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ABSTRACT

This civic education resource packet is designed to provide teachers, community leaders, and other civic educators with an understanding of the differences between constitutional and non-constitutional governments. Six papers discussing the topic are included: "The Differences between Constitutional and Non-Constitutional Governments" (John Patrick and Richard Remy); "On The Need for a Constitution" (James Madison); "Constitutionalism--Historical Background" (Herman Belz); "Differences between Authoritarian and Totalitarian Governments" (Jeanne Kirkpatrick); "Definition of Totalitarian Government" (Carl J. Friedrich); and "Constitutionalism and Peace" (Immanuel Kant). The document provides resources for developing materials, programs, and curricula to promote civic literacy. The material discusses and explains: (1) similarities and differences among constitutional and non-constitutional governments in terms of limitations on powers; (2) similarities in terms of the means governments use to maintain the legitimacy of authority and treatment of dissent; and (3) the examination of historical and contemporary governments and a determination as to whether they are constitutional or non-constitutional. Questions for discussion, suggested readings, other materials, and a list of organizations with related resources conclude the document. (NL)

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Citizenship Education and Peace Project

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Constitutional and Non-Constitutional Governments

... similarities and differences throughout history

RESOURCE PACKET

March 1990

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Constitutional and Non-Constitutional Governments

... similarities and differences throughout history



This Resource Packet is produced by the Council for the Advancement of Citizenship as a component of the Citizenship Education and Peace Project, with support from the United States Institute of Peace. It is designed to provide teachers, community leaders, and other civic educators with an introduction to and an understanding of the differences between constitutional and non-constitutional governments. It is also intended to be used as a companion piece to CIVITAS: A Framework for Civic Education, a new civic education curriculum resource designed to serve as a blueprint from which teachers, curriculum developers, administrators and community leaders can develop civic education materials, courses, programs and curricula to enhance civic literacy in the United States. CIVITAS will be published in fall, 1990.

The Council hopes that this packet will be disseminated widely and that it will be used as the basis for classes and programs designed to stimulate understanding of the concept of constitutional government and how it differs from non-constitutional government. In particular, the packet should help citizens to:

- explain what characterizes constitutional and non-constitutional governments;**
- examine historical and contemporary governments and determine if they are constitutional or non-constitutional;**
- analyze the similarities and differences among constitutional and non-constitutional governments in terms of such factors as limitations on powers, methods of limiting power, treatment of individual rights, stability, and their forms and organizations;**
- analyze the similarities and differences in constitutional and non-constitutional governments in terms of the means they use to maintain the legitimacy of their authority and their treatment of dissent;**
- be able to detect actions of their own and other governments that show constitutionalism at work, or identify actions that fail to adhere to the idea of constitutionalism.**

This Packet was prepared by Brian Thomas Pallasch, Project Coordinator, CAC's Citizenship Education and Peace Project.

The opinions, findings, conclusions and materials found in this packet are those of the contributors and do not necessarily reflect the views of the Council for the Advancement of Citizenship or the United States Institute of Peace.

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Citizenship Education and Peace Resource Packet

Constitutional and Non-Constitutional Governments *...similarities and differences throughout history*

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Constitutional and Non-Constitutional Governments

... similarities and differences throughout history

I. Introduction

A constitution is not the act of a government, but of a people constituting a government, and a government without a constitution is power without right. A constitution is a thing antecedent to a government; and a government is only the creature of a constitution.

**—Thomas Paine
*Rights of a Man in
The Complete Works of
Thomas Paine***

It is of great importance in a Republic not only to guard the society against the oppression of its rulers, but to guard one part of society against the injustice of the other part.

**— James Madison
*The Federalist # 51***

Although most governments have constitutions this does not always translate into rule by a constitutional government. One of the tasks of citizenship education is to help a nation's people realize the differences between constitutional and non-constitutional governments. This enables citizens to understand their role in these forms of government, and to see the value of a constitutional government. In addition, knowledge of constitutional government is important because the legal rights granted are useless and without meaning unless they are known and can be utilized. This packet will explain the differences between constitutional and non-constitutional governments, and demonstrate the importance of these differences to the citizen.

Constitutional Governments

A constitution is a set of fundamental customs, traditions, rules, and laws, written or unwritten, that determines the basic way in which a government shall be organized and operated. Simply having a constitutional document does not, however, mean that a constitutional government will necessarily ensue. In order to have a constitutional government three qualities must also exist in the society:

- limited government
- higher law
- constitutional stability

Limited Governments—

Limited governments, like the United States, Canada, and France are constitutional governments whose actions are in practice limited by law and an institutional framework. A constitution that allows for unlimited power by one, few or even many persons does not provide the basis for a constitutional government. In fact, those constitutions which call for limited government but do not give the means for enforcement are also not constitutional governments. A key to understanding constitutional governments is that the government and its leaders are subordinate to, not superior to, the constitution and other laws. The framework of a constitutional government provides for the orderly removal of those in power who disregard the law.

Higher Law—

The constitution in a constitutional government is considered a higher law which must be obeyed by all. As a result, the constitution in a constitutional government has the following characteristics:

- individual rights
- limitations on power

A constitution provides for the protection of individual rights against unfair and unreasonable infringement by the government and other individuals. In the United States there are laws against illegal search and seizure that protect the citizen. In addition, the individual typically enjoys the stringent protection of due process of law intended to protect the rights of both innocent and guilty alike from the arbitrary power of the state. As heard so many times a suspect in a criminal case is "innocent until proven guilty," and is entitled to a trial by a jury of his/her peers in most cases.

In constitutional governments, methods exist for limiting power formally such as separation of powers, checks and balances, and other constitutional restrictions. This is seen clearly in the United States in the three branches of governments; legislative, executive, and judicial. Power can also be limited informally through publicity given to government actions and through group pressure such as lobbying and demonstrations. This type of power, that can be wielded by citizens, is best exemplified by the anti-Vietnam demonstrations and civil rights marches of the 1960's.

Constitutional Stability—

The third component of a constitution in a constitutional government is constitutional stability. This means that the constitution cannot be altered without widespread consent of citizens, and in accord with established and well-known procedures.

Constitutional governments have traditionally come in three forms: monarchies; aristocracies; and democracies. Today nearly all constitutional governments are representative democracies. These governments are usually parliamentary or presidential or a mix of the two. Constitutional governments may be either unitary, as in France, where

power is centralized, or federal, as in the United States, where power is divided between a central government and territorial subdivisions.

In most instances, these constitutions are written documents, such as in the United States. It is, however, possible to have a constitutional government without a written document. The British government is the best example of such an occurrence. There is, however, in Britain, a great deal of statute law that could be called constitutional law. Yet, there is no single written document that is called a constitution. Both Israel and New Zealand also follow a similar approach in their governance.

Non-Constitutional Governments

Non-constitutional governments are clearly distinguished from constitutional governments, although they may have constitutions that set forth the organization of governance. In a non-constitutional government there is no effective means available to the general public for limiting the power of the rulers, or their tenure in office. The rulings, actions, and decisions of the government may be made arbitrarily at the discretion of the rulers, instead of within set limits, and according to established procedures as in a constitutional government.

There are few if any individual rights enforceable against the ruler in a non-constitutional government. Usually, there is not a single area into which the ruler cannot intrude.

Most non-constitutional governments are either authoritarian or totalitarian states. Simply defined, authoritarian governments exercise a monopoly over political power, whereas totalitarian states exercise a monopoly over social, economic and political power. The number of these types of governments is diminishing rapidly, but some still remain. North Korea, Cuba, Ethiopia, and Albania can be labeled as totalitarian, and Haiti, Zaire, Saudi Arabia, and Uganda can be labeled as authoritarian governments. Yet, many of these governments now call themselves Republics. In addition, non-constitutional governments may be organized in presidential or parliamentary form but these names are used only to obscure the true nature of the authoritarian or totalitarian government.

Historical Perspective

Constitutional governments have been in existence since the ancient Greek city-states system. In Athens in the first century B.C., citizens enjoyed a high level of democratic freedom. What they developed as a form of government has gradually evolved over time to its present form in which the center piece is the protection of minority and individual rights. There are, however, differences between ancient and modern constitutionalism.

Today's modern constitutional governments did not emerge easily or without problems, but were fought for by political and sometimes violent means. The institutional development of constitutional government occurred earliest in England and later in colonial America. The U.S. Constitution, adopted in 1789, embodied the new idea of constitutionalism as limited government. The various forms of constitutional government, the British Parliamentary approach, and the U.S. Presidential approach have been copied by many governments throughout the last 200 years.

In the 19th and 20th centuries, constitutionalism spread throughout Western Europe as well as to Australia, Asia, and South America. Although in many cases this was not easy, and was not always successful due to the impediments of facism, communism, and colonialism.

Contemporary Perspective

The 1980's saw an acceleration of the trend towards constitutional governments. Latin America, which started the decade with many nations under authoritarian and totalitarian rule, has entered the 1990's with only a few nations left under these forms of government. In the last year the peoples of Eastern Europe and the Soviet Union have successfully produced an avalanche of change which has opened the door for constitutional government. However, some nations, especially the Soviet Union and Romania, have a way to go to bring a complete constitutional government to fruition. For the most part, all the peoples of Eastern Europe are calling for a voice in determining their futures. Corresponding pressures have forced South Africa to start changing its system of apartheid, a clearly non-constitutional form of government policy.

History, on the whole, has witnessed many more non-constitutional regimes than constitutional regimes. The monarchs of the European Age of Absolutism recognized no limits to their power, inspiring a large literature on resistance to them. Dictatorships and other varieties of non-constitutional governments have abounded in parts of modern Europe, Latin America, Asia, and Africa. The most infamous examples in the 20th Century include Hitler and Stalin in Europe, Amin and Boukassa in Africa, Pol Pot, and Mao in Asia, and Pinochet and Somoza in Latin America.

Recent events in Eastern Europe, the Soviet Union, South Africa, and Latin America appear to demonstrate that there may be a large move towards constitutional government. This was demonstrated on February 25, 1990 in Nicaragua when the Sandinista government allowed elections but lost and relinquished power to the opposition party UNO. Yet, the final attainment of a world without dictatorships, and without respect for human rights depends on the universal capacity of citizens to act effectively in their own interests, and the attainment of this capacity requires time. The events in China this summer illustrate the fact that small groups of people continue to frustrate the will of the majority in their quest for democracy.

Given the dramatic events that are transpiring around the globe it is becoming increasingly important for citizens to understand the differences between constitutional and non-constitutional governments. This is especially true as more citizens in non-constitutional governments turn their energies towards the formation of governments that represent the interests of the majority.

II. Selected Readings

The articles which follow address several different facets of constitutional and non-constitutional governments. It is recommended that these articles, along with the preceding Introduction, be copied and distributed to students and community groups to provide a common basis for participation in classroom and community discussions.

In this first article, John Patrick and Richard Remy offer the definitions and components of constitutional and non-constitutional governments as seen when comparing the Soviet Union and the United States.

What is Constitutional Government?

by John Patrick and Richard Remy*

Nearly all countries of the world possess written constitutions. Yet not all have constitutional government. Only where a constitution clearly places recognized and widely accepted limits on the power of those who govern does constitutional government fully exist. Thus, constitutional government means limited government regulated by the rule of law.

The United States, Canada, and France practice constitutional government. The constitutions in those countries spell out limits on the powers of government that actually apply in daily political life. In these countries, the rule of law applies. That is, the government and its officials are subordinate to, *not superior* to, the constitution and other laws. The leaders of the government must follow the laws as other citizens do. Not even a president or prime minister can ignore a constitution. Constitutional government provides for the legal and orderly removal of a president or prime minister who disregards the law.

Although the Soviet Union has a written constitution, it does not operate under a system of constitutional government, as this idea is understood in the United States. First the Soviet Constitution differs greatly from ours. Placing a heavy emphasis on the role of the state and the rights of society, it discusses and outlines economic goals and rights not mentioned in the U.S. Constitution. Unqualified safeguards do not protect the freedoms and rights of individuals. The Soviet Constitution says: "Enjoyment by citizens of their rights and freedoms must not be to the detriment of the interests of

* Excerpted with permission from John J. Patrick, and Richard C. Remy, *Lessons on the Constitution* (Boulder, Colorado: Social Science Education Consortium, Inc., 1986), pp. 43-4, for Project '87, a joint effort of the American Historical Association and the American Political Science Association.

society or the state, or infringe the rights of other citizens" (Article 39). The Soviet Constitution guarantees freedom of speech (Article 50) "in order to strengthen and develop the socialist system." By contrast, the U.S. Constitution establishes the supremacy of law to protect the individual.

The U.S. Constitution strives to place restraints on government through a system of checks and balances and judicial review; the Soviet Constitution provides a framework which allows government broad power to act for the development of society. For example, the Soviet Constitution establishes state ownership of the 'means of production' (the nation's capital, land industry, and resources). This fundamental difference between the two constitutions reflects differing perspectives on the proper role and purpose of national government.

... An effective constitutional government should be neither too powerful nor too weak. The government should have all powers necessary to perform tasks the people expect it to; at the same time, the constitution should place limits on the government's use of powers to protect the liberties of the people.

In 1861, at the start of the Civil War, President Abraham Lincoln asked a critical question about the relationship between the government and liberty. He said: "Must a government, of necessity, be too strong for the liberties of its own people, or too weak to maintain its own existence?"

Although a government with too much power may successfully enforce laws and keep order, it may also abuse the rights of citizens. By contrast a government with too little power may not be able to protect the security, safety, or rights of citizens; moreover, it may not be able to survive.

Lincoln believed that while a government should be strong enough to enforce laws and keep order, sufficient restraints on government should protect the rights of citizens. Lincoln favored constitutional government, a system in which laws limit the power of rulers. Leaders and officials of a constitutional government must perform their duties in accordance with laws accepted by those whom they rule.

* * *

In the reading below, James Madison presents the need for the separation of powers in a constitutional government as a protection for its citizens. His arguments are important because this concept is central to the U.S. constitutional system and can also be found in most other constitutional governments.

The Federalist #51

by James Madison*

To the people of the state of New York:

...To what expedient, then, shall we finally resort for maintaining in practice the necessary partition of power among the several departments as laid down in the Constitution? The only answer that can be given is that ...the defect must be supplied by so contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places

...the great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachment of the others. The provision for defence must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions

There are, moreover, two considerations particularly applicable to the federal system of America, which place that system in a very interesting point of view.

First. In a single republic, all the power surrendered by the people is submitted to the administration of a single government; and the

* Excerpted from James Madison, Alexander Hamilton, John Jay, *The Federalist Papers* in J.R. Pole, ed., *The American Constitution — for and against: the Federalist and Anti-Federalist Papers*, © 1987 by J.R. Pole. Reprinted with permission of Hill and Wang, a division of Farrar, Strauss and Giroux, Inc..

usurpations are guarded against by a division of the government into distinct and separate departments. In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each, subdivided among distinct and separate departments. Hence, a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself.

Second. It is the great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure. There are but two methods of providing against this evil: the one by creating a will in the community independent of the majority — that is, of the society itself; the other by comprehending in the society by many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable.

The first method prevails in all governments possessing an hereditary of self-appointed authority. This, at best, is but a precarious security; because a power independent of the society may as well espouse the unjust view of the major, as the rightful interest of the minor party, and may possibly be turned against both parties.

The second method will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of individuals or of the minority will be in little danger from interested combinations of the majority. In a free government, the security for civil rights must be the same as that for religious rights. It consists in the one case in the multiplicity of interests and in the other in the multiplicity of sects. The degree of security in both cases will depend on the number of interests and sects; and this may be presumed to depend on the extent of the country and the number of people comprehended under the same government. This view of the subject must particularly recommend a proper federal system to all the sincere and considerate friends of republican government, since it shows that in exact proportion as the territory of the Union may be formed into more circumscribed Confederacies of States, oppressive combinations of a majority will be facilitated; the best security under the republican forms for the rights of every class of citizens will be diminished; and consequently the stability and independence of some member of the government, the only other security, must be proportionally increased.

Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit. In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature where the weaker individual is not secured against

the violence of the stronger; and, as in the latter state even the stronger individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all parties, the weaker as well as the more powerful

—PUBLIUS^Δ

* * *

In the excerpt below, Herman Belz traces the origins of American constitutionalism back to the early colonists. This is an important historical process because of the impact that American constitutionalism has had on 20th Century constitutionalism in the world.

Constitutionalism and the American Founding

by Herman Belz*

American constitutionalism began in the seventeenth century when English settlers founded political societies and institutions of government in North America. Two things stand out in this early constitutional experience. First, the formation of government was to a considerable extent based on written instruments. In corporate and proprietary colonies the founding documents were charters granted by the crown conferring enumerated powers on a particular person or group within a designated geographical area for specific purposes. Under these charters the colonists adopted further agreements, organic acts, ordinances, combinations, and frames of government giving more precise form to political institutions. In religiously motivated colonies government was more clearly the result of mutual pledging and association under civil-religious covenants. American colonists thus used constitution like instruments to create political community, define fundamental values and interests, specify basic rights, and organize governmental institutions.

The second outstanding fact in early American constitutional history was substantial community control over local affairs. To be sure, the colonies

^Δ Publius is the pen name signed to all the Federalist papers. It was not until after they were published that the true authors, John Jay, Alexander Hamilton, and James Madison, revealed themselves. *The Federalist* itself is a collection of 85 newspaper articles which argued in support of ratifying the constitution.

* Excerpted with permission of Macmillan Publishing Company from "Constitutionalism and the American Founding" by Herman Belz in Leonard W. Levy and Dennis J. Mahoney, editors; *The Framing and Ratification of the Constitution*. © 1987 MacMillan Publishing Company, pp. 336-337.

employed the forms and practices of English government and generally emulated the metropolitan culture. Their institutions at the provincial and local levels were patterned after English models, and the theory of mixed government and the balanced constitution was accepted as valid. Yet discordant tendencies pointed to a distinctive course of constitutional development. The fact that in most colonies the power of the governor depended on royal authority while the power of the assembly rested on a popular base, as well as frequent conflict of interest between them, made separation and division of power a political reality discrepant with the theory of mixed government. Furthermore, popularly elected assemblies responsive to growing constituencies and enjoying de facto local sovereignty under written charters introduced a republican element into American politics.

As English subjects, Americans believed they lived under a free — and fixed — English constitution. Long before the American Revolution they expressed this view in the course of conflicts with imperial officials. Numerous writers asserted that the constitution was a contract between the people and their rulers; that the legislature could not alter the fundamental laws from which government derived its form, powers, and very existence; that government must exercise power within limits prescribed by a civil compact with the people. Moreover, the compact chosen to organize and direct government, as a colonial sermon of 1768 put it, must coincide with “the moral fitness of things, by which alone the natural rights of mankind can be secured.” Disputing the descriptive English constitution that included parliamentary sovereignty, Americans were coming to think of a constitution as normative rules limiting the exercise of power for the purpose of protecting the people’s liberty, property, and happiness.

In declaring their independence from England, Americans in a sense reenacted the founding experience of the seventeenth century. They took what their history and political circumstances determined to be the logical step of writing constitutions to organize their political communities. Before issuing the Declaration of Independence, Congress recommended that the colonies adopt governments that “in the opinion of representatives of the people, best conduce to the happiness and safety of their constituents in particular, and American in general.” Although some argued that the people acting in convention should form the government, political exigencies and Whig political theory conferred legitimacy on legislatures, which in all but two instances were responsible for writing or adopting the first state constitutions.

* * *

In this excerpt, Jeane Kirkpatrick describes the nature of totalitarian and authoritarian governments in the late 1970's just after the fall of Somoza in Nicaragua and the fall of the Shah in Iran. It should be noted that since this time many Latin American nations have turned towards representative governments.

Dictatorships and Double Standards

by Jeane Kirkpatrick*

...Although most governments in the world are as they always have been, autocracies of one kind or another, no idea holds greater sway in the mind of educated Americans than the belief that it is possible to democratize governments, anytime, anywhere, under any circumstances. This notion is belied by an enormous body of evidence based on the experience of dozens of countries which have attempted with more or less (usually less) success to move from autocratic to democratic government. Many of the wisest political scientists of this and previous centuries agree that democratic institutions are especially difficult to establish and maintain — because they make heavy demands on all portions of a population and because they depend on complex social, cultural, and economic conditions.

Two or three decades ago, when Marxism enjoyed its greatest prestige among American intellectuals, it was the economic prerequisites of democracy that were emphasized by social scientists. Democracy, they argued, could function only in relatively rich societies with an advanced economy, a substantial middle class, and a literate population, but it could be expected to emerge more or less automatically whenever these conditions prevailed. Today this picture seems grossly oversimplified. While it surely helps to have an economy strong enough to provide decent levels of well-being for all, and “open” enough to provide mobility and encourage achievement, a pluralistic society and the right kind of political culture — and time — are sometimes more essential.

In his essay on *Representative Government*, John Stuart Mill identified three fundamental conditions which the Carter administration would do well to ponder. These are: “One, that the people should be willing to receive it [representative government]; two, that they should be willing and able to do what is necessary for its preservation; three, that they should be willing and able to fulfill the duties and discharge the functions which it imposes on them.”

* Excerpted with permission from Jeane Kirkpatrick, “Dictatorships and Double Standards,” in *Commentary*, November 1979, pp. 34-45.

Fulfilling the duties and discharging the function of representative government make heavy demands on leaders and citizens, demands for participation and restraint, for consensus and compromise. It is not necessary for all citizens to be avidly interested in politics or well-informed about public affairs — although far more interest and mobilization are needed than in autocracies. What is necessary is that a substantial number of citizens think of themselves as participants in society's decision-making process and not simply as subjects bound by its laws. Moreover, leaders of all major sectors of the society must agree to pursue power only by legal means, must eschew (at least in principle) violence, theft, and fraud, and must accept defeat when necessary. They must also be skilled at finding and creating common ground among diverse points of view and interests, and correlatively willing to compromise on all but the most basic values.

In addition to an appropriate political culture, democratic government requires institutions strong enough to channel and contain conflict. Voluntary, non-official institutions are needed to articulate and aggregate diverse interests and opinions present in the society. Otherwise, the formal governmental institutions will not be able to translate popular demands into public policy.

In the relatively few places where they exist, democratic governments have come into being slowly, after extended prior experience with more limited forms of participation during which leaders have reluctantly grown accustomed to tolerating dissent and opposition, opponents have accepted the notion that they may defeat but not destroy incumbents, and people have become aware of government's effects on their lives and of their own possible effects on government. Decades, if not centuries, are normally required for people to acquire the necessary disciplines and habits. In Britain, the road from Magna Charta to the Act of Settlement, to the great Reform Bills of 1832, 1867, and 1885, took seven centuries to traverse. American history gives no better grounds for believing that democracy comes easily, quickly, or for the asking. A war of independence, an unsuccessful constitution, a civil war, a long process of gradual enfranchisement marked our progress toward constitutional democratic government. The French path was still more difficult. Terror, dictatorship, monarchy, instability, and incompetence followed on the revolution that was to usher in a millennium of brotherhood. Only in the twentieth century did the democratic principle finally gain wide acceptance in France and not until after World War II were the principles of order and democracy, popular sovereignty and authority, finally reconciled in institutions strong enough to contain conflicting currents of public opinion.

Although there is no instance of a revolutionary "socialist" or Communist society being democratized, right-wing autocracies do sometimes evolve into democracies* — given time, propitious economic, social, and political

* Recent events in Eastern Europe, the Soviet Union, and Nicaragua have voided this statement.

circumstances talented leaders, and a strong indigenous demand for representative government. Something of this kind is in progress on the Iberian peninsula, and the first steps have been taken in Brazil. Something similar could conceivably have also occurred in Iran and Nicaragua if contestation and participation had been more gradually expanded.

But it seems clear that the architects of contemporary American foreign policy have little idea of how to go about encouraging the liberalization of an autocracy. In neither Nicaragua nor Iran did they realize that the only likely result of an effort to replace an incumbent autocrat with one of his moderate critics or a "broad-based coalition" would be to sap the foundations of the existing regime without moving the nation any closer to democracy. Yet this outcome was entirely predictable. Authority in traditional autocracies is translated through personal relations: from the ruler to the his close associates (relatives, household members, personal friends) and from them to people to whom the associated are related by personal ties resembling their own relation to the ruler. The fabric of authority unravels quickly when the power and status of the man at the top are undermined or eliminated. The longer the autocrat has held power, and the more pervasive his personal influence, the more dependent a nation's institutions will be on him. Without him, the organized life of the society will collapse, like an arch form from which the keystone has been removed. The blend of qualities that bound the Iranian army to the Shah or the national guard to Somoza is typical of the relationships — personal, hierarchical, non-transferable — that support a traditional autocracy. The speed with which armies collapse, bureaucracies abdicate, and social structures dissolve once the autocrat is removed frequently surprises American policy-makers and journalists accustomed to public institutions based on universalistic norms rather than particular relations.

... From time to time a truly bestial ruler can come to power in either type of autocracy — Idi Amin, Papa Doc Duvalier, Joseph Stalin, Pol Pot are examples — but neither type regularly produces such moral monsters (though democracy regularly prevents their accession to power). There are, however, systemic differences between traditional and revolutionary autocracies that have a predictable effect on their degree of repressiveness. Generally speaking, traditional autocrats tolerate social inequalities, brutality, and poverty while revolutionary autocracies create them.

Traditional autocrats leave in place existing allocations of wealth, power, status, and other resources which in most traditional societies favor an affluent few and maintain masses in poverty. But they worship traditional gods and observe traditional taboos. They do not disturb the habitual rhythms of work and leisure, habitual places of residence, habitual patterns of family and personal relations. Because the miseries of traditional life are familiar, they are bearable to ordinary people who, growing up in the society, learn to cope, as children born to untouchables India acquire the skills and attitudes necessary for survival in the

miserable roles they are destined to fill. Such societies can create no refugees.

Precisely the opposite is true of revolutionary community regimes. They create refugees by the million because they claim jurisdiction over the whole life of society and make demands for change that so violate internalized values and habits that inhabitants flee by the tens of thousands in the remarkable expectation that their attitudes, values, and goals will "fit" better in a foreign country than in their native land.

... Moreover, the history of this century provides no grounds for expecting that radical totalitarian regimes will transform themselves. At the moment there is far greater likelihood of progressive liberalization and democratization in the governments of Brazil, Argentina, and Chile than in the government of Cuba; in Taiwan than in the People's Republic of China; in South Korea than in North Korea; in Zaire than in Angola; and so forth.

Since many traditional autocracies permit limited contestation and participation, it is not impossible that U.S. policy could effectively encourage this process of liberalization and democratization, provided that the effort is not made at a time when the incumbent government is fighting for its life against violent adversaries, and that proposed reforms are aimed at producing gradual change rather than perfect democracy overnight. To accomplish this, policy-makers are needed who understand how actual democracies have actually come into being. History is a better guide than good intentions.

A realistic policy which aims at protecting our own interest and assisting the capacities for self-determination of less developed nations will need to face the unpleasant fact that, if victorious, violent insurgency headed by Marxist revolutionaries is unlikely to lead to anything but totalitarian tyranny. Armed intellectuals citing Marx and supported by Soviet-bloc arms and advisers will almost surely not turn out to be agrarian reformers, or simple nationalists, or democratic socialists. However incomprehensible it may come to be that some Marxist revolutionaries are not contemporary embodiments of the Americans who wrote the Declaration of Independence, and they will not be content with establishing a broad-based coalition in which they have only one voice among many.

It may not always be easy to distinguish between democratic and totalitarian agents of change, but it is also not too difficult. Authentic democratic revolutionaries aim at securing governments based on the consent of the government and believe that ordinary men are capable of using freedom, knowing their own interest, choosing rulers. They do not, like the current leaders in Nicaragua, assume that it will be necessary to postpone elections for three to five years during which time they can "cure" the false consciousness of almost everyone.

* * *

In this excerpt, Carl J. Friedrich presents five factors that he considers to be shared by all totalitarian governments. The excerpt provides readers with a brief overview or checklist of the characteristics of totalitarian governments.

Totalitarianism

by Carl J. Friedrich*

The factors or aspects which are basically shared by all totalitarian societies of our time are five or can be grouped by five closely linked clusters of characteristic features. These societies all possess:

1. An official ideology, consisting of an official body of doctrine covering all vital aspects of man's existence, to which everyone living in that society is supposed to adhere to at least passively; this ideology is characteristically focused in terms of chiliastic claims as to the "perfect" final society of mankind.
2. A single mass party consisting of a relatively small percentage of the total population (up to 10 percent) of men and women passionately and unquestionably dedicated to the ideology and prepared to assist in every way in promoting its general acceptance, such party being organized in strictly hierarchical, oligarchical manner, usually under a single leader and typically either superior to or completely commingled with the bureaucratic governmental organization.
3. A technologically conditioned near-complete monopoly of control (in the hands of the party and its subservient cadres, such as the bureaucracy and the armed forces) of all means of effective armed combat.
4. A similarly technologically conditioned near-complete monopoly of control (in the same hands) of all means of effective mass communication, such as the press, radio, motion pictures, and so on.
5. A system of terroristic police control, depending for its effectiveness on upon points 3 and 4 and characteristically directed not only against demonstrable "enemies" of the regime, but against arbitrarily selected classes of the population; such arbitrary selection turning upon exigencies of the regime's survival, as well as ideological "implications," and systematically exploiting scientific psychology.

The suggestion that to these five clusters of basic traits there should be added that of the secret police gaining ascendancy over the army, seems unacceptable, because both of these factors are controversial, whereas the five which have been delineated are quite generally admitted to be factually

* Excerpted with permission of Harvard University Press from Carl J. Friedrich, ed., *Totalitarianism, Proceeding from a conference held at the American Academy of Arts and Sciences, March 1953*, Cambridge Massachusetts: Harvard University Press, 1954.

established features of these regimes. In the nature of the case, it is very difficult to determine whether, when, and to what extent the secret police gained ascendancy over the army; another difficulty arises from the fact that in so far as the police is a branch of the civilian government, it is in the ascendancy in constitutional states as well

The argument that total subversion is another distinctive feature of totalitarian systems has merit, but it is arguable whether this aspect of totalitarianism constitutes a sufficiently separate item. It would seem to me that it is comprehended under the first of the five characteristics, where we state that the official ideology is one "to which everyone living in a society is supposed to adhere." The five main clusters of traits, for the sake of clarity, ought not to be unnecessarily expanded.

Within this broad similarity, there are many significant variations, both in time and in place, as already mentioned. For instance, the party appears to play less of a role in the Soviet Union today than earlier; the ideology of the Soviet Union is more rigid, because of its Marxist bible, than that of Italian or German fascism, where ideology was formulated by the leader of the party; and — to give a third illustration at random — Hitler's examination of the Jews was ideologically motivated and contrary to the apparent immediate needs of the regime, whereas Stalin's recent Jewish purges appear to be taking place in response to exigencies of the international situation, rather than to ideology, hence the vigorous denial of Anti-Semitism.

* * *

In this excerpt, Immanuel Kant explains sets forth his theory that to have peace a government must be republican in form. Kant, writing in 1795, demonstrates the relationship between peace and a representative form of government. It is one of the earliest references to the relationship between peace and a constitutional form of government.

Perpetual Peace

by Immanuel Kant*

The First Definitive Article for Perpetual Peace ***“The Civil Constitution of Every State Should be Republican”***

The only constitution which derives from the idea of the original compact, and on which all juridical legislation must be based, is the republican. This constitution is established, firstly, by principles of the freedom of the members of a society (as men); secondly, by principles of dependence of all upon a single common legislation (as subjects); and thirdly, by the law of their equality (as citizens). The republican constitution, therefore, is, with respect to law, the one which is the original basis of every form of civil constitution. The only question now is: Is it also the one which can lead to perpetual peace?

The republican constitution, besides the purity of its origin (having sprung from the pure source of the concept of law), also gives a favorable prospect for the desired consequence, i.e., perpetual peace. The reason is this: if the consent of the citizens is required in order to decide that war should be declared (and in this constitution it cannot but be the case), nothing is more natural than that they would be very cautious in commencing such a poor game, decreeing for themselves all the calamities of war. Among the latter would be: having to fight, having to pay the costs of war from their own resources, having painfully to repair the devastation war leaves behind, and, to fill up the measure of evils, load themselves with a heavy national debt that would embitter peace itself and that can never be liquidated on account of constant wars in the future. But, on the other hand, in a constitution which is not republican, and under which the subjects are not citizens, a declaration of war is the easiest thing in the world to decide upon, because war does not require of the ruler, who is the proprietor and not a member of the state, the least sacrifice of the pleasures of his table, the chase, his country houses, his court functions, and the like. He may, therefore, resolve on war as on a pleasure party for the most trivial reasons, and with perfect indifference leave the justification which decency requires to the diplomatic corps who are ready to provide it.

In order not to confuse the republican constitution with the democratic (as is commonly done), the following should be noted. The forms of a state

* Excerpted with permission of Macmillan Publishing Company from Immanuel Kant, *Perpetual Peace*, edited and translated by Lewis White Beck. © 1985 by Macmillan Publishing Company. ©1957 Lewis White Beck *Perpetual Peace* was originally published in 1795.

(*CIVITAS*) can be divided either according to the persons who possess the sovereign power or according to the mode of administration exercised over the people by the chief, whoever he may be. The first is properly called the form of sovereignty (*forma imperii*), and there are only three possible forms of it: autocracy, in which one, aristocracy, in which some associated together, or democracy, in which all those in who constitute a society possess sovereign power. They may be characterized, respectively as the power of a monarch, of the nobility, or of the people. The second division is that by the form of government (*forma regiminis*) and is based on the way in which the state makes use of its power; this way is based on the constitution, which is the act of the general will through which the many persons become one nation. In this respect the government is either republican or despotic. Republicanism is the political principle of the separation of the executive power (the administration) from the legislative; despotism is that of the autonomous execution by the state of laws which it has itself decreed. Thus in a despotism the public will is administered by the ruler as his own will. Of the three forms of the state, that of democracy is, properly speaking, necessarily a despotism, because it establishes an executive power in which "all" decide for or even against one who does not agree; that is "all," who are not quite all, decide, and this is a contradiction of the general will with itself and with freedom.

Every form of government which is not representative is, properly speaking without form. The legislator can unite in one and the same person his function as legislative and as executor of his will as little as the universal of the major premise in a syllogism can also be the subsumption of the particular under the universal in the minor. And even though the other two constitutions are always defective to the extent that they do leave room for this mode of administration, it is at least possible for them to assume a mode of government conforming to the spirit of a representative system (as when Frederick II at least said he was merely the first servant of the state). On the other hand, the democratic mode of government makes this impossible, since everyone wishes to be master. Therefore, we can say: the smaller the personnel of the government (the smaller the number of rulers), the greater is their representation and the more nearly the constitution approaches to the possibility of republicanism; thus the constitution may be expected by gradual reform finally to raise itself to republicanism. For these reasons it is more difficult for an aristocracy than for a monarchy to achieve the one completely juridical constitution, and it is impossible for a democracy to do so except by violent revolution.

The mode of government, however, is incomparably more important to the people than the form of sovereignty, although much depends on the greater or lesser suitability of the latter to the end of [good] government. To conform to the concept of law, however, government must have a representative form, and in this system only a republican mode of government is possible; without it, government is despotic and arbitrary, whatever the constitution may be. None of the ancient so-called "republics" knew this system, and they all finally and inevitably degenerated into despotism under the sovereignty of one, which is the most bearable of all forms of despotism.

* * *

III. Discussion Questions

The following questions can serve as a starting point for discussing differences between Constitutional and Non-Constitutional governments..

- What are the characteristics of a constitutional government?
- What are the characteristics of a non-constitutional government?
- Discuss the differences between constitutional and non-constitutional governments. Give a number of examples of each type of government currently in power in the world.
- What are the similarities and differences between constitutional and non-constitutional governments with regard to factors such as limitations on powers, methods of limiting power, treatment of individual rights, stability, and their forms and organization?
- How do constitutional governments and non-constitutional governments vary in their tolerance of dissent? Is the Soviet Union becoming more constitutional because of its newly found tolerance for limited dissent?
- Do constitutional governments always act according to the constitution? Cite historical examples of constitutional governments not following their constitutions.
- At present, what if any change should be made to the current U.S. Constitution? Does it do everything it says it should? Should alterations be allowed?
- Looking at the recent events in Eastern Europe, the Soviet Union, and South Africa, what further changes would need to take place for these nations to arrive at constitutional government?

IV. Program and Curriculum Ideas

The following is a list of activities and projects designed to enhance learning about different types of government, both Constitutional and Non-Constitutional, at work in the international system.

... For schools

- Have your students write a constitution for the classroom. What must the constitution provide for? Can a constitution protect everyone's rights? Should it?
- Read the U.S. Constitution with your students. Distribute copies to each of them. Discuss how the U.S. Constitution affects their lives everyday. Is it still useful? Why is it called a "living document?" For high school students it may be appropriate to read and compare the constitutions of other nations with the U.S. Constitution.
- Using a large wall map, have your students identify constitutional and non-constitutional governments. Discuss the disparity between the number of constitutional and non-constitutional governments. Try to find reasons for this disparity.

... For youth programs

- Organize a group to "re-convene" the Constitutional Convention. Using the same documents and information as were used at the time have them draw up their own constitution. Ask the members of your group to defend the differences between their constitution and the U.S. Constitution.
- Arrange for your group to be visited by a recent immigrant from a nation whose government is non-constitutional. Have the visitor discuss what it is like to live without a constitution.
- Divide your group into smaller sub-groups. Have each read a different country's constitution, preferably one from a constitutional government. Have each group present the different ideas found in the document they have studied. Discuss how these differences can exist even though all of the nations are constitutional governments. These activities would be appropriate to include as part of a study of a different nation's culture, language, and customs. An audio-visual presentation could be appropriate in this instance, in particular films or videotapes produced by National Geographic. For information call National Geographic at 202/921-1330.

...For community programs

- **Form a community discussion group to follow the decisions handed down by the U.S. Supreme Court. The group could debate the decisions and determine whether a particular decision made followed the constitution. If not, they should decide what they think the proper decision should have been.**
- **Form a study group to analyze the current reforms in Eastern Europe, the Soviet Union, and South Africa. How do these current reform movements further the quest for constitutional government? What else needs to occur to further this direction?**
- **Organize a community forum on "The Constitution and You: What Life Would be Without the Constitution." Invite local scholars, teachers, and interested citizens to make presentations. Some emphasis should be placed on the changes taking place in Eastern Europe and South Africa.**

...For higher education

- **Using the Federalist papers as a guide and background, "re-convene" the Constitutional Convention and debate how the U.S. Constitution should read. After the debate have your students write and adopt a constitution. Discuss the similarities and differences between this constitution and others. Does it provide for constitutional government as defined in this packet?**
- **Drawing upon the writings of Plato, Machiavelli, Locke, Hobbes, Jefferson, and Lincoln, write a global constitution that promotes human rights and peace. Discuss the inclusion of various ideas, and the actual feasibility of putting such a document into use.**
- **Using the constitutions of a number of nations (United States, Canada, France, Soviet Union, Cuba, South Africa), both with constitutional and non-constitutional governments, analyze and discuss the difference between the written documents and the "practice" in each nation. What causes the difference between "theory" and "practice?" How can this be remedied?**

V. Suggested Readings and Other Materials

Readings

For those who wish to learn more about constitutional and non-constitutional governments, the following list provides a sample of the materials available.

- Bob Altmeyer, *Enemies of Freedom: Understanding Right-Wing Authoritarianism*, Jossey-Bass, Inc., 1988.
- Aristotle, *Politics*
- Aristotle, *Ethics*.
- Albert P. Blanstien and Jay Sigler, eds., *Constitutions That Made History*, New York: Paragon House Publishers, 1988.
- Anti-Defamation League of B'nai B'rith, *America's Conscience: The Constitution in Our Daily Life*. Washington, D.C.: ADL, 1987.
- Charles C. Bright and Susan F. Harding (eds.), *Statemaking and Social Movements: Essays in History and Theory*, University of Michigan Press, 1984.
- R. Freeman Butts, *The Morality of Democratic Citizenship: Goals for Civic Education in the Republic's Third Century*, Calabasas, CA: Center for Civic Education, 1988.
- Richard A. Falk, *A World Order Perspective on Authoritarian Tendencies*, New Brunswick, N.J.: Transaction Publishers, 1980.
- Carl J. Friedrich, *Constitutional Government and Democracy: Theory and Practice in Europe and America*, Fourth Edition, Waltham, Massachusetts, Blaisdell Publishing Co., 1965.
- Carl J. Friedrich, ed., *Totalitarianism. Proceedings of a Conference Held at the American Academy of Arts and Sciences*, Boston, Harvard University Press, 1953.
- Carl J. Friedrich, *Man and His Government: An Empirical Theory of Politics*, New York, McGraw-Hill Co., Inc., 1963.
- Gino Germani, *Authoritarianism, Fascism and National Populism*, Transaction Publishers, 1978.
- John H. Herz, *International Politics in the Atomic Age*, Columbia University Press, 1959.
- Thomas Hobbes, *Leviathan*.

- Herbert Clark Hoover, and Hugh Gibson, *The Problems of Lasting Peace*, Garden City, New York: Doubleday Day and Co., Inc., 1943.
- Walter S. Jones, *The Logic of International Relations* (6th ed.), Scott Foresman and Co., 1988.
- Immanuel Kant, *Perpetual Peace*, edited with and introduction by Lewis White Beck, New York, Macmillan/Library of Liberal Arts, 1987.
- Leonard W. Levy and Dennis J. Mahoney, eds., *The Framing and Ratification of the Constitution*, New York: Macmillan Publishing, 1987.
- John Locke, *Second Treatise on Government*.
- Niccolo Machiavelli, *The Prince*.
- James Madison, Alexander Hamilton, John Jay, *The Federalist Papers* in J.R. Pole, ed., *The American Constitution —for and against: the Federalist and Anti-Federalist Papers*, New York: Macmillan Publishing, 1987.
- David Mathews, *The Promise of Democracy: Source Book for Use with National Issues Forums*, Kettering Foundation, Dayton, Ohio, 1988.
- Charles Howard McIlwain, *Constitutionalism Ancient and Modern*, Ithaca, New York: Cornell University Press, 1947.
- Ward Morehouse, *A New Civic Literacy: American Education and Global Interdependence*, Aspen Institute, Princeton, New Jersey, October, 1975.
- John J. Patrick and Richard C. Remy, *Lessons on the Constitution: Supplements to High School Courses in American History, Government, and Civics*, Boulder, Colorado: Social Science Education Consortium, Inc., 1987.
- J. Roland Pennock, and John W. Chapman, eds., *Constitutionalism*, New York: New York University Press, 1979.
- Amos Perlmutter, *Modern Authoritarianism*, New Haven, Connecticut, Yale University Press, 1984.
- Leslie Wolf-Phillips, ed., *Constitutions of Modern States Selected Texts and Commentary*, New York: Praeger Publishers, 1968.
- Plato, *Republic*
- Andrew Vincent, *Theories of the State*, Basil Blackwell, 1987.

- Barbara Ward, *Five Ideas that Changed the World*, Norton, 1959.

Other Materials

- "Citizenship in the 21st Century," teleconference videotape, National Council for the Social Studies. Topics include: "Citizenship in a Multicultural Society," "Citizenship in a Global Environment," "Citizenship in a Technological Information Society," "Citizenship Education," Washington, DC, November 1989.
- *Simulations for a Global Perspective* (Intercom 107 1985)
For grades 7-12, this resource presents several complete simulation games, including "Spaceship Earth," to help develop global awareness. The American Forum for Global Education, 45 John Street, Suite 1200, New York, NY 10038.
- *The New Global Yellow Pages*. A resource directory listing 172 organizations and projects that provide services related to global/international education. The American Forum for Global Education, 45 John Street, Suite 1200, New York, NY 10038.
- *The New Global Resource Book*. A resource directory of materials available on a broad range of global/international topics with annotated listings of books curriculum materials, and audiovisual materials. The American Forum for Global Education, 45 John Street, Suite 1200, New York, NY 10038.
- *The National Security Series*. A seven book series on national security education published by the Mershon Center's Citizenship Development for a Global Age program. Five of the books contain a total of nearly 150 classroom lessons on national security topics to supplement basic high school social studies courses. For further information contact: Richard R. Remy, The Mershon Center, 199 W. 10th Avenue, Columbus, Ohio 43210.

VI. Organizations with Related Resources

The following organizations publish materials that address issues related to constitutional and non-constitutional governments in the world and other citizenship education topics.

The American Forum for Global Education
45 John Street, Suite 1200
New York, NY 10038
212/732-8606

Anti-Defamation League of B'nai B'rith*
823 United Nations Plaza
New York, NY 10017
212/490-2525

Center for Civic Education*
5146 Douglas Fir Rd.
Calabasas, CA 91302
818/340-9320

Center for Teaching International Relations
University of Denver
Denver, CO 80208
303/871-3106

Close Up Foundation*
1235 Jefferson Davis Highway
Arlington, VA 22202
703/892-5400

Constitutional Rights Foundation*
601 S. Kingsley Dr.
Los Angeles, CA 90005
213/847-5590

Ethics and Public Policy Center
1030 15th Street, NW
Washington, DC 20005
202/682-1200

Foreign Policy Association*
1800 M St. NW, Suite 295
Washington, DC 20036
202/293-0046

Kettering Foundation*
200 Commons Rd.
Dayton, OH 45459
800/221-3657

Mershon Center*
Ohio State University
199 W. 10th Ave.
Columbus, OH 43201
614/292-1681

Multiculturalism and Citizenship,
Canada*
15 Eddy Street, Room 13C11
Ottawa, Ontario, Canada K1A 0M5
819/994-2869

National Constitution Center*
325 Chestnut Street - Suite 501
Philadelphia, PA 19106
215/923-0004

National Council for the Social
Studies*
3501 Newark Street, NW
Washington, DC 20016
202/966-7840

Social Studies Development Center
Indiana University*
2805 East Tenth Street
Bloomington, IN 47405
812/855-3838

SIETAR International
1505 22nd St., N.W.
Washington, DC 20037
202/296-4710

United Nations Association of the USA
Model UN and Youth Programs
485 Fifth Ave
New York, NY 10017-6104
212/697-3232

United States Institute of Peace
1550 M Street, Suite 700 NW
Washington, DC 20005
202/457-1700

*Organizational member of the Council for the Advancement of Citizenship