

THE IDEA OF CONSTITUTIONALISM

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ABSTRACT

- *WORLD HISTORY is a history of a big idea. Big changes have always needed big ideas capable of appealing to the hearts and minds of the multiples and energizing them into action. Constitutionalism is one such big idea, which deals with what powers the sovereign possessed, and how one recognized when that sovereign acted differently.*
- *Over the years, constitutionalism has transformed the constitutional principles and connected people in ways beyond imagination. With the Constitutionalism gaining the center stage, nations across the world are experimenting with innovative ideas for constitutional principle from the religious heritage.*
- *Analyst could approach the study of historic events focusing on issues that entailed ‘constitutional questions’ as the constitution and that this differs from a focus that involves ‘questions of constitutionalism’, which seeks accountability of government to the ‘popular will’ through a system of independent courts, judicial review & transparency.*
- *Constitutionalism that merely talks about ideas while in the situation of conflict or in competing interests. It is a system of commitment to limitations on ordinary political power; it revolves around a political process, one that overlaps with democracy in seeking to balance state power and individual and collective rights.*
- *A constitution can be defined as the fundamental laws custom, conventions, rules, and regulations, stipulating how a country is governed, while constitutionalism can be defined as a principle which is not just a constitution but put limitations to the activities of individuals and the government.*
- *It is true that the Constitution, as the foundational law of the land, is to enjoy a position of primacy over and above any and all other laws, offices, and authorities. Yet, the question may be asked, why is this so? The question may be answered by looking to founding ideas about natural law, from which then flows the idea of natural rights which every Constitution enshrines and affirms, unlike the constitutionalism that merely talks about ideas while in the situation of conflict or in competing interests.*
- *Constitutionalism first found its expression in the Philadelphia Convention (USA). It was the first nation to experiment with a written constitution, and later, the American constitution laid the foundation for the art of constitutionalism. After the end of the conflict between monarch and the feudal lords, and also the results of the revolutions of different kinds in France, USA, USSR, and the overthrow of the colonial rule in the 3rd world countries, the concept of the “constitutionalism” has taken deep roots.*
- *From Cicero to Blackstone, natural law theory –it applies everywhere and at all times- embodies a set of related ideas based on ordering principle in the universe, on which religious thought (pre/ post-Christian law) explicitly*

projecting all human laws; that is to say, no human laws should be suffered to contradict these, whatever may be the religious belief of different sects. This study, accordingly, traces and concludes that the origin of constitutional questions or question of constitutionalism goes to religious heritage- in fact; it goes to the moral basis of the constitution in natural law.

- *Finding: The study traces and concludes that the origin of constitutional questions or question of constitutionalism goes to religious heritage- in fact; it goes to the moral basis of constitution in natural law.*
- *Suggestions: Constitutionalism leads to international peace & security. It requires a continuous effort to evolve a culture that is sensitive to the basic needs of every human being. Aggressive violation of constitutional principles increasingly becomes part of the problem rather than a solution. Hence, a few suggestions are: Learn driving analogy of economic policies in international human rights system, Central research work at Delhi LL.M- Human Rights/ MBA- & International Trade Law (Delhi School of Business). Banks' co-ordination in emerging market economics, in crisis; the world of academia to conduct more research on world constitutionalism; to evaluate the impact of human rights for everyone living in the country to ensure that everyone has the wherewithal to enjoy a "basic" standard of living 1 and to prevent exploitation.*
- *In sum, From Cicero to Blackstone, natural law theory was perhaps the key concept in the thinking of the generation which fought the Revolution against Britain and then established the constitutional republican form of government. But what is natural law? Essentially, natural law theory embodies a set of related ideas about the fundamental originalism of "law" as an ordering principle in the universe, on which the religious law is an associate. This natural law is universal – it applies everywhere and at all times, explicitly rejecting the concept of "moral relativism" – because it originated from the God who created the universe. For Cicero and other pre-Christian pagan thinkers, this god was pantheistic in nature, but the concept easily transferred over into Christian thinking from earliest times due to the compatibility of the Christian conception of a monotheistic, all-powerful, all-knowing, and over-achingly sovereign God who created the universe and continues to overrule and superintend it. This is the universal religious thought "This law of nature, being coeval with mankind and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe, in all countries, and at all times: no human laws are of any validity if contrary to this;... upon these two foundations, the law of nature and the law of revelation, depend all human laws; that is to say, no human laws should be suffered to contradict these" 2 , whatever may be the religious belief.*

"We should not fret for what is past, nor should we be anxious about the future; men of discernment deal only with the present moment ..."

---- Chanakya

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