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Beyond the Parchment: Unveiling the Strengths and Flaws of the US Constitution Through a Modern Lens

In the words of George Washington: "The Constitution is the guide which I will never abandon" (Washington). This reflective understanding of the momentous document resonated throughout the Founding elites, and the average citizens who questioned the constitutional doctrine. In modern society, we recognize that our system of government established by the Constitution has lasted longer than other democracies throughout the world, and we appreciate the long-standing aspect of such a doctrine. However, in an age of constant technological innovation, ecological disaster, and nihilistic hopelessness among the populace, especially among the youth, the Constitution has deemed to be inadequate in properly handling the troubles of the modern age. While the strengths of the Constitution are evident in the long-lasting capabilities and relative stability of the doctrine while not undermining fundamental rights of man, the weaknesses are also rather clear.

Most of the strengths of the Constitution reside in the fact that the Constitution has created a system that has led to a long-standing and stable democracy without obscene revolution and turmoil. The principle paradigm of James Madison in framing this system was to prevent the dangers of a demagogue, as he understood that "When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens. To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our inquiries are directed" (Madison, "Federalist Papers No.10"). Madison asserts that the idea of popular government without a regulated system in place to prevent factions from growing, then political turmoil is inevitable and is the downfall of such a popular governmental system. Thus, he creates a system where the minority is not completely ripped of such power in popular government, allowing them to not be ruled forever by such demagoguery. This constitutional system seeks not to destroy the causes of how these majority factions gain power, but instead manage them in an arena where everyone is able to battle it out without one entity gaining too much power. For example, the process of amending the constitution is arduous for a purpose, as requiring both $\frac{2}{3}$ support in both houses of Congress with ratification by $\frac{3}{4}$ of the states enforces the idea that the only amendments passed are ones that are needed and agreed upon by broad support. Since it has garnered such support, it must be in the best interest of the public, as getting such broad support amongst the numerous interests and states would require a goal that is practically universal. Another primary strength of our ruling document would be that in the process of restricting human behavior, the system did not completely strip the individual of her or his rights, a common democratic fear of powerful federal governance. Madison, the architect of this framework, assures the people that through his scheme there is little need to worry about the federal government impeding on the notion of inalienable rights of the individual: "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" (Madison, "Federalist Papers No.51 (1788)"). This establishes that simply embedded in the framework of the federalist system of government is a protection of the individual and her or his

rights and geographical interests represented in the individual's state government authority and partial sovereignty in certain matters. Thomas Jefferson, the avid ward-republic and local governance advocate, takes it a step further, arguing for an explicit bill of rights to fully assure the protection of the people: "a bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse, or rest on inference" (Jefferson). Here, Jefferson is stating that any government should not be opposed to a bill of rights that guarantees the people protection from the government, at least in the legal and political realms. Both Madison and Jefferson's advocacy for the protection of individual rights, whether embedded in the system of government or explicitly shown in an additional doctrine, established a long-standing system where the individual rights are valued by the government. Unrestricted government systems tend to give themselves more power, thus the creation of a system that seriously discourages the encroachment of power against the people has been an important strength of the Constitution. The advantages of the Constitution reside in its ability to maintain stability without sacrificing individual liberties in its pursuit of power and governance.

The U.S. Constitution is far from fallible, as there are significant weaknesses in the Constitution, residing in its rigidity when it comes to dealing with modern issues amongst the American populace. The first weakness central in the Constitution is the inadequacy the system has in effectively and swiftly managing crises and issues as they arise in society. The system is designed to be a slow and deliberate process which certainly has its benefits in suppressing radical concepts that could undermine the will of the public. However, the incremental nature of the legislative process takes far too much time to be able to adequately deal with issues in the time needed. Only matters that have no controversy are able to be passed swiftly, and in our age of intense party polarization, there are no legislative proposals that will lack opposition. The environmental and ecological crisis is a prime example of the lack of institutional urgency when dealing with time-dependent problems that should not have been politicized in the first place. For decades, environmental scientists, environmental lobbyists, and millions of citizens have been practically begging for intense and widespread climate change action, as our planet increasingly faces challenges exacerbated and caused by climate change. Despite all this support, we severely lack the climate change action that the public seeks, especially compared to other first-world democracies similar to the United States. With 72 percent of the nation supporting climate change action (Marlon et al.) and 65 percent of the populace agreeing that the federal government is doing too little in mitigating the climate crisis (Tyson and Kennedy), it would be antithetical to the tenets espoused by the Founding Fathers for the U.S. to be ranked 52nd in the world when it comes to implementing effective climate change policy ("CCPI Countries and Rankings: US | Climate Change Performance Index"). This unfortunate phenomenon is not just isolated to the issues of environmental policy, as this is consistent for issues like gun control, student loan debt, and healthcare where there is overwhelming support for government action, yet the arduous and slow political process makes it nearly impossible to effectively make legislation to address the problem in time. Another major downside of the Constitution is evident in the impossibility of truly changing the rules of the nation even in the slightest, as the amendment process in modern times is impractical. Due to the rise of polarization, getting broad support across party, state, and ideology for any piece of legislation is just unfeasible. While the creation of the system to prevent majoritarian mobs from instituting amendments whenever they feel was a salient and justified strength, the Founding Fathers could never have imagined the level of partisan polarization that perpetuates modern American society. This polarization, while not being a direct result of the Constitution, is an aspect overlooked by the Founding Fathers as

they imagined more respect for opposing ideologies and aspects of the legislative agenda. This trend of polarization getting in the way of legislation is mostly individual to the United States as our polarization issue is in far worse shape than other comparable democracies: “Americans were more ideologically divided than any of the 19 other publics surveyed when asked how much trust they have in scientists and whether scientists make decisions solely based on facts. These fissures have pervaded nearly every aspect of the public and policy response to the crisis over the course of the year” (Dimock and Wike). This contends that compared to other popular governments, the U.S. has a distinct polarization problem that infiltrates every aspect of the legislative agenda, thus making the amendment process an impossible battle. Amending the Constitution should not be an impossible task, as with issues that have broad support in other countries, they are able to adjust their constitutional doctrines accordingly: “in Germany, an amendment requires a two-thirds majority in each House, and that’s it. In all these cases, no one complains about the lack of constitutional stability” (Posner). This states that in other nations there is no worry or fear about an overreach of power just because the process of changing the Constitution is not incredibly challenging, leading to the government to adjust the Constitution to better satisfy their constituents. The rigidity of the U.S. Constitution has proven to be a major issue in properly dealing with the problems that the American populace so greatly desires, whether that be represented in the disparity between what the people seek out of government or in the impossibility of the amendment process in the modern age.

The concept of having another constitutional convention, while being an interesting prospect for such needed changes, is not completely adequate in changing the ways in which we govern ourselves through such a doctrine. Since other democracies are able to update their constitutions regularly without fear of instability, it would logically track that a modern constitutional convention would allow Americans to change the Constitution in order to then change the amendment process. However, one major fear of this new constitutional convention is the imbalance of power when it comes to who would be dictating these changes to create a new constitution. If delegates from each state were sent to a convention, there would certainly be an unfair advantage to whichever party was in power in the majority of states, thus not properly representing more populated states. To solve this problem, one may propose to do it based on population. Yet, if that were implemented it would give the popular party a substantial advantage in instituting the rules of this new doctrine. Since we live in such a partisan-dictated political ecosystem, some entity will have an advantage in dictating the tenets of this new document. This would then be the cause of instability that would result in political turmoil, increased dissatisfaction, and overall cultural and societal damage. This alone is enough to conclude that a new constitutional convention to update the seemingly outdated constitution would stir up conflict and political turmoil. Nevertheless, if a system was constructed that ensured equal partisan representation in a new convention, it still would remain ineffective as there is a more cultural change that needs to occur for there to be a true substantial change in how we govern ourselves. Pure constitutional change will not be enough to overcome the issues of the difference between public opinion and legislative outcomes. The Constitution provides a justified structure that unfortunately over time succumbed to the power of party, and the polarization that resulted was a natural inevitability due to its ability to take over an individual’s entire political worldview. Politicians and other political actors are far too focused on partisan issues and holding power over the opposition party than effectively legislating and governing in the interest of the public. This problem would not be fixed with a simple re-writing or adjustment of the Constitution as there is a deeper cultural change in politics that needs to occur for there to be a

true change in how Americans govern ourselves. The Constitution is but a blueprint for how citizens are to govern themselves, and people shaped a culture around it that unfortunately deviated from many principles throughout its long reign of power. However, a simple rewriting does not eliminate the partisan issues, as those are far more embedded in contemporary American politics. We live in a divided society, beholden to the power of the party, incapable of formulating a better plan that allows us to effectively change our structural systems without a massive societal reformation. Democracy could be enhanced by revisiting the text of the Constitution; however, it will not be the ultimate solution to the cracks that are evidently forming in the concept of American democracy.

Societal and cultural change is far more difficult to achieve than any political or structural change ever could be simply due to the collective nature in which it would have to happen. This understanding of the massive challenge intimidates the American public, especially the youth, into a state of hopelessness and fear, as everything seems too out of reach and impossible. This nihilistic attitude towards the current political state must be counteracted with hope, as the collective must be able to give solace to hopeless individuals, reminding them that change starts at the individual level, and that while simple structural solutions may seem enticing towards fixing the political landscape, interpersonal change must occur. The U.S. Constitution is a lasting blueprint that provides a strong foundation for a stable society, however, when it comes to dealing with the modern issues of the individual, it falls flat, not due to the structural rules that are outlined in the texts, but the surrounding political landscape that has corrupted the ideal of the Founding Fathers for a representative government.

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