The Empirical Test of Political Legitimacy: Measuring Order, Rights, and Institutional Durability in the Early Modern State

I. Introduction: The Empirical Test of Political Philosophy

The foundational claims of early modern political theorists—ranging from the necessity of absolute order to the inherent limitations on sovereign power—have often been treated within the realm of abstract philosophy. However, the true legitimacy and utility of these political structures are determined not by their theoretical elegance, but by their measurable material consequences: stability, protection of life and property, institutional resilience, and economic efficacy. By grounding the philosophies of Hobbes, Machiavelli, Locke, Rousseau, and Montesquieu in the historical data of the 17th and 18th centuries, this analysis seeks to transform a theoretical debate into an empirically grounded report on political success and failure.

The investigation focuses on a comparative assessment of institutional choices, using pivotal historical periods—the English Civil Wars and Protectorate, French Absolutism and Revolution, and Early American Constitutionalism—as experimental cases. The central hypothesis is that political systems designed around robust, distributed restraint exhibit superior long-term performance across key metrics compared to those based on concentrated, unlimited sovereignty, whether monarchical or popular.

To rigorously test this hypothesis, four primary metrics are employed to quantify political performance: 1) the **Cost of Disorder**, measured by the human casualty rates resulting from the collapse of the Hobbesian state; 2) the **Cost of Centralization**, quantified by the systemic economic exploitation and the application of arbitrary justice; 3) the **Cost of Idealism**, defined by the scale and sociological composition of violence generated by revolutionary states; and 4) the **Value of Restraint**, benchmarked against constitutional longevity and

institutional adaptive capacity. The following analysis utilizes quantitative data from these historical epochs to assess the material success or profound failure of competing philosophical visions of the state.

II. The Pragmatic & The Hierarchical: Order at Any Cost (Hobbes & Machiavelli)

This section evaluates the Hobbesian premise that political stability, achieved through a singular, absolute sovereign (the Leviathan), is the supreme condition, justified by the catastrophic alternative of anarchy. This necessity for order, often achieved through pragmatic, centralized power as prescribed by Machiavelli, is empirically tested against the chaos of the English Civil Wars and the structure of French Absolutism.

A. The Hobbesian Solution: Quantifying the Necessity of the Leviathan

The political instability resulting from the division of sovereignty between King and Parliament provided the historical context for Thomas Hobbes' *Leviathan*. The ensuing English Civil Wars (1642-1651) serve as a stark empirical analogue for the feared "state of nature." The cost of this political fragmentation was immense. Reliable historical estimates place the total casualties, encompassing both direct combat deaths and indirect losses, at approximately 200,000 lives lost, establishing this period as arguably the bloodiest conflict in the history of the British Isles.[1]

A detailed examination of the casualty figures reveals the profound societal breakdown that validated Hobbes' core assumptions. While military engagements resulted in significant losses (estimated at 34,130 combat deaths), the systemic failure of the state proved far more lethal. The records indicate approximately 127,000 non-combat deaths, including an estimated 40,000 civilians.[2] This disproportionately high ratio of non-combat to battle deaths demonstrates that the principal danger of political fragmentation is not merely state violence, but the pervasive systemic destruction that accompanies civil strife. The high civilian toll, driven by disease, starvation, and economic collapse, confirms that the condition of political anarchy results in a life that is, empirically, "solitary, poor, nasty, brutish, and short."

The centralized response to this chaos was the establishment of the Commonwealth and, subsequently, the Protectorate under Oliver Cromwell (1653–1658). This regime established a military dictatorship formalized under the *Instrument of Government*.[3] While the Protectorate

curtailed political liberties and ruled without parliamentary consent, establishing a permanent military presence in English government [3], its institutional goal was the immediate restoration of order. Notably, historical research does not cite evidence of widespread mass political executions during the Protectorate comparable to the previous civil conflicts or subsequent foreign revolutions, suggesting that concentrated, absolute power did, in fact, achieve the Hobbesian goal of suppressing internal violence and restoring fundamental public order, albeit through non-democratic means.

A critical, preceding factor contributing to the chaos was the fate of institutions designed to uphold supreme authority. The pre-war Star Chamber, a court of the King's Council (abolished in 1641), represented the zenith of arbitrary royal justice.[5] Initially, it was intended to enforce laws against the socially and politically powerful who often escaped ordinary common law courts.[6] However, by the Stuart era, it was notorious for operating "without reference to civilised practice and procedure" and could punish defendants for actions technically lawful under common law, functioning as a tool of royal prerogative.[6] The removal of this centralized, extralegal check on elite power, concurrent with parliamentary resistance, may have accelerated the slide toward factional civil war. This historical sequence suggests that the removal of any sovereign authority—even a cruel one—without a viable replacement mechanism, creates a vacuum that is swiftly filled by violence, providing potent support for the Hobbesian conviction regarding the necessity of a singular, unquestioned sovereign.

B. The Machiavellian State: Arbitrary Authority and Systemic Inequity

If the Hobbesian state successfully achieves order, its institutional structure often manifests as Machiavellian pragmatism: maintaining power by managing elites and exploiting the unrepresented. Louis XIV's France serves as the definitive empirical model of established absolute monarchy, where the monarch's authority was unrestricted by written laws or legislature.[7]

The fundamental operational weakness of the absolutist structure was its reliance on maintaining the loyalty of influential groups through privilege. The French monarchy ruled "without the express consent of influential groups within the country".[8] To secure their compliance, the crown assured them "liberties," such as immunities to taxation. This created an inverse application of the "no taxation without representation" principle: influential groups—the Church, nobility, and segments of the bourgeoisie—refused to pay taxes if they were not represented in the government.[8]

Consequently, the burden of direct taxes, such as the *taille* and *gabelle*, along with mandated labor services (*corvées royales* for military transport and road repair), fell almost exclusively

on the peasantry and those lacking status or influence.[8] This strategy for securing immediate elite management guaranteed long-term fiscal insolvency. The government could never raise revenue proportionate to the country's real wealth due to these sweeping exemptions.[8] This inherent structural inequity ensured chronic financial instability, which ultimately precipitated the 1789 Revolution. Absolutism, therefore, purchased short-term stability from the nobility by guaranteeing revolutionary inevitability for the next generation.

Furthermore, the stability of this centralized monarchy required constant military enforcement. The rise of absolutism coincided with a massive expansion of the French military, exhibiting the largest percentage increase in force size during the mid-seventeenth century.[9] The needs imposed by this growing army generated the bureaucracy and centralization characteristic of absolutism, but the cost was borne internally. Historical documentation notes the "robbery and rapine the army inflicted on the French people" [9], demonstrating that the Leviathan's imposed security comes with an internally generated cost of enforcement that further fuels systemic resentment and exploitation.

Table 1: The Empirical Cost of Political Fragmentation and Arbitrary Rule

Regime/Event	**Political Outcome**	**Empirical Cost (Quantifying Instability)**	**Philosophical Insight**
English Civil Wars (1642-1651)	Collapse of Dual Sovereignty	~200,000 deaths (Direct/Indirect); 127,000 non-combat deaths [1]	The catastrophic human cost of the State of Nature (Hobbes).
Pre-1641 Royal Courts (Star Chamber)	Arbitrary Elite Control/Justice	Ability to punish technically lawful actions; lacked due process [5]	Demonstrates the arbitrary nature of centralized power intended to achieve order (Machiavelli's necessity).
French Absolute Monarchy (17th/18th C.)	Elite Management through Privilege	Influential groups exempted from direct taxes (*taille*); bulk levied on unrepresented	Shows how stability is purchased via systemic inequity, leading to ultimate financial crisis and

		peasants [8]	peasant revolts.

III. The Humanist & The Republican: Liberty, Rights, and the Price of Revolution (Locke & Rousseau)

This section contrasts the measurable success of John Locke's liberalism—grounded in the protection of rights and property—with the catastrophic outcomes generated by the radical application of Jean-Jacques Rousseau's unitary popular sovereignty during the French Revolution.

A. The Lockean Legacy: Institutionalizing Limited Government

Locke provided the intellectual blueprint for the Glorious Revolution (1688), which asserted that legitimate government rests on the consent of the governed and the protection of natural rights, especially property. The resulting English Bill of Rights (1689) provides the empirical evidence for the successful institutionalization of limited government.[10]

The Bill of Rights established concrete limitations on the executive, preventing arbitrary rule. Key provisions explicitly declared illegal the levying of taxes without the grant of Parliament and the maintenance of a standing army in peacetime without Parliamentary consent.[10] Furthermore, it affirmed rights such as the freedom to petition the king, protection of parliamentary speech, and prohibitions against excessive bail, fines, or cruel and unusual punishments.[10] These codified negative rights—guaranteeing what the state

could not do—created institutional bulwarks against the arbitrary executive power that characterized the Stuart monarchy.

This shift toward parliamentary supremacy and guaranteed rights provided a superior long-term foundation for societal prosperity. While specific per capita income comparisons for the 18th century are complex, comparative analysis repeatedly noted the economic "forwardness of England" compared to the observable "backwardness of France" just prior to the French Revolution.[12] The institutional security provided by the Lockean framework—guaranteeing property rights and the stability inherent in representative consent—fostered an environment for wealth creation and economic development that the

arbitrary, extractive model of French absolutism could not match.

B. The Rousseauvian Ideal: The Tyranny of the General Will and the Cost of Virtue

In contrast to the Lockean focus on institutional restraint, the French Revolution's Reign of Terror (1793–1794) embodied the dangers of vesting unlimited power in a unitary, abstract popular will, as championed by Rousseau. Rousseau argued that the General Will, being inherently virtuous, must be obeyed, requiring citizens to be "forced to be free."

The empirical consequences of this ideology were immediate and profound. The Reign of Terror resulted in an estimated 14,000 to 17,000 official executions.[13] Beyond this toll, the government arrested approximately 300,000 citizens, with an additional 10,000 dying in prison or without trial.[13]

The most potent critique of unlimited popular sovereignty lies in the sociological composition of the victims. The narrative often focuses on the elimination of the old aristocracy, but the data demonstrates that the Terror was profoundly indiscriminate. Historians estimate that 85% of the victims belonged to the Third Estate (commoners), while only 15% were from the nobility or clergy.[14] Specifically, the largest victim groups were the working class (approximately 32% of executions, or 4,400 lives) and the peasants (approximately 29% of executions, or 4,000 lives).[13] This finding—that the revolutionary government executed "more carters than princes" [14]—demonstrates the inherent fragility of unitary popular sovereignty. When the state's power is defined as the abstract, total representation of the 'General Will,' there are no effective institutional checks or legal boundaries to prevent it from defining and eliminating internal enemies indiscriminately, turning the power of the people against the people themselves.

This Rousseauvian state demanded total mobilization, invading the private sphere in ways that profoundly violated Lockean conceptions of liberty and property. The *Levée en Masse* (1793) instituted military totalitarianism, requisitioning all unmarried, able-bodied men between 18 and 25 for military service. This led to a peak army strength of 1.5 million, effectively turning the civilian population into a war support machine.[16] Economic life was simultaneously dictated by the

Law of the General Maximum (1793), which set price limits and, critically, enforced labor. The law allowed municipalities to "put in requisition and punish... with three days' imprisonment, workmen, manufacturers, and divers laborers who refuse, without legitimate grounds, to do their usual work".[17] The state's insistence on monolithic ideological purity also required severe

restrictions on expression; France maintained centralized censorship boards that struggled to contain the flow of information but contrasted sharply with the more open, less successful censorship efforts in places like the Netherlands.[19]

The empirical contrast between the English and French revolutions confirms that institutional protection (Locke) is superior to ideological purity (Rousseau). The English system's focus on **negative restraints** (what the government cannot infringe) resulted in stability and observable economic prosperity. Conversely, the French system's drive for mandated **positive obligations** and unlimited sovereignty led to radical state overreach, economic dictatorship, and catastrophic violence against the very demographic it was intended to liberate.

Table 2: The Costs of Revolutionary Idealism (French Reign of Terror, 1793-1794)

Social Class of Victims	**Estimated Proportion of Executions**	**Implication for Rousseauvian Theory**
Third Estate (Commoners, including Peasants/Workers)	85% [14]	The vast majority of victims were non-elites, showing the indiscriminate and systemic nature of the Terror.
Working Class/Peasants	~61% (Combined) [13]	The highest proportion of victims came from the very class supposedly acting through the General Will, demonstrating internal contradiction.
Nobility and Clergy	~15% [14]	Confirms the political elimination of elites, but highlights that this was a minority of total victims.

IV. The Architect of Power's Restraints: Institutional Design and Durability (Montesquieu)

Montesquieu's *The Spirit of the Laws* identified the separation of powers as the primary safeguard for liberty, a principle fully operationalized by the American founders. This section examines the empirical results of this institutional geometry, primarily focusing on the US Constitution's unparalleled longevity and its mechanisms for managing political conflict.

A. The Theory of Checks and Balances: Creating Institutional Friction

The US Constitution (1789) was explicitly designed as a mechanism for institutional friction, rooted in Montesquieu's theory of divided authority. James Madison, articulating this design, famously stated that while government must be enabled "to control the governed," it must, in the next phase, be "obliged it to control itself".[21] The structure was conceived to furnish "the proper checks and balances between the different departments" [22], aiming to break and control the "violence of faction" that Montesquieu feared would destroy republics.[23]

This objective stands in direct opposition to the Hobbesian goal of concentrated power. The American system deliberately sacrifices efficiency for security, using institutional checks to channel and diffuse human ambition and political conflict. The success of this strategy is best measured by the resulting political stability.

B. The Empirical Proof: Constitutional Durability and Judicial Review

Institutional longevity is the ultimate empirical validation of sound political architecture. Since 1789, national constitutions worldwide have lasted an average of only 16 to 17 years.[24] This short lifespan is often due to political instability, ideological shifts, or the failure of the government structure to manage conflict, leading to revolutionary replacement or coup d'état.

In stark contrast, the US Constitution, also established in 1789, has maintained continuous operation for over 235 years. This durability gap provides overwhelming empirical evidence of the sustainability and resilience inherent in Montesquieuvian design. The longevity gap suggests that stability is not achieved through the concentration of sovereign power, as Hobbes argued, but precisely through its calculated distribution and mutual constraint.

Furthermore, the system's capacity to manage conflict was rigorously tested early in its history. The landmark Supreme Court case, *Marbury v. Madison* (1803), addressed a fierce political dispute over judicial appointments.[21] Chief Justice John Marshall's decision established the principle of

Judicial Review, granting the courts the authority to determine the constitutionality of legislative and executive actions.[21] This institutional development was crucial because it provided a non-violent, constitutional means to arbitrate foundational disagreements between the political branches. By routing conflict through the judicial structure, the American system prevented high-stakes inter-branch disputes from escalating into constitutional crises or civil unrest, reinforcing the long-term survival of the constitutional structure itself.

C. Institutional Flexibility and Adaptation

Montesquieuvian design ensures durability not just through initial structural balance, but through the provision of internal mechanisms for correction and adaptation without necessitating foundational collapse.

The US system proved its adaptive capacity almost immediately with the swift adoption of the Bill of Rights (the first ten amendments) by 1791, followed by the Eleventh and Twelfth Amendments (governing judicial power and electoral procedure) by 1804.[26] In total, Congress has endorsed 33 constitutional amendments, 27 of which have been successfully ratified.[27]

This formalized, yet difficult, amendment process is a critical feature of the system's durability. The rigor demanded by Article V ensures that fundamental changes are incremental and consensus-driven. While 12 amendments were ratified in the first 15 years, the rate slowed considerably thereafter, demonstrating an institutional preference for stability over rapid, radical reform. This ability to absorb and constitutionalize necessary change prevents the accumulation of political pressure that typically detonates less flexible systems, resulting in the cycle of revolutionary constitutional replacement frequently observed elsewhere.

Table 3: Institutional Longevity and Constitutional Design (1789-Present)

Political Model/System	**Philosophical Basis**	**Empirical Durability Metric**	**Key Institutional Feature**
United States Constitution (1789–Present)	Montesquieu / Madison	Continuous (235+ Years) [24]	Separation of Powers; Judicial Review (*Marbury v. Madison*, 1803) [21]
European/Global Constitutions	Various (Often Unitary/Revolutiona	Average lifespan: 16–17 Years [24]	Lack of inherent inter-branch

(Post-1789)	ry)		restraints or functional self-correction mechanisms.
US Amendment Process (1789–1804)	Lockean/Republican Flexibility	12 Amendments ratified in 15 years [26]	Capacity for internal reform and adaptation without structural collapse.

V. Conclusion: Synthesis of Empirical Findings and Philosophical Vindication

The comparative analysis of early modern political systems, using historical data as empirical outcomes, yields a set of definitive conclusions regarding the effectiveness and moral cost of competing philosophical models of governance.

The Hobbesian argument for stability at any cost is powerfully validated by the trauma of the English Civil Wars, where political fragmentation resulted in massive non-combat civilian casualties, confirming the existential threat posed by systemic breakdown.[1] However, the Machiavellian method of achieving this stability—through centralized, arbitrary power—proves structurally self-destructive. French Absolutism maintained order by granting tax exemptions to elites, a political necessity that rendered the state fiscally insolvent, guaranteeing chronic systemic unrest and eventual revolution.[8]

The Lockean response, characterized by the institutionalization of limited government and negative rights, proved empirically superior for long-term prosperity. The English Bill of Rights established reliable rules of the game (no taxation without consent, no standing army without approval) [10], providing the security necessary for England's observable economic "forwardness".[12] In contrast, the Rousseauvian ideal of unlimited, unitary popular sovereignty, realized during the Reign of Terror, resulted in violence aimed disproportionately (85% of victims) at the very commoners it purported to liberate.[14] This demonstrates that purity of ideology, when coupled with concentrated power, inevitably descends into arbitrary totalitarian control, violating property and life through measures like the

Law of the General Maximum.[18]

The most compelling empirical finding is the profound vindication of Montesquieu's

institutional geometry. The US Constitution's sustained longevity, defying the global constitutional average by over two centuries [24], serves as conclusive proof that durable stability is achieved through the architectural design of distributed power, not its concentration. The success of judicial review in resolving political crises non-violently (

Marbury v. Madison) and the intentional difficulty of the amendment process underscore that the best political technology is one built for friction, flexibility, and managed conflict.[21] The data suggests that stability, the initial goal of Hobbes, is best secured by the constraints mandated by Montesquieu.

In sum, the evidence strongly recommends that modern constitutional theory prioritize institutional process over ideological purity. Governments that define and legally protect the private sphere through negative rights (Locke) and enforce internal restraints on their own power through mechanisms like checks and balances (Montesquieu) are demonstrably the most successful in minimizing both the cost of anarchy and the cost of arbitrary rule, thereby ensuring political longevity and fostering economic development.

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