

Political Philosophy of the American Constitution

Dr. G. Lakshmi

Associate Professor & Head, Department of Political Science, Dr B R Ambedkar Open University, Hyderabad, Telangana, India

Email ID: [luxmi9\[at\]gmail.com](mailto:luxmi9[at]gmail.com)

Email ID: [glakshmi\[at\]braou.ac.in](mailto:glakshmi[at]braou.ac.in)

Abstract: *On the occasion of the American Independence Day, the Fourth of July (or July 4th), it is worth recalling the political philosophy of the American (or United States) Constitution which is a landmark document of the western world as well as liberal democratic countries. Though the United States Constitution and the American Declaration of Independence are two separate and distinct documents yet they are connected in spirit. The American Constitution, indeed, a bold experiment in democracy more than 200 years ago. It was an experiment of social, political, economic, and public opinion combined to create a new type of society governed by the rule of law. The Constitution resulted from months of debate among the convention delegates or representatives for the States. There are several key principles and ideas that influenced its drafting and continue to shape its interpretation. This article provides some of the main political philosophies reflected in the American Constitution, which is the oldest written national constitution in use.*

Keywords: American Constitution, Republicanism, Separation of Powers, Checks and Balances, Natural Rights

1. Introduction

The Constitution of the United States of America is one great experiment in Constitutionalism. It was drafted by a Convention of State delegates at Philadelphia in 1787 and ratified by State Convention that came into effect in 1789. This document, as the traditional school of Political Science claims, is the fundamental and supreme law of the land. It establishes a Constitutional government and safeguards the peoples' life, liberty and property through the mechanism of 'separation of powers' which is accompanied by a system of 'checks and balances' and through the enumeration of a unique Bill of Rights. They glorify the fact that the Americans have secured for themselves a limited government and a republican government that have done away with the possibilities of governmental tyranny or executive despotism. Furthermore, they have succeeded in their attempt to innovate a consummate institutional framework for the preservation of a newly emerging liberal democracy. The political philosophy underlying the American Constitution is a multifaceted topic. However, there are several key principles and ideas that influenced its drafting, which evolved over time through judicial decisions, constitutional amendments, and societal changes. This article provides some of the main political philosophies reflected in the American Constitution which are crucial for democratic societies.

Constitutionalism

Upon tracing the determining forces and philosophy behind the American Constitution, the traditional political thinkers along with the jurists, stated their finding as follows, "The Constitution proceeds from the whole people; the people are the original source of all political authority exercised under it; it is founded on a broad general principles of liberty and government entertained, for some reason, by the whole people and having no particular reference to the interest and advantages of any particular group, section or class" (Beard, 1962). Chief Justice (of the US Supreme Court) Marshall, in his landmark judgment in the McCulloch vs. Maryland case, states "The government proceeds directly from the people, it 'ordained and established', in the name of the people; and is declared to be ordained, in order to form a more perfect

union, to establish justice, insure domestic tranquillity, and secure the blessings of liberty to themselves and to the posterity.... the government of the Union, then is emphatically and a truly a government of the people. In form and in substance it emanates from them. Its powers are granted by them, and are to be directly exercised on them and for their benefit.... . It is the government of all; its powers are delegated by all; it represents all and acts for all. " Thus, the whole view is based on the premise that the American Constitution is not only the work of whole people but it also bears in it no traces of the social conflicts from which it emerged.

A Constitution is a set of documents enumerating a body of principles which emerge from social traditions and reflect the social reality. It is a dynamic and living document. Its law is drawn from social experience separated from the socio - economic fabric by which, it is, in part conditioned and which, in turn, it helps to condition the Constitutional law. In the second place, the historical function of law has been to elaborate, rationalize and protect the dominant institutions and the accredited ways of life. As a result of this, the function of Constitutional law has been to apply the coercion of the State towards maintaining the outline of those dominant institutions. The American Constitution and the Constitutional law are not exception from this fact.

The American Revolution (also known as the American War of Independence) is a watershed in the Constitutional history of the United States. The thirteen colonies of America which fought the War, articulated their dominant grievances in the phrase "no taxation, without representation". This bears testimony to the fact that the colonists were more prompted by the economic interest. When mercantile capitalism was on the rise, the ambition of vast accumulation of wealth through commerce and navigation was frustrated through the conspiracy of the mother country - Britain - through limited market system and tariffs. It was the time when a pre - industrial economy is sure in the American society which was settled by immigrants from all over Europe. In 1776, the year of American War of Independence, Adam Smith's masterpiece, "The Wealth of Nations" was published and created a new sensation. Emerging victorious in the war of

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independence, the thirteen colonies joined the Confederation as Sovereign states but soon they realized the utterly helplessness of the Articles of Confederation in the regulation of trade and commerce. Under heavy economic pressure from the States, the Confederation was on the verge of breakdown. Hence, a group of persons from Virginia who were heavily affected, took the initiative to move for a Convention which would secure a strong national government with autonomous States. Nevertheless, the State particularism clothed the interest of its dominant economic group.

In fact, the movement for the Constitution was carried through dominant economic groups who possessed money or public securities; who held manufacturing industries and those who were in trade and shipping. These groups were, for the reason of weak Congress and omnipotent State Legislatures, the worst affected under the Articles of Confederation. This small minorities were well aware of the grim consequences of majority rule and hence, initiated the move to establish a national republican government which would at the same time, avoid majority tyranny. In the face of the thing, the whole system would appear a paradox but, in fact, the social philosophy of the Founding Fathers emerging from their social experience, was enumerated in the Constitution.

Republicanism

The American Constitution embodies republican ideals, emphasizing the concept of a representative government where power is vested in the people. It establishes a democratic system that enables citizens to elect representatives to make decisions on their behalf.

The authors of the Federalist Papers postulated an axiom which became the goal of the Constitutional Convention, the goal that ought to be attained, is a 'non - tyrannical republic'. This, they believe, can be achieved through a compromise between the power of the majorities and the power of the minorities; between the political equality of all adult citizens on the one side and the desire to limit their sovereignty on the other. The Founding Fathers who propounded the political science of the constitution had an intimate knowledge of the social reality and the social conflicts emerging from the different economic interests. They had faith on the axiom - progress is possible only through the compromise of the contending interests or social classes. The object of the government is to secure the public good, to secure private rights against the danger of factions and at the same time also to preserve the spirit and the form of popular government.

The institution of non - tyrannical Republic is based on the few postulates. Firstly, if unrestrained by external check any given individual or individuals will tyrannize over others. James Madison, who is hailed as the Father of the Constitution, defines tyranny as "the accumulation of all powers legislative executive and judiciary in the same hands whether of one or few or many" (Dahl, 1956a). However, this phrase does not fit itself to his view of tyranny by individuals and what he meant here is that the accumulation of all powers in the same hands would lead to a severe deprivation of the natural rights and hence tyranny (Dahl,

1967b). In the same vein, Alexander Hamilton, one of the leading statesmen - jurists of the America proceeds further to say "give all powers to the many, they will oppress the few. Give all powers to the few, they will oppress the many". Both, therefore, ought to have the power, that each may defend itself against the other (Speeches, 1787). The establishment of a republic, the framers opined, would avert executive as well as legislative tyranny through the principles of limited government.

Checks and Balances

The first condition that accumulation of power should be avoided has been the credo of American political system and has been qualified by the fact that certain checks should be provided to avoid usurpation or tyranny. This can be accomplished through. Frequent popular elections. The second condition of controlling the tyranny is through the size of the Union government. The very mechanism of the Union will be such as to provide for an electorate which is numerous, extended and diverse in interests and which will prevent the danger of different interests coming together.

The Federalist Paper says "the smaller the society, the fewer probably will be the distinct parties and interests. The more frequently will be a majority be found of the same party Extend the sphere and you take in a greater variety of parties and interests, you will make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens, on if such common motive exists it will be more difficult to act in unison" (Federalist, No.10, 1787).

Now the only way open to avoid tyranny, is to pre - empt accumulation of all powers, executive legislative and judicial, in the same hands. This can be done by designing the internal structures of government in such a manner that "while each constituent part would function within a defined limit, at the same time would guard against the other, maintaining mutual relations. "It is of great importance in a republic not only to guard the society against the opposition of its rulers, but to guard one part of the society against the injustice of the other part" (Smith, 1919). Different interests exist in different classes of citizens, and this can be protected without keeping the minority or majority in a state of insecurity, if the society can be broken into many parts, many interests and different classes of citizens. This will hardly favour to different interests, to combine them to majority and then aggress upon the minority rights.

Separation of Powers

The governing principle of the governmental structure was to break up the attacking forces as their starting point. The Founding Fathers felt that the mechanism of separation of powers and the sources of authority would foil any attempt of the overbearing majority to dispossess the minority of their rights. Again, the judiciary was designed to act as a bulwark against the majority encroachment research into the working of the Constitution.

Research into the working of the Constitution shows us that no two branches of the government are derived from the same sources. Thus, the House of Representatives springs from the mass of the people whom their States seem fit into the enfranchise. The Senate is elected by the State

legislature, which were in 1878 based on the property qualification of the voters. The President is to be elected chosen by the electors selected as the legislatures of the State may determine by an authority who are far removed from the voters. The judiciary is to be chosen by the President and hence both judiciary and Senate are far removed from the popular control. Moreover, as the terms of each organ shows, there cannot be a complete renewal of all the organs, and hence, they can never join hands to coerce on the minority.

The House of Representatives is elected for two years. The President for four years, the Senate for six years with the provision that at least one - third senators would retire at each two years interval, and the judges will hold office during good behaviour. Thus, such device has made it impossible for the popular distemper to work have through direct elections. Finally, there is the check of judicial control that can be overcome only through the manipulation of appointing power, which consumes much time through the cumbersome amending process. Similarly, the President's actions are checkmated by the Senate through the power of ratification of appointment of the treaties.

Balance of Power

To avoid tyranny, the structure of government devised at Philadelphia was incorporated with the philosophy of balance of power as propounded by the framers of the Constitution. It reflected the divisive interests and makes improbable any danger to the minority from the majority. The Constitution envisaged, the House of Representatives is elected by the people, the Senate by the State legislature, the President by electors chosen for that purpose by the people. Such a design makes it improbable for the emergence of a common interest which would cement all the branches of the government.

The balance of power which the framers proclaimed to be the cornerstone of American democracy, is best assured by the judicial control. Basing of historical evidence, Charles Beard stated that the Founding Fathers in charting the provision of judicial control in the Constitution, most of the framers were in favour of judicial control. They entertained the idea of conferring upon the Supreme Court the power of power of passing upon the constitutionality statutes enacted by Congress (Beard, C. quoted in Woll, 1993). The courts of justice are thus considered as the bulwark of a limited constitution against legislative encroachments.

The social reality underneath the broad general principles amply clarifies that they have been applied to maintain the balance of power in the society. In fact, the judges, constituting a minority oligarchy who derived the law from prevailing customs and who grew up in special socio - cultural patterns have developed their own conservative philosophy have interpreted the American capitalist market economy.

The different stages in the emergence of capitalism, that is, pre industrial economy, industrial economy, monopoly capitalism and financial capitalism have been facilitated because the judges at different times have been undertaking the task of resolving the social struggle, arising because of

the existence of different classes of interests. They have made the doctrine of judicial review, a part of American system. The court has shown its undemocratic character by resorting to the line of economic orthodoxy by taming down the progressive measures of the majority and thus, proving itself as the reservoir of minority rights. It has exhibited a trend to turn the United States a slave to judicial oligarchy.

Natural Rights

A strong critic of the rationale of judicial review was Thomas Jefferson, who was a champion of a gradient democracy and a crusader against executive tyranny. Jefferson formulated a social philosophy to justify the American constitutional structure different. From that of the federalists, and indeed Jefferson's notion of democracy, although at the beginning did not find place in the Constitution, later has built up the tradition of democracy.

In the United States, Jefferson's practical science was built upon his conception of the nature of men who compose the political society. Like John Locke, he believes men are rational and moral individuals. Endowed by the creator with a sense of morality and a capacity for learning men were also endowed with certain inalienable rights. These inalienable rights are the right to life, liberty and pursuit of happiness. He was not opposed to property, rather, he conceived of an agrarian democracy, which is a one - class democracy, because every proprietor has some amount of land, and he considers wage - earners as equal with the land - owners, because they are capable of acquiring some property. As the proprietors and wage - earners have a common interest. So, they form one class and not different classes or groups, as Madison or Hamilton pointed out. On this proposition, Jefferson advances a equalitarian society.

Since individuals have inalienable natural rights and individuals are rational and equal, they should have the right to govern themselves, and the government should be based on their consent. He believes that majority should rule and says, "absolute acquiescence in the decisions of the majority is the vital principle of republic" (Founders Online, 2006). He believes in the popular government, but says the popular government should be reasonable and responsible. Like Madison, he postulated the hypothesis that accumulation of power and tyranny are inseparable. He was severely critical of the Virginia Constitution of 1776 precisely because of concentration of governmental powers. He says, "all powers of government, legislative, executive and judiciary results to the legislative body. The concentration of these powers in the same hands are precisely the definition of despotic government. It is no exaggeration that these powers will be exercised by a plurality of hands and not by a single one. One hundred and seventy - three despots would surely be as oppressive as one" (Dahl, 1956a). To ensure individual liberty, he emphasized on the incorporation of a Bill of Rights which was also enshrined in the Constitution by the first Constitutional Amendment Act. The significance of Jefferson lies in the fact that he has built up the democratic tradition at the American democracy.

To sum up, the political philosophy of American Constitution is based on the proposition that progress is

possible through the compromise of different contending class interests. It reflects in its structure a keen enthusiasm to preserve and protect the (then) emerging capitalist society and to provide a guide through its general principles for its further development.

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