

THE CONSTITUTION'S LIMITS ARE ITS GREATEST STRENGTH

By Kelly Sloan

Many years ago, the leaders of a particular nation sat down and drew up a constitution for their country. It was an elaborate, detailed document, outlining the mechanics and inner workings of virtually every segment of the society it was designed to govern. Little was overlooked. It created, in essence, the perfect society, on its many pieces of paper.

Ten years after adopting this constitution, the Soviet Union collapsed.

The Soviets, of course, were not the only ones to craft ultimately meaningless constitutions –France, for instance, went through several constitutions within the span of a single lifetime following its revolution; hardly any of the national constitutions created in Europe out of the desolation of WWI survived past the desolation of WWII; today, constitutions spring up and are replaced with remarkable frequency throughout the 3rd world, Africa in particular.

The United States Constitution is a conspicuous exception, having now survived for nearly two and a quarter centuries. One may be tempted to ask, “what does the American Constitution have that all those other did not?” The somewhat paradoxical answer is, it knows its limits.

A major reason for the success and stability of the American constitution, and the failure of so many others, is an acknowledgement of the transcendent, permanent source of its authority, and a key resistance by the founders to the notion that the role of government is to perfect society – an impulse fully alive in those who seek to manipulate the document today.

The framers wrote a constitution that sought “a *more* perfect union”, but were under no illusions that they could – or that it was their place – to form *the* perfect one; moreover, that any attempt to do so would result only in failure . The U.S Constitution sets the framework for American governance, civil order, and the preservation of liberty. It does not dictate, in minute detail, the workings and activity of American society. It is, in this sense, self-limiting, in that it not only does not attempt to perfect human nature, but recognizes that it can't.

What the Constitution does recognize is that the source of its authority is higher than either itself or the government; that its authority rests in transcendent, natural law, defined by right reason, and inherited from our ancestors. It therefore simply affirms that each citizen “has”, by virtue of simply being, the various rights and freedoms outlined in the document. Contrary to the many other, engineered constitutions in the world, it asserts that these are not gifts of a benevolent government – which, since given, can be taken away as egalitarian and populist requirements demand.

The recognition of the true source of the Constitution's authority grants it a degree of continuity, stability and permanence. While not rendering it incapable of change, this does make it resistant to the type of arbitrary change seen in many European constitutions, or as exhibited in the latter years of the Roman Empire, and frustrates the designs of those who would make such rash societal adjustments on the way to utopia.

After 2 ¼ centuries, the greatest threat to this vision lies with those who would use the Constitution to effect dramatic social change. To them, the elements which have provided for the most free, prosperous and politically stable nation in the history of man, are the very ones they believe are the greatest obstacles to “progress”. Diffusion of power among branches frustrates efforts at centrally directed societal innovations; systemic limitations which restrain the government from usurping power that rightfully belongs to states, organizations, or individuals, also deny radicals of all stripes a vehicle for delivering the massive upheavals they seek; and an anchoring in principles, tradition, and laws which predate, and yet are unique to, the American republic offer a wall against the type of quixotic “perfection” that invariably leads to tyranny of one form or another.

Disturbingly, the Supreme Court finds itself uniquely in a position to breach these built in obstacles to Big-Brother utopian designs. Starting in the latter half of the 20th century, judicial rulings have tended towards warping the preservative nature of the Constitution by consigning it to status of “living document”—meaning that it is no longer bound by natural, inalienable laws, but rather subject to the fickle whims of man’s interpretation.

As a society and a nation, Americans need to regain an appreciation for what makes their constitution so unique and effective in the world, and recognize the threat posed to it by justices willing to open it up to interpretation by man, rather than by rule of law.

Or, of course, we could opt for creating the perfect society – like the Soviet Union.

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