

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HR 145 Individual Liberty and Democracy  
**SPONSOR(S):** Public Integrity & Elections Committee, Fabricio and others  
**TIED BILLS:**           **IDEN./SIM. BILLS:** CS/SR 150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Public Integrity & Elections Committee	11 Y, 5 N, As CS	Rubottom	Rubottom
2) Judiciary Committee	13 Y, 5 N	Walsh	Kramer

### SUMMARY ANALYSIS

A substantive House Resolution expresses an opinion of the House of Representatives and does not carry the force of law. HR 145 denounces democratic socialism in favor of individual liberty, private property and constitutional democracy.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

The Mayflower Puritans established the Plymouth Colony with all property communally owned and cultivated. This “communism” contributed to widespread starvation and destitution, leading some to become servants of local natives in exchange for food. Strong and able laborers considered the communal ownership unfair and unjust in that they received the same reward as others who contributed one-fourth as much. Nearing extinction, the leadership decided to allot a parcel of land to each settler, to encourage self-sufficiency and higher production. Ensuing agricultural abundance enabled a permanent settlement that prospered greatly contributing to the ultimate success of the American experiment.<sup>1</sup>

The Declaration of Independence held it self-evident that all individuals are created equal and endowed with unalienable rights of life, liberty and the pursuit of happiness. The Declaration famously proclaimed that the purpose of government is to secure these rights. The Declaration objected to many wrongs of King George contributing to tyranny. These wrongs included:

- Limiting immigration and naturalization of new settlers and workers;
- Making it difficult for the colonists to acquire additional land;
- Blocking the dispensing of justice, and the independence of judges, essential to the rule of law and enjoyment of liberty and property;
- Multiplying officers to harass the people and consume their wealth;
- Constraining trade; and
- Arbitrary taxation.<sup>2</sup>

Although the Continental Congress rejected a passage objecting to the capture and importation of slaves by the British, the entire Declaration stands against coercion and the unconsensual taking of the labor and productivity of any human person.<sup>3</sup>

James Madison was the fourth President of the United States, and a primary architect of the U.S. Constitution and the primary author of the Bill of Rights. He is quoted as saying:

- “Democracy is the most vile form of government”;<sup>4</sup>
- “As a man is said to have a right to his property, he may be equally said to have a property in his rights”;<sup>5</sup> and
- “The purpose of the Constitution is to restrict the majority’s ability to harm a minority.”<sup>6</sup>

Abraham Lincoln’s second inaugural address famously described slave owners as “wringing their bread from the sweat of other men’s faces.”<sup>7</sup> In contrast, Karl Marx preached “from each according to his ability, to each according to his need.”<sup>8</sup>

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<sup>1</sup> Michael Franc, *Pilgrims Beat 'Communism' With Free Market* (Nov. 22, 2005), <https://www.heritage.org/markets-and-finance/commentary/pilgrims-beat-communism-free-market> (last visited March 27, 2021).

<sup>2</sup> See Declaration of Independence (US 1776).

<sup>3</sup> See (1776) *The Deleted Passage of the Declaration of Independence*, <https://www.blackpast.org/african-american-history/declaration-independence-and-debate-over-slavery/>, (last visited March 27, 2021).

<sup>4</sup> James Madison, <https://madison.thefreelibrary.com/> (last visited March 30, 2021).

<sup>5</sup> William Hutchison et al. ed., *The Papers of James Madison*, vol. 14, pp. 266-68 (University Press of Virginia, 1977) <https://press-pubs.uchicago.edu/founders/documents/v1ch16s23.html> (last visited March 30, 2021).

<sup>6</sup> John Compore, *A day to remember our Bill of Rights*, (Abilene Reporter News Dec. 13, 2020) <https://www.reporternews.com/story/opinion/columnists/2020/12/13/day-remember-our-bill-rights/3872175001/> (last visited March 30, 2021).

<sup>7</sup> *Second Inaugural Address*, National Park Service [Second Inaugural Address - Lincoln Home National Historic Site \(U.S. National Park Service\) \(nps.gov\)](https://www.nps.gov/second-inaugural-address) (last visited Apr. 2, 2021).

<sup>8</sup> David Floyd, *What is the Difference between Communism and Socialism?*, Investopedia (Jan. 13, 2021), <https://www.investopedia.com/ask/answers/100214/what-difference-between-communism-and-socialism.asp> (last visited Apr. 2, 2021).

One Lincoln scholar explains President Lincoln's view of the Declaration of Independence as rooted in the understanding that all human beings share a dignity far above the animal kingdom and all share humility so far below Divinity as to be equal in both dignity and subjection to God. Lincoln is quoted as saying: "As I would not be a slave, so I would not be a master. This expresses my idea of democracy. Whatever differs from this, to the extent of the difference, is not democracy."<sup>9</sup>

The United States was established as a democratic republic, meaning that limited power is vested in representatives chosen directly or indirectly by democratic means.<sup>10</sup> Mirroring the principles of the limited federal government, the U.S. Constitution guarantees to every state a republican form of government.<sup>11</sup> In *Duncan v. McCall*, the Supreme Court of the United States stated that the distinguishing feature of the republican form of government is:

[T]he right of the people to choose their own officers for governmental administration, and pass their own laws in virtue of the legislative power reposed in representative bodies, whose legitimate acts may be said to be those of the people themselves; but, while the people are thus the source of political power, their governments, national and state, have been limited by written constitutions, and they have themselves thereby set bounds to their own power, as against the sudden impulses of mere majorities.<sup>12</sup>

Democracy means popular decision making by which binding decisions are made for all members of a group.<sup>13</sup>

A constitutional democracy is a government limited by a constitution in which certain leaders are selected through democratic means. In a constitutional democracy the people are sovereign and the ultimate source of authority.<sup>14</sup> The United States of America, Germany, Israel, and Japan are all examples of constitutional democracies.<sup>15</sup>

Individual liberty means that each person from external restraint in the exercise is free of rights considered to be outside of the control of the government.<sup>16</sup> Justice Kennedy once declared: "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life."<sup>17</sup>

The doctrine of the "rule of law" means that every person is subject to the controlling written law within the jurisdiction. It is opposed to a system where the arbitrary decisions of those in power determine the rights and responsibilities of their subjects. It means that all persons are equally subject to the law. It also means that government, its officers and all institutions are also subject to the law.<sup>18</sup>

The views of democratic socialism stem from revised Marxism,<sup>19</sup> which adds elements of Marxism to democracy.<sup>20</sup> Democratic Socialism has no single definition. Following is a representative sample of various definitions:

- Government that is run economically and socially democratically in order to meet the public needs.<sup>21</sup>

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<sup>9</sup> Harry Jaffa, *A New Birth of Freedom: Abraham Lincoln and the Coming of the Civil War*, p. 155 (Lanham, Md: Rowman and Littlefield, 2000).

<sup>10</sup> *Establishing a Democratic Republic*, Encyclopedia.com <https://www.encyclopedia.com/history/educational-magazines/establishing-democratic-republic> (last visited Apr. 2, 2021).

<sup>11</sup> U.S. Const. art. IV, § 4.

<sup>12</sup> *Duncan v. McCall*, 139 U.S. 449, 461 (1891).

<sup>13</sup> *Democracy*, Stanford Encyclopedia of Philosophy (Jul. 27, 2006), <https://plato.stanford.edu/entries/democracy/#DemDef> (last visited Apr. 2, 2021).

<sup>14</sup> Center for Civic Education, *Constitutional Democracy* <https://www.civiced.org/lesson-plans/constitutional-democracy> (last visited Apr. 2, 2021).

<sup>15</sup> *Id.*

<sup>16</sup> Merriam-Webster, *individual liberty*, <https://www.merriam-webster.com/dictionary/individual%20liberty> (last visited Apr. 2, 2021).

<sup>17</sup> *Planned Parenthood v. Casey*, 505 U.S. 833, 851 (1992).

<sup>18</sup> See Rule of Law, Black's Law Dictionary (11th ed. 2019).

<sup>19</sup> Marxism is a doctrine based on the ideas of Karl Marx and is a social, political and economic philosophy which advocates for a worker revolution in favor of communism. *Marxism*, <https://www.investopedia.com/terms/m/marxism.asp> (last visited Apr. 2, 2021).

<sup>20</sup> Donald F. Busky, *Democratic Socialism: A Global Survey*, Chapter One, p. 7. (Jan. 2000).

<sup>21</sup> Democratic Socialists of America, *What is Democratic Socialism*, <https://www.dsausa.org/about-us/what-is-democratic-socialism/>, (last visited, March 27, 2021).

- A system whose means of production are owned by society. The system respects basic liberal rights and features democratic elections that are free and fair. It is distinguished from a society featuring private ownership of production.<sup>22</sup>
- A socially owned economy operated in a political democracy.<sup>23</sup>

As of 2021, Armenia, Bolivia, Ecuador, Iceland, Nicaragua, Northern Ireland, Portugal, and Serbia all hold themselves out to be democratic nations and have a socialist party that serves as a governing party. Additionally, Cuba and Venezuela are currently socialist states facing economic crises.<sup>24</sup> Another example of a socialist country is the Soviet Union, which fell in 1991.<sup>25</sup>

Capitalism is an ideology marked by the idea that the means of production is controlled by private business and the government should not interfere in production or pricing, which is instead determined by the free market.<sup>26</sup> The Heritage Foundation ranks Singapore, New Zealand, and Australia as the top three most economically free countries, with the United States falling at number twenty.<sup>27</sup>

A House Resolution expresses the opinion of the House of Representatives and does not carry the force of law.

### **Effect of proposed changes**

HR 145 denounces democratic socialism in favor of individual liberty, private property and constitutional democracy.

#### **B. SECTION DIRECTORY:**

N/A

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

N/A

##### **2. Expenditures:**

N/A

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

##### **1. Revenues:**

N/A

##### **2. Expenditures:**

N/A

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

<sup>22</sup> Matt Bruenig, *Musings on the Meaning of Democratic Socialism* (June 30, 2018), <https://www.peoplespolicyproject.org/2018/06/30/musings-on-the-meaning-of-democratic-socialism> (last visited, March 27, 2021).

<sup>23</sup> Donald F. Busky, *Democratic Socialism: A Global Survey*, Chapter One, p. 7. (Jan. 2000).

<sup>24</sup> *Democratic Socialist Countries 2021*, World Population Review <https://worldpopulationreview.com/country-rankings/democratic-socialist-countries> (last visited Apr. 2, 2021).

<sup>25</sup> *Id.*

<sup>26</sup> *Capitalist Countries 2021*, World Population Review <https://worldpopulationreview.com/country-rankings/capitalist-countries> (last visited Apr. 2, 2021).

<sup>27</sup> *2021 Index of Economic Freedom*, The Heritage Foundation <https://www.heritage.org/index/ranking> (last visited Apr. 2, 2021).

N/A

D. FISCAL COMMENTS:

N/A

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

N/A

2. Other:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

N/A

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 29, 2021, the Public Integrity & Elections Committee adopted a strike-all amendment revising portions of the resolution. The amendment added private property and constitutional democracy to the American values cited. The amendment added preamble language describing the significance of constitutional democracy.

This analysis is drafted to the committee substitute as passed by the Public Integrity & Elections Committee.