

**MODERN MARRIAGE AND
THEY ARE NOT GODS:
LON L. FULLER, H. L. A. HART, AND A
PROPOSED EXTENSION OF THE LEGAL
SYSTEM EQUATION. FREEDOM OF THE
PEOPLE, EQUALITY FOR THE PEOPLE
& SOVEREIGNTY BY THE PEOPLE**

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This paper is a consideration of whether Lon L. Fuller's and H.L.A. Hart's claims about legal systems, and their constituent elements, bear any resemblance to the experience of a herein proposed thought experiment involving fictional castaways and the development of their legal system. As a first step towards understanding this question, the initial part of this paper introduces Hart and Fuller's original debate in its proper post World War Two context. These Harvard essays led to an exchange of writings between the two authors that resulted in agreement on a set of principles which both scholars felt were acceptable requirements for a legal

Bateman

system, but upon which they disagreed as to their nature, moral or purposive. The second part of this paper is the thought experiment itself, which is employed as a heuristic tool that discusses three distinct attempts by a castaway society to fashion a legal system. This thought experiment is then contrasted with what has been prescribed by Fuller and Hart as prerequisites to a functioning legal system. The castaway society's three attempts at government are made to roughly accord with familiar historical incarnations: a monarchy, coregency with senate, and a democratic experiment. In the final democratic stage, the society attempts to ground three democratic principles I argue are necessary additions to Hart's and Fuller's agreed on legal system equation. In part three, I conduct a comparative analysis that examines the legal theories of Hart and Fuller so as to determine how they align or diverge with the experience of the proposed society as they struggled to find a workable legal system. I conclude that although Fuller's legal system is basically sound and

functionally workable, it does not necessarily guarantee the prevention of abuses by governing powers operating under its strictures. Constitutional instruments aimed at entrenching the protection of freedom, equality, and sovereignty for citizens are also required. Finally, the possible relationships between aspects of the democratic stage of development and similar ideas from contemporary legal philosophers are discussed.