child care, or affordable higher education.⁴⁶ The lack of these commonly offered social benefits in the United States, benefits that are often found abroad, showcases this distinct American conception of liberty: that liberty is not the freedom to fulfill oneself through education and opportunity as guaranteed by the government, but instead the freedom to act unhindered by others, in belief and action.

⁴⁶ "America Is a Health-care Outlier in the Developed World," *The Economist*, April 26, 2018, accessed April 4, 2019, <https://www.economist.com/special-report/2018/04/26/america-is-a-health-care-outlier-in-the-developed-world.>; Tanya Mohn, "U.S. The Only Advanced Economy That Does Not Require Employers To Provide Paid Vacation Time, Report Says," *Forbes*, August 19, 2013, accessed April 4, 2019, [https://www.forbes.com/sites/tanyamohn/2013/08/13/paid-time-off-forget-about-it-a-report-looks-at-how-the-u-s-compares-to-other-countries/#497e7b796f65.](https://www.forbes.com/sites/tanyamohn/2013/08/13/paid-time-off-forget-about-it-a-report-looks-at-how-the-u-s-compares-to-other-countries/#497e7b796f65); Gretchen Livingston, "Of 41 Countries, Only U.S. Lacks Paid Parental Leave," *Pew Research Center*, September 26, 2016, accessed April 4, 2019, [https://www.pewresearch.org/fact-tank/2016/09/26/u-s-lacks-mandated-paid-parental-leave/.](https://www.pewresearch.org/fact-tank/2016/09/26/u-s-lacks-mandated-paid-parental-leave/)

While negative liberty is highly valued, it cannot be unlimited in a democracy. Hobbes initially described the state of nature, one of absolute liberty where life was nasty, brutish, and short, in his *Leviathan*.⁴⁷ Society offers protection from this state of nature in exchange for power. So while there cannot be unlimited liberty in a liberal democracy, the exchange of liberty for protection is seen as desirable for allowing people to escape fear of their neighbor, and secure a higher chance at living a longer, more secure life.

People must give up some liberty in order to preserve an orderly and peaceful world, otherwise we remain in said state of nature. This exchange of liberty for security happens in almost all forms of government, even beyond democracy, with some requiring a greater submission of liberty to the state than others. Liberal democracy is so often idealized by individualist-oriented societies for allowing the most liberty possible while still guaranteeing a certain level of security. In the United States the importance of ensuring liberty is preserved for individuals is highly important.

Besides equality and liberty, fairness is a crucial component of liberal democracy. Fairness, as an ideal of justice, was largely advocated for by John Rawls. In his many works, John Rawls emphasizes that a just liberal society embodies equality and fairness.⁴⁸ This idea is presented as a thought experiment in his Veil of Ignorance, which theorizes that representatives of a liberal democracy will imagine themselves as any potential member of society, whether it be an immigrant or citizen, a man or woman, a rich or poor person, or a healthy or disabled person.

⁴⁷ Thomas Hobbes, "Of the Natural Condition of Mankind as Concerning Their Felicity and Misery," in *Leviathan: Or the Matter, Forme and Power of a Commonwealth Ecclesiasticall and Civil*, ed. Ian Shapiro (Yale University Press, 2010), 78, accessed April 4, 2019, <https://socialsciences.mcmaster.ca/econ/ugcm/3113/hobbes/Leviathan.pdf>.

⁴⁸ John Rawls, *A Theory of Justice* (Cambridge: Belknap, 1971), 11, accessed April 8, 2019, http://www.consiglio.regione.campania.it/cms/CM_PORTALE_CRC/servlet/Docs?dir=docs_biblio&file=BiblioContenuto_3641.pdf.

⁴⁹ Instead of only considering the will of the majority, the Veil of Ignorance encourages representatives to consider how policy and law affects all types of people. This allows acting officials to enact just laws that take into account the will of the majority as well as consider what is fair and just for minorities. Protection against mob rule and ensuring that all citizens are provided consideration is the liberal democratic practice of fairness.

While the will of the majority ought to be recognized in democracies, liberal democracies try to ensure that the majority cannot trample over the minority, and vote into favor laws that violate the humanity of some individuals or groups. Fairness, in this way, balances the foreseen dangers popular sovereignty. Many critiques of democracy focus on the idea that the majority may not always, or ever, make moral or ethical decisions, and this mob rule can, in turn, hurt others in society. Fairness, as a value of liberal democracy, is what creates majority rule with minority rights.⁵⁰ Basic rights, like to freedom to practice one's own religion, freedom of expression, the right to protest and assembly, the right to free press must all be protected for all individuals in a liberal democracy, even if the majority wishes for those rights to disappear for some or all people.

When laws are aimed and enforced at certain individuals or groups over others, liberty is limited, but unevenly across society. As equality, liberty, and fairness are indispensable to liberal democracy, it should be understood that the combination of these three qualities is what makes a society that values equality of liberty for all citizens.

⁴⁹ John Rawls, *A Theory of Justice*, 11.

⁵⁰ Nigel Ashford, *Principles for a Free Society*, 12.

Liberal democracies require this equality of liberty. By equality of liberty I mean that most all citizens of the state should possess, from the outset, the same amount of liberty as one another. For some individuals to possess greater amounts of liberty than others, based in law and policy, as well as in practice, liberal democracy cannot function. This will be further explained following the differentiation between acceptable state coercion and state coercion that degrades liberal democracy. Most importantly, equality of liberty ensures that the functioning of governing structures is fair and just as liberty allows people to pursue their own interests and participate and influence their government. Citizens can influence their democracy through many ways, including campaigning, voting, and fundraising. Therefore it is critical that all citizens be allowed the same degree of negative liberty from the state. If one group is favored over another, then the group with less liberty will be potentially unable to fully express their will for their representatives, creating an imbalance of representation not due to people's own will (or lack thereof), but because of the state unevenly providing liberty to all. A liberal democratic state requires its people to have the equality of liberty, and both unfair laws and unequal implementation can break this value.

Democracy can be a contentious subject, and different understandings of the topic can lead one to many different conclusions. Yet, it remains the most popular government espoused by Western powers today, so I shall progress forward without considering many of the arguments against liberal democracy, as they are besides the point. Instead, because liberal democracy is frequently the subject of focus in the international community, one should understand the foundational values of liberal democracy in order to consider what currently prevents states from achieving those values. So although real governments, including that of the

United States, may not completely satisfy the definition of liberal democracy as presented above, one must assume, as not accepting this requires a separate discussion, that these states aim and aspire for this type of government.

3.2 Coercion

Coercion has been discussed frequently by political theorists since Hobbes outlined the need for a strong central state. Fortunately, unlike democracy, coercion is easier to define, yet it is still sometimes confused within a greater discussion of force and violence. All are related, and in some instances they overlap. Yet there are key difference between them that are eloquently described by John Dewey. In *Force and Coercion*, Dewey links power (or energy), coercion, and violence together on a spectrum of force. The means of all three often appear similar, sometimes indistinguishable, but Dewey argues that the ends define each.⁵¹ He maintains, like many, that violence is a negative rather than a neutral phenomenon, and instead argues that power is the positive iteration of force.⁵² Offering the analogy of a quarry, if one sets dynamite on a rock face, and the dynamite blast leads to human casualties instead of the intended purpose of harvesting granite, then it the action should be considered violence.⁵³ But if the rock is obtained without detriment to the workers, then the process is considered productive and is a positive use of force, that he calls power or energy.⁵⁴

⁵¹ John Dewey, "Force and Coercion," 361.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

These manifestations of power, both positive and negative, clearly explain the difference between power and violence, but the place of coercion is not as apparent. Dewey argues coercion lies in the middle of these two forces, in a more neutral position. If liberty can be defined as the absence of coercion, then coercion must be the presence of explicit or implicit threat to influence the decision of an individual.⁵⁵ But this still leaves coercion slightly unclear, as it still may be confused with persuasion.

Both persuasion and coercion are critical to the practice of liberal democracy. Persuasion is what allows citizens and groups to exchange ideas in private and public forums in order to influence others to accept their views as the best solutions to public and private problems. To be able to speak freely and openly about different political opinions is very much a cornerstone of liberal democracy. Opinions are able to be shared, discussed, and tolerated; accepted in full or adapted in new ways to fit with other perspectives. Indeed, it is the ability to persuade that allows for such a robust society, a society equipped with different methods and tools for tackling complex sociological problems. Persuasion is an expression of individuality which allows for creativity and genius, and the spreading of creative and genius ideas.⁵⁶

The key to persuasion, and what very clearly delineates it from coercion, is that it leaves intact the liberty of others. If I were to attempt to persuade a friend who had been pro-gun his entire life, I may sit with him, attempt to provide the best counterpoints to his own beliefs, extrapolate on why American society may be better off with some sort of gun reform, as well as entertain some of his attempts to persuade me to his side. The conversation could become heated,

⁵⁵ Joel Feinberg, *The Moral Limits of the Criminal Law, Volume One: Harm to Others*.

⁵⁶ Isaiah Berlin, "Two Concepts of Liberty," 6.

and our friendship could become damaged or even end after such a conversation. But, both parties are free to engage or disengage in the discussion - to participate, or simply listen (or not listen). My friend is *at liberty* to accept or not accept my points, as nothing is forcing or coercing him in doing so. He is at liberty to think about my ideas further, use them to influence his future voting, donation, and political behavior in the future. But he is also at liberty to not do such things.

In a coercive situation, I may have knowledge of a personal failing, maybe that he had an extramarital affair his wife is unaware of. I then blackmail him with this information and state that he either donates one thousand dollars to a gun-reform campaign, or I share this information with his wife. This leaves a non-choice. If I had simply expressed my interest in him supporting a gun-reform campaign with compelling evidence and personal reasoning then he would have the liberty to decide how to act. But in a coercive situation, with this particular example of blackmailing, he is somewhat forced into my demands. I say somewhat, because he does have the choice to not donate to the campaign and, by consequence, let me share the information with his wife. But that 'choice' still infringes upon his liberty because it adds a consequence that would otherwise not exist when he has true full liberty.

On a citizen to citizen level, persuasion and coercion are easy to define and differentiate. But when looking at the state to citizen relationship, things can become less clear. States can persuade citizens to act in certain ways that they feel are beneficial by offering incentives like tax subsidies for having children or by running ad campaigns that encourage exercise and a healthy diet. Methods like these are frequently employed by the state in order to potentially influence citizens to act in ways that could make a stronger society.

But state advertising, as previously mentioned as a means of persuasion, can also manifest as coercion. Wartime has shown that governments often utilize propaganda to convince their citizens to support a war effort or turn against a certain ideology or religion. This practice itself seems beyond the realm of persuasion, but it has not broadly crossed into the realm of coercion. An average educated adult in the United States should be able to assess information provided by the government with the same amount of scrutiny and critical thinking that they would any source - and they are not forced to stop seeking further information or alternative viewpoints on whatever matter. People are often critical of a liberal society that uses propaganda to persuade its citizens. Its use may signal that the society is in danger of slipping away from the liberal democratic ideal, because propaganda points to a lack of confidence in the democratic process to do the right thing. But the practice of propaganda itself, isolated from the practices that often come with it, is not directly damaging to the liberty of its citizens.

However, should the government begin to remove access to other sources of information, by either book burning or shutting down websites to alternative news sources, the state's actions are no longer simply ill-advised for a liberal society, but instead actively detrimental to a liberal democratic government. Coercing people into accepting propaganda by shutting down dissenting opinion, infiltrating opposing parties to sway dialogue, and arresting or murdering citizens because of their diverging political perspectives are directly detrimental to the liberty of citizens. This makes members of society unequal as some people would then possess more liberty than others depending on their individual beliefs and practices. Thus, the state becomes one-sided, unable to represent the public will as those citizens with less liberty cannot exert their will without fear of the threats of the state. With majority will potentially not being represented

because of unequal liberty in society, fair consideration of minority rights will certainly falter as well. Unequal liberty stagnates and regresses the political theatre.

The difference between persuasion and coercion remains in the central notion that coercion requires an implicit or explicit threat, while persuasion does not. Yet the state's use of threats to influence behavior is not always negative as coercion is what preserves society from falling into the state of nature.

A mainstream and widely accepted viewpoint amongst political theorists is that the state is inherently coercive.⁵⁷ The bellicist theory of state formation, built upon the ideas of Marx and Weber, and greatly advanced by Charles Tilly, argues that coercion was necessary in creating a stable and strong central state.⁵⁸ Although the bellicist theory is not necessarily a liberal account (it can be utilized by anarchists, communists, libertarians, and liberals alike) it helps to place the importance of coercion to the state. The bellicist theory claims that states gained a monopoly on the means of production of force over time, and largely discouraged and prevented its citizenry from doing the same, thus states were not longer threatened by internal warring factions of citizens, as they were in earlier periods of history.⁵⁹ This monopoly on force helps to solidify the state as possessing the legitimate use of force.⁶⁰

The bellicist account does not make any moral judgment upon the use of force, and instead furthers the idea that states were strengthened through coercive forces. Early states

⁵⁷ E. A. Goerner and Walter J. Thompson, "Politics and Coercion," 621.

⁵⁸ Hendrik Spruyt, "War and State Formation: Amending the Bellicist Theory of State Making," *Does War Make States?*, January 1, 2017, 73, accessed April 8, 2019, doi:10.1017/9781316493694.004.

⁵⁹ Charles Tilly, *Coercion, Capital and European States, AD 990-1990*, 68-69.

⁶⁰ Charles Tilly, "War Making and State Making as Organized Crime," in *Bringing the State Back*, ed. Peter Evans, Dietrich Rueschemeyer, and Theda Skocpol (Cambridge: Cambridge University Press, 1985), 172, accessed March 15, 2019, <https://www.jesusradicals.com/uploads/2/6/3/8/26388433/warmaking.pdf>.

needed to maintain control of various resources in order to assert their authority over a geographic area and population, and the transition from a private army to state controlled armies helped guarantee this control. As liberals reject living in the state of nature, they recognize the need for a state to be able to assert control and protect its citizens and their liberty. The monopoly on the legitimate use of force and the ability for states to coerce is, in fact, a guarantee for the existence of democracy, because if a state is outgunned by others vying for its territory then it loses its sovereignty.⁶¹ Although the state's monopoly on force is somewhat distrusted, the history of state development shows that acquiring this monopoly on force caused the state to grant concessions as citizens resisted, guaranteeing certain rights and liberties that an otherwise overpowered state would have not needed to agree to.⁶² From these concessions, liberals have been able to balance their love of liberty with the need for the state to retain the power of coercion.

The bellicist theory of state formation is so often supported that a commonly held definition of a state itself is Weber's definition that "a state is a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory."⁶³ Within and beyond that territory, the state employs soldiers, police, and bureaucrats to enact its interests by taking further territory or defending existing territory, enforcing laws and carrying out punitive measures, and collecting taxes and fees.⁶⁴ These are necessary functions of modern states, and coercion makes them possible.

⁶¹ Joshua Horwitz and Casey Anderson, "Democracy and the Monopoly on Force," in *Guns, Democracy, and the Insurrectionist Idea* (University of Michigan Press, 2009), 174, accessed March 4, 2019, JSTOR.

⁶² Charles Tilly, "War Making and State Making as Organized Crime," 183.

⁶³ Christopher W. Morris, "State Coercion and Force," 32.

⁶⁴ Charles Tilly, *Coercion, Capital and European States, AD 990-1990*, 75.

Coercion by the state is ever present in much of our lives. Taxes must be paid, laws must be followed, mandatory licensing and codes must be complied with. To disobey risks monetary fines and prison sentences. For those of the tradition that assumes state building is inherently coercive, as evidenced by these examples, then coercion is not something that a modern state can simply do without. Rather, these examples of coercion help to guarantee a more safe society, and are what separates people from the state of nature. State coercion is justifiable in upholding society so that society may function as designed, that is, free from the notion that might makes right and thereby preventing harm to others.⁶⁵ The important task is to define where the use of state coercion against its people becomes a threat to liberal democracy.

3.3 When Coercion Degrades Liberal Democracy

To begin, liberal democracy functions most efficiently through the participation of its citizens in government. Therefore I will limit the scope of coercion impacting liberal democracy to domestic state coercion, as domestic state coercion is what can potentially impede the ability for the citizens of a state to enjoy their full liberty. Furthermore, because different liberal democracies operate in vastly different ways internationally and outside of its borders, and liberal thinkers disagree as to how a liberal democratic state should interact with the rest of the world (whether to spread democracy or to tolerate other forms of government), the topic of international coercion is beyond the realm of discussion here. So although a state may take coercive action outside their borders and against outside peoples, those activities will not be

⁶⁵ Joel Feinberg, *The Moral Limits of the Criminal Law, Volume One: Harm to Others*.

touched upon in this paper. When discussing domestic state coercion, I will solely focus on law enforcement.

The clearest mechanism of state coercion against citizens and residents of a state is its law enforcement. As mentioned, I am arguing from a standpoint that adopts the view that states are inherently coercive entities. The ability for a state to coerce citizens is beneficial when it guarantees its sovereignty and the safety of society. The central issue comes when attempting to delineate between justifiable levels of state coercion and detrimental levels of coercion.

Laws are created so that if one breaks the law they may be arrested and tried, and if guilty, fined or jailed. These laws limit certain liberties that one may have in the state of nature. For instance, you may steal another's personal property, but laws have set clear consequences for this behavior that will hopefully deter one from making that choice that they may have otherwise made should those laws not be in place. This arrangement between state and citizen is coercive, and limits the freedom of the individual. But laws that prevent theft, murder, rape, and general ill behavior are not thought of as negative attributes of society - these laws are precisely why most would prefer to live in a state with the power to enforce these laws, as living without them would mean living with distrust and fear. From this example, it is obvious that not all coercion, which by nature limits our liberty, is inherently bad. Instead, this coercion preserves a liberal democratic society.

So what constitutes an overstep of state coercion? As liberty is the desired condition of liberals, and coercion is a limitation of liberty by threat, the use of any state coercion must be

justified in a liberal democracy.⁶⁶ Mill's harm principle and Feinberg's offense principle are the boundaries of state coercion. The harm principle claims that the state should only limit the liberty for those activities that could cause harm to others, but that the state is not justified in limiting liberty any further for the sake of the greater good of freedom.⁶⁷ This means the state should be unable to limit behavior that causes harm to oneself, allowing for drunkenness so long as this drunkenness does not then impact the lives of others (the harm principle, in conclusion, eliminates the freedom to drink and drive, as this endangers others.)⁶⁸ The extension of the offense principle would ensure that people cannot psychologically harm other unwilling people by acting in ill manners in public. This would mean adult movies could not be broadcast in a public park and racial epitaphs could not be written on building faces.⁶⁹ These two principles should sit as the boundaries of acceptable levels of state coercion, preventing as much harm as possible while guaranteeing as much liberty as possible.

Laws that comply with the harm and offense principles should be made to apply to everyone equally. The poor and hungry are not allowed to steal bread in the eyes of the law, although some of the public may be sympathetic to their cause. This means state coercion must limit liberty according to these two principles, and limit the liberty of all citizens equally. This leaves a society of people who possess equal capabilities for pursuing their individuality which

⁶⁶ Allen Buchanan, "Political Legitimacy and Democracy," *Ethics* 112, no. 4 (July 2002): 698, accessed March 20, 2019, doi:10.1086/340313.

⁶⁷ John Stuart Mill, *On Liberty*, 76.

⁶⁸ *Ibid*, 75.

⁶⁹ Donald Vandever, "Coercive Restraint of Offensive Actions," *Philosophy & Public Affairs* 8, no. 2 (1979): 183, accessed February 28, 2019, JSTOR.

allow humans to achieve their greatest potential ends.⁷⁰ One of these potential achievements is the ability them to be present as equal democratic participants.

If the purpose of citizens possessing the greatest amount of liberty possible within a state is so that people can live as they please then the limitation of liberty unevenly for citizens means some citizens will have greater freedom to pursue, or not pursue whatever they wish, while others do not. Of course, one cannot be sure how the limitation of liberty will particularly affect someone. If one person possesses twenty-five percent more freedom than another, it would be very difficult to pinpoint what areas of life that missing twenty-five percent of liberty is impacting.

Individuality is so valued by liberals because it is regarded as what makes one human, and in that humanity is where art, creativity, and ingenuity is born.⁷¹ If liberty allows one to pursue what they wish, then the great variety of pursuit will produce a diversity in thought, creating a heterogeneous body of knowledge, expertise, and opinion. Through this diversity there will emerge the basis for a strong liberal democratic system of government. In daily interpersonal interaction, and in public forums, at work, and in private, people will come together and go apart, spreading their ideas and knowledge, shaping public opinion. As liberal democracies are representative in nature, this diversity of opinion and experience will inform representative legislatures and executives, enabling them to tackle the problems and conflicts most important to society, and devise unique ways of dealing with them that produce the greatest results with the fewest unintended effects. Of course, should the representatives fail to act on

⁷⁰ Isaiah Berlin, "Two Concepts of Liberty," 4.

⁷¹ John Stuart Mill, *On Liberty*, 55.

behalf of their people, those people will be able to support, campaign for, and vote in a new representative who may better serve them.

This is not to say that possessing the greatest amount of negative liberty that one can have under a liberal democratic state will lead everyone to be active political citizens. The very nature of negative liberty is that it does not force one in any direction in life, only the one that they choose and are capable, personally, of pursuing. So one cannot say for certain that when one individual's liberty is limited to a certain degree lower than another individual's liberty that this limitation will impact their ability to participate as a political citizen. The problem of the matter is that, by having unequal liberty there is a great potential for a person to be held back from fulfilling as much of their life as they might have, should the circumstances of state equality have been different.

And even though one cannot know if the particular aspect of political citizenry has been limited by state inequality, as we can imagine a scenario where one with unfairly limited liberty in comparison to their fellow citizens is vehemently political, and in fact this limitation of their liberty only fuels them to be more politically active and more politically involved, we can know for certain that a limitation of liberty below what others are given in a society impedes their ability to fully live their life in some way or another, which violates equality. If liberal democracy relies on preserving as much liberty as possible under the protection of a state then violating the equality of liberty between citizens and groups of citizens is detrimental to this liberal conception of society, since this limitation prevents the creation of a unique and dynamic society of individuals who enhance the greater whole.

Liberal democracies rely on representative governments to free people from the burdens of a direct democracy, and they utilize elections with free and equal voting as a way for the public to communicate to legislators and executives what they believe to be important and appropriate for the government to do. Should one group not have the same liberty as others due to unequal limitation of liberty by the state, that group may be prevented from exercising their political will. Furthermore, this group's abilities to act uncoerced are reduced as compared to the rest of the citizenry, thereby limiting the potential for creativity, innovation, and pursuit of opportunity. So both political will and the ability to participate in the naturally occurring public theatre of persuasion and influence are limited. These limitations reduce the impact this group may have once had on the liberal democratic process. If one has less liberty than others, then how will they ever have the same opportunities to attain information, pursue knowledge, education, or training, or speak and persuade others? It is not a guarantee that the implicit threat of being beaten or killed by the police, as actors of domestic force and coercion, will reduce the capacity of any citizen to pursue these things, however, it will reduce the capacity for them to do something, even though that something may be unknown.

A state with citizens who do not all have equal opportunity before the law will likely begin to dysfunction. The group that possesses greater liberty will be able to exercise their political will and power more easily. They can go about their lives facing less of a threat to their well being, allowing them to exercise their individuality and share their ideas more freely than the disadvantaged groups, leading to cultural and political imbalances. They can vote for those who will enact policies that will benefit them in the short and long run, improve their economic

conditions more easily, and pass on their generational wealth to advantage the next generation of citizens, furthering the gap.

Although a certain limitation of liberty is expected under a governmental structure in order to preserve order and peace to secure a more safe and happy society, limiting liberty beyond the harm and offense principles, as well as enforcing the harm and offense principles unevenly is detrimental to a liberal democracy. Ashford claims that freedom is the most precious of values because it is the basis of all other values,”and thus, its mislimitation harms all of society.⁷²

While liberty does not always lead to positive actions and circumstances, without equal liberty the United States society would simply not be able to function fully as a liberal democracy. Those individual freedoms should remain unhindered so long as they do not violate the harm principle or offense principles.

A large issue today is the uneven enforcement of laws by law enforcement. This is only one way that liberty can be limited unequally by the state, but it is one of the most personal, violent, and pervasive ways, and in recent years it has seen much attention. Next, I will examine the historical, sociological, and political ways in which police are the foremost instrument of domestic coercion and in what ways they unevenly use this power to foster inequality in the United States.

⁷² Nigel Ashford, *Principles for a Free Society*, 40.

4. Police

4.1 History and Development

Domestic coercion by the state can occur in a multitude of ways. However, one of the most personal ways one can come in contact with state coercion is through interaction with law enforcement. Police have always been an important instrument for the state to exert their authority over its people, and it may be easy to think of police as an entity that only carries out the policies and statutes of a state. But police are a complex, often independent institution. Law enforcement is composed of individuals who are expected to enforce federal, state, and local law through direct interaction with citizens, sometimes in high stress situations. Because the police have the responsibility of ensuring that laws are followed and investigating situations where the law has been broken, they are the first line of contact that people have with the law itself. The chance for just laws to become inappropriately protected or unevenly enforced, as well as for unjust laws to be further abused, are greatly increased at the hands of the police.

It is first important to establish an understanding of what police are and do. Police are often expected by the public to protect and serve, or enforce the law, but often the police only exist to preserve order.⁷³ It would be incorrect, though, to characterize all law enforcement across time and societies as the identical in nature. For example, police in the United States and in Germany during the 1920s were radically different as the latter valued education as a prerequisite

⁷³ David Jacobs and Robert M. O'Brien, "The Determinants of Deadly Force: A Structural Analysis of Police Violence," *American Journal of Sociology* 103, no. 4 (1998): 842, accessed April 20, 2019, doi:10.1086/231291.

for its officers, separation of police work from political influence, and a distaste for corruption, while the former was prone to political manipulation, greed, and bribery.⁷⁴ The police, as an institution, like all other institutions, are subject to the culture and values of their time and place. Rather than cover the development of all police in general, I will once again largely limit this to law enforcement in the United States.

Law enforcement as a whole did largely emerge in the same way: as a separate arm of the militarized means for states to assert their authority. As opposed to armies who were focused on external threats, police became the domestic arm of state authority.⁷⁵ The police were installed to serve as agents of state who would use their means of coercion to keep law and order, collect taxes, and prevent domestic challenges to the state's authority.⁷⁶

As an institution, police grew from medieval watchman that came to be associated with political repression and tyranny, a conception that has somewhat remained and led to a general distrust of law enforcement.⁷⁷ Indeed, the presence of police in matters of human conflict which involve great legal and moral matters that require quick judgment from an individual makes them a group which many feel unsure about.⁷⁸ Such state power in the hands of men was considered something to be skeptical of, particularly for liberals who fear the overreach of state authority into personal liberty.⁷⁹

⁷⁴ "Police Forces," *Journal of Contemporary History* 7, no. 1 (1972): 199, accessed April 2, 2019, doi:10.1177/002200947200700111.

⁷⁵ Charles Tilly, *Coercion, Capital and European States, AD 990-1990*, 75.

⁷⁶ Ibid.

⁷⁷ Egon Bittner, *Functions of Police in Modern Society: Review of Background Factors, Current Practices, and Possible Role Models* (Chevy Chase, MD: National Institute of Mental Health Center for Studies of Crime and Delinquency, 1970), 6-7, <https://www.ncjrs.gov/pdffiles1/Digitization/147822NCJRS.pdf>.

⁷⁸ Egon Bittner, *Functions of Police in Modern Society: Review of Background Factors, Current Practices, and Possible Role Models*, 9.

⁷⁹ Ibid, 16.

Police, as a separate entity from its ancestral relative, the medieval watchmen, formally emerged first in English society after the present state measures for authority became unable to handle the increasing crime problem.⁸⁰ The late development of institutionalized police is interesting as tax collection, military conscription, and other forms of state coercion that may have required the ability to exert force predate the existence of a formalized police unit.⁸¹ This was because many were against the formation of a police as it was seen as a method for the executive powers to hinder civil liberties.⁸² These fears of the people against this institutionalized force have always been something that has colored the image of law enforcement.

Beyond this early development as the foot soldiers of state authority on the domestic front, law enforcement changed and evolved as society did. If police were domestic agents of the state and authorized to use force on the state's behalf in order to enforce law and order, then police in liberal democratic states are the agents of the people, as the state exists for the people and is composed of by the people themselves. The ideal in a liberal society should be the police as a working arm of the state to neutrally ensure law and order are complied with by citizens in order to preserve equality and liberty and to prevent violent interpersonal altercations. However, this has not been the case in history of law enforcement in the United States.

The development of police in the United States is somewhat interesting considering its praise of negative liberty yet its disregard for entire groups of people for the majority of its history. This history is important when scrutinizing the United States' role as a democratic political leader and leading advocate for liberal democracy. Just as institutionalized forms of law

⁸⁰ Ibid, 16.

⁸¹ Ibid, 15.

⁸² Ibid, 16.

enforcement came out of the existence of night watchmen in Europe and England, so too did United States' law enforcement develop. A slave patrol system was used through the beginning of the 18th century in the southern United States that violently punished and intimidated any unsupervised activity of slaves during the time.⁸³ These patrols served as armed defenders of southern racism, and embedded a belief that "every facet of black life was suspect, warranting aggressive police intervention and criminal investigations."⁸⁴ When the Civil War came to an end, with the South in ruins and defeat, the Civil War postbellum offered some hope to newly freed black men. However, the abuses of the slave patrol were simply transferred to police forces in order to continue predatory white control over blacks.⁸⁵ These sentiments and practices helped shape the origins of modern law enforcement in the United States, and they therefore, whether the practices explicitly remain in place or not, have left a legacy on the institution they helped form.

In the twentieth century, similar ideas of race within police work remained. Many police officers still viewed black people as the security threat, even after World War II.⁸⁶ Racial tensions, rising with the era of the Civil Rights Movement, never completely abated during the second half of the twentieth century. Instead, police relations with black community members remained charged in some areas, particularly urban centers. This frustration felt within black communities, heightened by police targeting black Americans and excessive policing of black

⁸³ Larry H. Spruill, "Slave Patrols, "Packs of Negro Dogs" and Policing Black Communities," *Phylon* 53, no. 1 (2016): 48, accessed April 15, 2019, JSTOR.

⁸⁴ Larry H. Spruill, "Slave Patrols, "Packs of Negro Dogs" and Policing Black Communities," 49.

⁸⁵ *Ibid.*, 60.

⁸⁶ Karl E. Johnson, "Police-Black Community Relations in Postwar Philadelphia: Race and Criminalization in Urban Social Spaces, 1945-1960," *The Journal of African American History* 89, no. 2 (2004): 119, accessed April 20, 2019, doi:10.2307/4134096.

neighborhoods, led to law enforcement reinforcing segregation which entrenched the development of white and black neighborhoods.⁸⁷ The law enforcement practices of the American past decades continue to inform the reality of life for black Americans in negative ways.

4.2 Police Violating Equal Liberty

The United States' history of racism and racial segregation has left a lasting legacy on culture. While the United States has codified several measures to protect citizens against discrimination and make all citizens equal before the law, regardless of skin color, there remain many relics of past wrongs. This has affected the ways police officers, who are individuals employing state force for and against citizens, use their discretion in dealing forcibly with citizens.

Police officers who work as street cops, rather than in office or managerial positions, are the lowest ranked workers in the institution of law enforcement, yet they are the ones to whom the most decision-making is left when employing force.⁸⁸ This is an important fact, as these street level cops bring with them their emotions, experiences, unique perspectives and biases in their work with American citizens, which puts them at a large risk of unevenly and unfairly enforcing certain laws. Moreover, the threatening working conditions of police officers have stoked a need to attract brave and thrill-seeking individuals in order to survive in the tense

⁸⁷ Karl E. Johnson, "Police-Black Community Relations in Postwar Philadelphia: Race and Criminalization in Urban Social Spaces, 1945-1960," 124.

⁸⁸ Robert E. Worden and Sarah J. McLean, "Police Departments as Institutionalized Organizations," 14.

subculture of law enforcement, thus raising the risks for abuse of power.⁸⁹ So while unjust laws are still in place and aim to limit the liberty of some citizens over others, the scope of this criticism of American police will be limited to instances where a just law, with no intent to be used against certain citizens and not others, is upheld unevenly by law enforcement (for instance, traffic laws, pedestrian laws, gun possession laws, etc.)

Even though white Americans are still at a much higher risk than their white peers in other Western nations in facing police brutality, they still face a much lower risk as compared to minority populations. In order for the equality of liberty of American citizens to be violated, it must be apparent that there is an uneven nature to domestic coercion. This is relatively easy to establish and widely accepted. Black Americans are overrepresented in police killings by a factor of 2.3.⁹⁰ The United States is a dangerous country compared to its developed peers in terms of police violence, as on average two to three police officers a day kill someone in America.⁹¹ This includes white and black Americans, as deadly police violence affects all citizens. But the racial element to deadly force is unavoidable. In 2015, 32 percent of of police killings of unarmed citizens were black, making racism against black Americans much more apparent in the cases of illegitimate killings.⁹² If the use of force did not have a racial element, one would expect to see the percentages of police killings of black Americans at a rate more consistent with their representation amongst the general American population, at 13.1 percent.⁹³

⁸⁹ Paul J. Hirschfield, "Lethal Policing: Making Sense of American Exceptionalism," 1112.

⁹⁰ Ibid, 1111.

⁹¹ Ibid, 1109.

⁹² Ibid, 1111.

⁹³ "U.S. Census Bureau QuickFacts: UNITED STATES," Census Bureau QuickFacts, accessed May 6, 2019, <https://www.census.gov/quickfacts/fact/table/US/PST045218>.

Traffic laws are an apt example of just laws; they aim to prevent harm to others by regulating the behavior of motorists, and are made to apply to all drivers, rather than a particular group of people. According to research, police stopped an average of 50,000 drivers a day in 2015.⁹⁴ The Stanford Open Policing Project, which aims to begin to collect data in order to fill in the gaps of police behavior in the United States, found that black people, across most American cities, are much more likely to be stopped for traffic violations than their white peers, with San Francisco, Madison, and Raleigh showing some of the greatest discrepancies between stops by race.⁹⁵ As a result of traffic stops in 2017, 89 people were killed, putting black Americans at a greater risk of death when interacting with police at traffic stops, making it potentially dangerous to “drive while black.”⁹⁶ These statistics support the idea that police are presenting themselves to people as an enemy to black Americans rather than protectors. Instead of ensuring the safety of the driver and passengers as well as other drivers on the road, by upholding the harm principle, law enforcement are instead using their power to intimidate black Americans.

Street level discretion illuminates personal bias and prejudice in violent ways. Police brutality has long been an issue in the United States, especially against minorities, as previously mentioned. But racial tensions in regards to police reached highs in the 1990s, when four white police officers beat an African American resident of Los Angeles, Rodney King, and a bystander caught the incident on camera.⁹⁷ All four officers were tried. However, none of the officers were

⁹⁴ "The Stanford Open Policing Project," openpolicing.stanford.edu, accessed May 7, 2019, <https://openpolicing.stanford.edu/findings/>.

⁹⁵ "The Stanford Open Policing Project," openpolicing.stanford.edu.

⁹⁶ "2017 Police Violence Report," 2017 Police Violence Report, accessed May 6, 2019, <https://policeviolencereport.org/>.

⁹⁷ Lee Sigelman et al., "Police Brutality and Public Perceptions of Racial Discrimination: A Tale of Two Beatings," *Political Research Quarterly* 50, no. 4 (December 1997): 777, accessed April 2, 2019, doi:10.2307/448986.

found guilty, and Los Angeles erupted in riots that caused at least sixty deaths and a billion dollars in property damage.⁹⁸ The death of Rodney King and other instances of police killings and brutality of black Americans in the following decades, and the failure of the justice system to convict the four white officers, and many other officers involved in such violence, entrenched the idea amongst black Americans that law enforcement was antagonistic to them as a group.⁹⁹ More recent instances of police brutality include the death of Eric Garner in New York City in 2014, the death of Michael Brown in Missouri in 2014, and the death of Freddie Gray in Baltimore in 2015.¹⁰⁰ These deaths are all highly publicized and spark outrage across the United States. How do such stories affect black Americans in liberty?

When most citizens initially are taught that police exist to protect and serve the public, according to federal, state, and local law which holds all citizens as equals, there should be trust and cooperation that exist in the relationship between police officer and the public. However, with the progress of technology where so many Americans have recording devices on their person at almost all times, more instances of brutality are being shared than ever before. This has grave repercussions, not only for the individual harmed by law enforcement, but for black communities.

Researchers found that after Frank Jude, a black Milwaukee resident, was horribly beaten by several police officers so much so that he was left blind, with permanent hand disfigurement, and emotional trauma, black residents of Milwaukee were far less likely to report crime, even

⁹⁸ Lee Sigelman et al., "Police Brutality and Public Perceptions of Racial Discrimination: A Tale of Two Beatings," 778.

⁹⁹ Ibid, 779.

¹⁰⁰ Matthew Desmond, Andrew V. Papachristos, and David S. Kirk, "Police Violence and Citizen Crime Reporting in the Black Community," 858.

violent crime, to police officers. The year after the reporting of Frank Jude's injuries, there was found to be a net loss of 20,000 911 calls.¹⁰¹ Due to this lack of reporting in the black community, the Milwaukee homicide rate saw an uptick in the several months following the Frank Jude story, culminating in the deadliest season of a seven-year study.¹⁰² The violence inflicted by these police officers on one person in a community impacted the safety of the entire community; impacts which reduce the legitimacy of law enforcement, especially in the eyes of black citizens, and in turn, reduce their cooperation with police officers, jeopardizing their safety.

As discussed, publicized acts of police brutality against minorities seemingly cause a decrease in trust in black neighborhoods and communities, likely where there is already a distrust for law enforcement due to historical trends. Police officers beating or killing a black person in illegitimate circumstances (that is, the victim complied with officers, was unarmed, was armed but was legally carrying a firearm, was fleeing, etc.) far oversteps the harm and offense principles so valued by liberals.

If one's liberty should only be limited in cases where they are posing a threat to the safety of others or when acting in an offensive manner to the point where it disturbs the public space around them, then stopping a person for a broken tail light, rolling through a stop sign, or speeding seems acceptable, as these are all things that threaten the safety of others on the road, as well as pedestrians. But there is also an acceptable and appropriate use of punishment in order to prevent people from violating the harm and offense principles. A man with multiple automatic

¹⁰¹ Ibid, 870.

¹⁰² Ibid, 871.

weapons entering a school area will obviously be dealt with a far greater amount of force than a person who ran a stop sign. So, presumably, a person stopped for a traffic stop should only be handed a warning, a ticket with a financial penalty, or mandatory driving training. Instead, citizens are often met with force. The majority of police killings occur when officers are responding to non-violent offenses and cases when no crime was reported.¹⁰³ The implications of this excessive use of force are problematic.

This abuse of law enforcement against black Americans, whether created subconsciously by police officers' biases and lack of training, or advertently, by attempting to sustain past inequalities between races in the United States, reduces the liberty of not only those who are directly affected by these instances of police brutality, but also the liberty of those that share their racial group. Law enforcement has created a national culture of intimidation against black people and, thus, coercion, as there is an ever present implicit threat.

First, when one is robbed of their life as a result of a small infraction (and, often, no infraction at all), or even seriously injured or harmed, their liberty has been completely violated by the state. This much is common sense. But, when the instances become patterns, rather than isolated incidents, there are consequences for the community to which those individuals are part of. The research from the Frank Jude case indicated the black Americans are far less likely to call 911 to report petty theft or violent crime, even when they are a victim, following a highly publicized case of police brutality against a black person.¹⁰⁴ This fear and lack of trust is fuelled by reckless behavior of police officers. Whether these officers represent a small group of bad

¹⁰³ "2017 Police Violence Report," Mapping Police Violence.

¹⁰⁴ Matthew Desmond, Andrew V. Papachristos, and David S. Kirk, "Police Violence and Citizen Crime Reporting in the Black Community," 870.

apple'cops, or are evidence of a larger institutional problem, they cause black communities to lose faith in police officers as agents of protection, therefore making those communities more susceptible to higher violent crime rates due to a lack of reporting and cooperation. This can become a vicious cycle in that the initial distrust created by incidents of police brutality go on to create a lack of positive or productive interaction between police officers and black neighborhoods, potentially making police more fearful of further encounters with that group, making them more likely to use force.

Domestic coercion, in the case of American police and black people, often manifests itself in implicit threats. If members of a community believe that their safety is at risk by engaging in certain, normal behaviors, like driving, legally owning a firearm, holding parties with friends and families, or walking around their neighborhood, they may begin to refrain from doing so. And because this brutality happens disproportionately to black Americans, their equality of liberty is violated (although it would still be quite a violation of liberty should all Americans feel this way, but its racial unevenness makes this violation more so disturbing.) Black Americans are then implicitly coerced, far more than other groups, into withdrawing from activities they may otherwise do should no threat against them exist. Driving while black, walking while black, existing as a black person in the United States is seen as dangerous. Even though these activities should be allowed under negative liberty and are in compliance with the harm and offense principles, black Americans perhaps do not participate as fully as they would due to the frequent fears of being stopped by police, or if they do participate, they may do so with great trepidation.

With black men overrepresented in police shootings, fatal and non-fatal, at 55 percent of total police shootings in 2017, black Americans are aware that they are less safe than their peers when interacting with police, even when in complete compliance with the law.¹⁰⁵ The emotional distress this causes black individuals, as well as the larger culture of racism and inequality that these happenings reinforce, should be enough to draw further scrutiny to the health of liberal democracy in the United States.

While the state has attempted to create a more equal society in law (to what extent policy has rectified past wrongs and inequalities is for another discussion), the agents of enforcing and protecting said law carry it these activities out unequally and unfairly. This should be seen as a threat to all liberal values, and the functioning of a liberal democratic government. This illegitimate coercion by United States law enforcement results in an imbalance of liberty and an unequal society (though it is not the only cause of inequality) and is detrimental to the representative system that requires the liberty of all its citizens in order to properly develop and vote on new laws and policies.

4.3 Solutions

A myriad of ideas exist for solving the inequality caused by police activity in the United States. Solutions range from radical to moderate and incremental; some utilize developments in technology, and others focus on mending community relations and strengthening local ties between families and neighborhoods to police officers and departments.

¹⁰⁵ Roland Fryer, "Reconciling Results on Racial Differences in Police Shootings," *AEA Papers and Proceedings*, no. 108 (January 2018): 1, accessed May 6, 2019, doi:10.3386/w24238.

A commonly cited way to reform police and to build rapport with citizens is to shift from reactive policing to community policing. Community policing aims to establish a cooperative relationship between a community and police where both are able to work together to proactively create unique solutions to the unique problems faced by a neighborhood.¹⁰⁶ This often requires switching from patrolling in vehicle to foot patrols, which allows officers to appear more accessible to the community and fosters relationship development so that officers may get to know the neighborhood more personally. The aim of these tactics, is, ideally, to build confidence in minority populations when interacting with police.¹⁰⁷

Community policing was popularized in the United States in the second-half of the twentieth century; however most attempts at community policing came through the development of special community policing units, rather than changing the philosophy of the entire department.¹⁰⁸ This technique of instilling community policing as units rather than change the entire department's philosophy fails as only a select few officers (those in the community policing unit) will be able to develop rapport with the community while the rest of the department retains their distrustful image as they remain reactive and unapproachable.

In order for community policing to serve as a real solution to the excessive and undue brutality in the United States, the reframing of police departments' philosophy and missions would have to occur - which can be an enormous task. Should community policing be made the primary method of policing, in that emergency and reactive responses occur as secondary police

¹⁰⁶ Deniz Kocak, "Situating Community Policing in Contemporary Approaches to Public Order," in *Rethinking Community Policing in International Police Reform* (Ubiquity Press, Geneva Centre for the Democratic Control of Armed Forces, 2018), 11, accessed April 15, 2019, JSTOR.

¹⁰⁷ Deniz Kocak, "Situating Community Policing in Contemporary Approaches to Public Order," 12.

¹⁰⁸ *Ibid*, 13.

actions, then concept of 'us versus them' may be weakened. Officers and members of a neighborhood may feel more responsible and beholden to one another, creating a climate of collaboration and trust. Unfortunately, there is a great amount of skepticism from police officers regarding community policing, as its origins and support largely comes from academics and politicians who are removed from their work.¹⁰⁹

Surges in technology help advocates who aim to introduce more public accountability to law enforcement. Numerous United States' cities have begun to implement policies for police officers to wear and record with body worn cameras, with Boston being the most recent at the time of writing.¹¹⁰ Body cameras have been shown to potentially reduce the instances of excessive use of force, as well as reduce citizen complaints against officers.¹¹¹ This newly promising technology introduced to police department across the United States could help make a new case for public accountability, which rests on the idea that the police are unable to police themselves. In the past, citizen oversight and public accountability, which often arises after a large outcry against an instance of police brutality, have shown little effect on the behavior of police officers.¹¹² However, body-camera policies and other new technology could bolster this solution.

There are also the more extreme options of abolishing and rebuilding the police force of the United States. This has little likelihood of happening, as the reestablishment of police forces

¹⁰⁹ Ibid., 13-14.

¹¹⁰ WBUR Newsroom, "Boston Police Officers To Begin Body Camera Training This Week," Boston Police Officers To Begin Body Camera Training This Week | WBUR News, May 05, 2019, , accessed May 6, 2019, <https://www.wbur.org/news/2019/05/05/boston-police-body-camera-training>.

¹¹¹ Barak Ariel, William A. Farrar, and Alex Sutherland, "The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints Against the Police: A Randomized Controlled Trial," *Journal of Quantitative Criminology* 31, no. 3 (2014): 32, accessed March 30, 2019, doi:10.1007/s10940-014-9236-3.

¹¹² Robert E. Worden and Sarah J. McLean, "Police Departments as Institutionalized Organizations," 27.

nearly always happen after a civil crisis or a war. It would also have little support, considering that it would potentially open people to the very lawlessness that a liberal democratic state aims to protect its citizens from. However, considering the deep-seated distrust of police it seemed an appropriate option to lay out.

The largest benefit to this solution would be that the historical and cultural underpinnings that evolved with the United States police, particularly the machismo, loyalty, and individualism advocated for by some street cop cultures, and the racist purposes of law enforcement from the time of slavery, could be eliminated. To be able to create a new culture of law enforcement, one that is created in an attempt to remedy the inequality of liberty, could perform better in that function, especially if such an institution would be created as a response to the brutality and injustices of current police forces. New standards could be instituted, including education requirements, recruitment techniques, and policies on how to interact with citizens in a positive way.

But even these advantages become negatives after quick consideration. The United States as a country and culture still retains this history of slavery and racial inequality - creating a new institution of law enforcement would not guarantee a divorce from these histories. Secondly, new standards and trainings could be instituted without completely abolishing and rebuilding police departments. Finally, such a monumental change would require such a use of economic and administrative resources that would likely bring little support.

Instead, the ideals that would emerge from creating a new iteration of police forces could be accomplished more resourcefully and efficiently by incrementally adjusting policy and behavior. Likely, the methods from many various attempts at reform should be attempted

together to help rebuild, without abolishing, police departments. A change in education standards could attract a different kind of police recruit, one that is more excited by community service, sociological research, and building empathetic relations with those who have been historically disadvantaged. Introducing body-cameras and other technologies, like public databases on police brutality and the requirement of outside oversight and the maintenance of said databases, could strengthen public accountability and citizen oversight to raise confidence that the police work interdependently with the government and neighborhoods they service, rather than as a lone entity.

My aim is not to completely cover all reform proposals, or even offer the most acceptable option, but rather, to articulate that, while the past and current actions of many law enforcement officials degrade the quality of liberal democracy, and the consequences of their actions on society should be more heavily weighted when assessing the United States, there are ways to attempt to remedy this problem. As liberalism argues that liberty grants us the ability to converse and generate grand new ideas and solutions, hopefully those that still possess liberty in the United States can devise further ways to fix this important problem.

5. Conclusion

With liberal democracy standing as the foremost applauded system of government for the Western world, often juxtaposed to authoritarian regimes of old, understanding the reasons it is valued lays a foundation for assessing the health of its system. By looking to liberal forefathers and building upon their ideas of equality, liberty, and fairness, the importance of strong

limitations on a state's legitimate use of coercion is underscored. Instead, the state should contain its coercion to suppressing those actions which violate the harm and offense principles. Because law enforcement in the United States tends to unequally enforce just laws, the liberty of black Americans is violated and the equality of liberty is damaged, creating a more homogenous society that favors one race over another.

This paper aims to reiterate the importance of the equality of liberty for the functioning of a liberal democracy, and how the violation of that equality by United States' law enforcement contributes to the declining health of American liberal democracy. With greater visibility of instances of police brutality, there is hope that this behavior will be more factored in to literature and scholarship that aims to measure and assess the quality of liberal democracy, specifically in the United States. If police brutality is understood as such a threat, it may be more swiftly dealt with in policy and practice.

While the phenomenon of police brutality cannot be completely understood from only one perspective, as a variety of factors contribute to its prevalence in the United States, I believe this perspective is somewhat new and important in creating a discussion the extent of the impact this has on a state.

This argument is not meant to completely encompass all the reasons that there is a lack of equality between black and white Americans, and does not aim to be a comprehensive text regarding the issue of racial injustice. However, by understanding why liberals value liberty, the importance of reforming or reimagining the way police work is conducted in the United States is emphasized. As it stands, the conclusion that the current practices of law enforcement are a

threat to liberal democracy in the United States should call further into question the ability for the United States to stand as a leader of democracy in the world.

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