

Evolution of the Constitutionalism: From Ancient Greece to American Independence

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Abstract

This article presents a comprehensive and detailed examination of the concept “constitutionalism” as a foundational and core principle of modern governance. It distinguishes between the constitution and constitutionalism, the philosophical doctrine that limits governmental power through separation of powers, rule of law and protection of the rights. The study traces the historical evolution of constitutional thought from Ancient Greece and Rome, highlighting the emergence of constitutionalism, to pivotal legal milestones such as the Magna Carta (1215) in England and the Golden Bull (1222) in Hungary. Further, it examines England’s constitutional development through the Petition of Right (1628) and the Bill of Rights (1689), marking the transition from monarchy to parliamentary supremacy. The article also delves into the American colonial experience, emphasizing early democratic frameworks like the Mayflower Compact (1620) culminating in the revolutionary actions of the Continental Congresses. Through comparative tables and historical analysis, the article underscores how constitutionalism evolved as a safeguard against arbitrary rule and a mechanism for empowering citizens. It concludes that constitutionalism is not merely a legal framework, but a dynamic and evolving ideology rooted in justice, liberty, and democratic accountability.

Keywords: Constitution, Constitutionalism, Rule of Law, Separation of Powers, Democracy, Ancient Greece, Ancient Rome, Magna Carta, Golden Bull, Petition of Right, English Bill of Rights, Roman Republic, Roman Empire, Mayflower Compact, Continental Congress, Colonial Charters, Limited Government,

1. INTRODUCTION

1.1. Constitution

The term *Constitution* is derived from the Latin word *constitutio*, which referred to a set of fundamental principles, rules, standards or practices established by a State or Nation to guide the formation of the government and its proper governance. In other words, a constitution is recognized as the supreme law of a State or Nation. It serves as the foundational legal document that defines the structure and functioning of the State and its institutions.

The core idea of the Constitution is to define the powers granted to various branches of government and impose clear limitations on those powers. Its primary objective is to ensure that the government operates within a defined legal framework as per boundaries of the supreme law. By doing so, it safeguards against the misuse of authority and promotes accountability and ensures the protection of the fundamental rights.

In the modern world, nearly every State or Nation possesses a constitution that serves as the legal foundation for the formation of the government and its governance. It establishes the principles by which governments are formed, powers are exercised, and justice is delivered.

Moreover, the Constitution reinforces the concept of *constitutionalism* by ensuring that governments must operate within a framework of laws and not beyond them. Through its provisions, the constitution ensures that power is exercised responsibly, rights are protected, and the rule of law prevails.

The Constitution also gives citizens certain rights, including the right to take part in forming the government. It sets out the principles for how the government should work and ensures that power is not misused. In this way, the constitution supports the idea of constitutionalism, the belief that government should operate within a framework of laws and not beyond them.

1.2. Constitutionalism

The term Constitutionalism refers to the set of guiding principles for controlling and governing the authority of a government and limiting the power of the Government through fundamental law, i.e. a constitution. The ultimate purpose of Constitutionalism is to ensure that

- 1.1.1 Limitation on the Power– This principle ensures that power of the Government or state is limited, and no individual has unlimited power to control the Government.
- 1.1.2 Rule of law – This principle ensures that laws are applied equally to all the people or citizen and fairly to all people or citizens. Further, Government is also subject to the laws.
- 1.1.3 Separation of powers exists – The power was divided into different branches or department. For example, power is generally divided into three branches, namely the executive, legislative, and judicial branches.
- 1.1.4 Protection of the fundamental rights– The rights of the Citizens have been very well protected.

In essence, constitutionalism is the foundational theory or idea that a government must operate or within an established framework of laws and principles that are publicly available, stable, and enforceable. It is not merely the existence of a constitution, but the commitment to uphold the provision of the constitution in spirit through the consistent application of legal norms and judicial checks.

Constitutionalism serves as a vital mechanism for balancing the power of the State or Nation. It empowers individuals by providing a legal structure through which the actions of the state can be scrutinized, validated and controlled. In this way, it acts as a safeguard against arbitrary governance and ensures the protection of individual rights.

The primary purpose of constitutionalism is to regulate the exercise of State power. It ensures that the government does not transgress the principles or protective provisions enshrined in the supreme law of the land. These principles are designed to uphold the fundamental rights of the people and to maintain the integrity of democratic governance.

To fully appreciate the significance of governance by the people, one must understand the origin and development of constitutionalism. The framers of constitutions across various nations have played a pivotal role in shaping this concept. Their unique and thoughtful approaches have contributed to the evolution of modern constitutionalism, influencing legal systems around the world.

Importantly, constitutionalism is not a product of sudden invention. It has emerged through a gradual and deliberate evolutionary process, tested in actual life experiences, shaped by historical experiences, philosophical debates, and legal reforms. This time, this concept has matured into a robust framework that continues to guide democratic societies in their pursuit of justice, liberty, and equality.

1.3. Constitution v/s Constitutionalism

In the field of political theory and legal theory, it is essential to understand the distinguish between the concepts of Constitutionalism and the Constitution. Though both the concepts are closely related to each other's but in actual meaning and practical implementation, these concepts are fundamentally different ideas.

The concept of Constitutionalism refers to the philosophy and practice of limiting governmental power through a framework of supreme laws and principles. It is an ideology that promotes the rule of law in the governance, the separation of powers, and the due protection of fundamental rights and privileges of the people. The concept of Constitutionalism is not merely about having a constitution in a state or country; it is about ensuring that the constitution is upheld in spirit and practice, serving as a safeguard against arbitrary rule.

On the other hand, the Constitution is a formal document that outlines the structure, functions, and powers of state or its institutions. It is a legal instrument that codifies the fundamental laws of a state. While every state may possess a constitution, not all adhere to the principles of constitutionalism.

Thus, the distinction lies in the fact that a constitution is a tangible legal document, whereas constitutionalism is a normative concept that emphasizes the ethical and functional application of constitutional principles.

Aspect	Constitution	Constitutionalism
Definition	A written document adopted by a Nation or State for outlining the supreme law of land relating to formation and governance of the Government.	A philosophical and political doctrine adopting for emphasizing the concept of a limited government and separation of power through its constitution.
Nature	It is a legal document.	It is an idea or principle adopted by the farmers of the constitution.
Purpose	The purpose of the constitution is to establish the structure, powers, and duties of government.	The purpose of the Constitutionalism is to ensure that government power is exercised within its legal boundary.
Focus	The focus of the Constitution is to define what the government can do.	The focus of the Constitutionalism is to define What the government should not do.

2. Contribution by the Ancient Greece and Rome

2.1 Contribution by the Ancient Greece

The concept of today's *democracy*, now central and ideal to modern governance, traces its origins to ancient Greece. The term itself is derived from the Greek word "*demokratia*", a combination of two words i.e. *demos*, meaning "people," and *kratos*, meaning "rule" or "authority." Together, these words form the foundation of the idea: *rule by the people*.¹

Initially, ancient Greece was not a unified democratic state. It began as a collection of small, independent villages and islands that gradually evolved into city-states, known as *polis*. Each polis developed its own

¹ National Geographic, Democracy (Ancient Greece), <https://education.nationalgeographic.org/resource/democracy-ancient-greece>

government, economy, and social structure. During the period between 800 and 100 BCE, these city-states were typically ruled by hereditary monarchs, with power transferred from one family member to another family member within royal families. These monarchs were often advised by aristocrats, i.e. wealthy and influential individuals.² Each city-state functioned as a self-governing government, developing its own political institutions, military forces, religious practices, and economic systems. While they shared a common language and cultural heritage, the city-states often operated independently and shaping the fragmented yet vibrant landscape of ancient Greek civilization.³

As dissatisfaction with monarchical rule grew in the ancient Greek due to various reasons, the power was shifted from monarchy to the aristocracy. During 8 BCE, many city-states were governed by a small group of nobles, marking the rise of oligarchy in which power was held by a selected people. However, the luxurious lifestyles and harsh rule led to widespread discontent among the people. This unrest among the people paved the way for the emergence of tyrant i.e. leaders who seized power through force or military strength. Initially popular for challenging the aristocracy, tyrants eventually became oppressive, ruling through fear and coercion. Their decline set the stage for a new political transformation.⁴

The key differences between monarchy, tyranny, aristocracy, oligarchy, and in Ancient Greece and democracy of modern world:

Attribute	Monarchy	Tyranny	Aristocracy	Oligarchy	Democracy
Who Holds Power	by a King	by one ruler	By few noble people	by few wealthy people	Power is held by the Citizens
How Power Is Gained	Hereditary succession within family members	Power is seized often during unrest or civil war	By noble lineage	By the wealthy people through their influence	Through direct Voting and civic participation
Citizen Involvement	Very limited	Limited	Minimum	Minimum	Very High
Key Features	Centralized rule and Divine Right	Popular at first, later oppressive	Rule by elite families	Power among rich and powerful people	Rule by the people for the people
Example in Greece	Early Mycenaean city-states	Pisistratus in Athens	Corinth	Sparta	Athens

² ibid

³ ibid

⁴ Ancient Greek Government, Foundations of Democracy in Ancient Greece https://cdnsm5-ss14.sharpschool.com/UserFiles/Servers/Server_142278/File/Becky%20Carson/Governments%20of%20Ancient%20Greece.pdf

One of the earliest and famous reformers was Solon in ancient Greek. He assumed power in Athens in 594 BCE. He initiated significant social and legal reforms, including the abolition of long practice of debt slavery and the establishment of a new legal code in Ancient Greece and court system accessible to all citizens. Solon's efforts laid the groundwork for democratic principles.

In 510 BCE, Cleisthenes defeated the tyrants and introduced a reform by way of a new constitution in Athens. This was a significant moment in the ancient Greek history. Believing in equal rights for people, Cleisthenes established a *Council of 500* to oversee governance and process of making laws, an *Assembly* where citizens could debate and vote. His reforms marked the formal birth of *democracy* in Ancient Athen. He established a system where all citizens participated directly in decision-making, now commonly and properly known as *direct democracy*.⁵

Pericles was also a great reform in the Ancient Greek. Under the leadership of Pericles, democracy became deeply embedded in Athenian life. He expanded civic participation by introducing payments for public service, enabling common people or affluent citizens to serve in government roles and in juries. This inclusivity strengthened democratic institutions and broadened political engagement.⁶

In Athens, all male citizens were expected to obey the law, participate in political discussions, vote in the assembly and join the military. The legal system featured was large juries with number the hundreds to reflect the communal nature of justice.

It is important to mention here that the ancient Greek understanding of *constitution* differed from the modern interpretation. For the Greeks, a constitution referred to the overall structure or nature of the state. It was not a written document that limited government actions or defined legal boundaries. To the Greeks, the state means the collectively people themselves, a collective of citizens bound by shared responsibilities and governance.

Observations:

In Athens, one of the earliest examples of participatory governance by the people emerged. Under this system, the selected citizens were granted the right to vote on public matters and participate in the legislative and administrative process. This marked a significant milestone in human history as governance was changed from monarchy to people participation. In fact, participation in the governance was no longer the exclusive domain of monarchs or aristocrats, but involved the common people, at least in part, for the benefit of the people.

However, this democratic participation was far from universal applicability to all the people. The right to vote and engage in law-making was restricted to selected people only i.e. male citizens only. Women and slave individuals were excluded from political life, and representation in the governance. This was a critical exclusion from Athenian democracy. It did not extend equal rights or privileges to all members of society. But it pioneered the idea of citizen participation.

Despite these limitations, early Greek city-states such as Athens and Sparta made notable steps in codifying laws. Reformers like Draco and Solon introduced written legal codes aimed at providing structure and rights to citizens. These laws were publicly known and clearly specified, moving away from the arbitrary rules and personal discretion of the King. The existence of written laws signaled a shift toward

⁵ Ancient Greek Government, Foundations of Democracy in Ancient Greece, [https://cdnsm5-ss14.sharpschool.com/UserFiles/Servers/Server_142278/File/Becky%20Carson/Governments%20of%20Ancient%20Greece.p](https://cdnsm5-ss14.sharpschool.com/UserFiles/Servers/Server_142278/File/Becky%20Carson/Governments%20of%20Ancient%20Greece.pdf)
[df](https://cdnsm5-ss14.sharpschool.com/UserFiles/Servers/Server_142278/File/Becky%20Carson/Governments%20of%20Ancient%20Greece.pdf)

⁶ ibid

transparency and accountability in governance.

Yet, the supremacy of law in ancient Greece remains ambiguous. While laws were created by assemblies of ordinary male citizens and there is little evidence to suggest that these laws were considered supreme or immutable. The process of law-making was relatively straightforward, but the mechanisms for amending or challenging existing laws were not well defined. This raises questions about the stability and authority of the legal system in early Greek democracies.

In essence, while Athens laid the groundwork for democratic governance and legal codification. The exclusion of large segments of the population and the lack of clarity around legal supremacy and amendment procedures reflect the complexities and limitations of early democratic experiments.

2.2 Contribution by Rome

In the 400s BCE, Rome was still in its infancy stage compared to Athens and ancient Rome consisted of small and poor farmers living on the hills along the banks of the Tiber River in Rome, Italy. These early settlements of the people in Rome were small and scattered, but over time and due to common culture, these small villages united to form a single town.⁷

In the earliest days of Rome, the city was ruled by kings. In approximately 509 BCE, the citizens of Rome were unhappy with the King and rose in revolt. This revolt led to the expulsion of the King and the abolition of monarchy in ancient Rome. In place of existing king's systems, the Romans established a new form of government, namely a *republic*. In this new form of government, the power was held by elected representatives of the people. This was a turning point in Roman political and social history. This laid the foundation for the new government structure, its governance, law, and people participation in ancient Rome. This new system became an ideal model for future democratic systems around the world.⁸

In the new system, the role of the king was taken over by two *consuls*. These two *consuls* were appointed and elected officials of ancient Republic Rome. The consuls were selected and appointed by an assembly of approximately 300 Roman aristocrats each year. The consuls shared executive authority, commanded the military, and presided over the Senate. Importantly, each consul held the power to veto the decisions of the other, ensuring a balance of power and preventing unilateral rule.⁹

The *Senate* gained significant influence and role in the new republic of Ancient Rome. The Senate acted as a central advisory body, guided the consuls and assisted in shaping the public policy. Though it did not possess formal legislative authority, the Senate's recommendations carried great weight and often determined the direction of Roman governance.¹⁰

After this transfer of power, Rome became a republic, and leaders were selected by the people to represent them. In the beginning, only the richest families, namely Patricians, were entitled to political or religious positions. All the people other than Patricians were known as Plebeians and Plebeians had no political power in the governance. They had fought for their rights and eventually gained a role in the government. In the new Roman Republic, society was divided into two main classes: the *patricians* (noble people) and the *plebeians* (common people). This division shaped not only the social culture of Rome but also its political institutions and access to power.¹¹

⁷ Core Knowledge Foundation, Ancient Greece and Rome, ISBN: 978-1-68380-321-8 https://www.coreknowledge.org/wp-content/uploads/2018/03/CKHG_G6_U2_AGR_SR.pdf

⁸ ibid

⁹ ibid

¹⁰ ibid

¹¹ <https://quod.lib.umich.edu/d/did/did2222.0002.972/--patrician?rgn=main;view=fulltext>

The social divide between patricians and plebeians in early Rome gave rise to a prolonged struggle for equality and participation in the governance. These struggles between Patricians and Plebeians laid the foundation for the ultimately shape of the character and strength of the Roman Republic.¹² Initially excluded from political power, Plebeians began to organize themselves in response to the Patricians' dominance. When negotiations failed and attempts to control them persisted, Plebeians took bold action and they withdrew from the city, refusing to participate in civic life or obey patrician authority. This act of collective resistance sent a powerful message and marked the beginning of a transformative movement. To represent their interests, plebeians elected their own leaders, known as *tribunes*. These tribunes were empowered to protect the rights of the common people and to veto decisions that threatened their welfare. Over time, the Plebeians' persistent efforts forced the Patricians to acknowledge their demands and grant them a voice in government.¹³ This struggle led to a series of reforms that gradually expanded Plebeian rights and reshaped Roman political institutions. The inclusion of plebeians in lawmaking and governance not only reduced social tensions but also contributed to Rome's stability and greatness. The Republic became stronger and more resilient because it began to reflect the will of a broader segment of its population.¹⁴

As Rome expanded its territory through conquest, it faced the challenge of governing a vast and diverse empire. To manage this complexity, the Romans organized conquered lands into administrative units known as *provinces*. Each province was overseen by a *governor*, who was appointed by and answerable to the central and main government in Rome.¹⁵ These governors held significant authority within their provinces. They were responsible for maintaining order, collecting taxes, enforcing Roman law, and implementing decisions made by the Senate and other governing bodies in Rome. To support their rule and ensure stability, Roman troops were stationed throughout the provinces. These military units not only protected Roman interests but also acted as enforcers of imperial policy. This system of provincial governance allowed Rome to maintain control over distant regions while integrating them into the broader framework of the empire.¹⁶

However, this shift brought unintended consequences for the Roman Republic. The army, once a symbol of civic duty, had become a potential weapon against its own institutions. This tension between military ambition and republican governance became one of the central challenges of late Republican Rome and this problem ultimately contributed to the Republic's decline and the rise of imperial rule. For example, in 49 B.C.E., Julius Caesar made a bold and irreversible decision. He had refused to surrender his command, and he gathered his loyal army and marched toward Rome. By doing so, he violated Roman law and openly declared his intention to challenge the authority of the Senate. His march to the Rome was a direct challenge to the Republic's leadership and a pivotal moment in the collapse of its traditional political order. In 49 BCE, Julius Caesar started civil war with Roman. The civil war was a struggle for the Roman Republic.¹⁷

In 44 BCE, Julius Caesar took his most overconfident step yet. With the support of the Senate, he had

¹² *ibid*

¹³ Core Knowledge Foundation, Ancient Greece and Rome, ISBN: 978-1-68380-321-8 https://www.coreknowledge.org/wp-content/uploads/2018/03/CKHG_G6_U2_AGR_SR.pdf

¹⁴ *ibid*

¹⁵ *ibid*

¹⁶ Core Knowledge Foundation, Ancient Greece and Rome, ISBN: 978-1-68380-321-8 https://www.coreknowledge.org/wp-content/uploads/2018/03/CKHG_G6_U2_AGR_SR.pdf

¹⁷ Core Knowledge Foundation, Ancient Greece and Rome, ISBN: 978-1-68380-321-8 https://www.coreknowledge.org/wp-content/uploads/2018/03/CKHG_G6_U2_AGR_SR.pdf

declared himself *a dictator for life*. This move shattered the last remnants of the Roman Republic's traditional checks and balance on power. Caesar's consolidation of power threatened the balance of the Republic and the influence of the Senate. His opponents believed that he had dismantled the very foundations of Roman liberty. He was finally assassinated in the senate house by the group of about sixty senators. The assassination was intended to restore the Republic, but instead, it plunged Rome into further chaos and civil war. Caesar's death did not revive the old order; it accelerated its collapse and paved the way for the rise of imperial rule under his adopted heir, *Octavian*, later known as *Augustus*.¹⁸

Roman Republic v/s the Roman Empire

The comparison between the Roman Republic and the Roman Empire, highlighting key differences in governance, society, and power structure:

Aspect	Roman Republic	Roman Empire
Time Period	509 BCE – 27 BCE	27 BCE – 476 CE
Form of Government	Representative democracy (aristocratic republic)	Autocracy (rule by King)
Head of State	Two elected consuls	Emperor (often hereditary or appointed)
Legislative Bodies	Senate, Assemblies (Comitia Centuriata, Concilium Plebis)	Senate (advisory role), Emperor held legislative power
Military Control	Controlled by consuls and Senate	Controlled by the King
Citizen Participation	Citizens (mostly male) voted and held office	Limited; emperor held most power
Law Making	Laws passed by assemblies and influenced by Senate	Emperor could make, veto, or override laws
Social Structure	Patricians vs. Plebeians	Class divisions persisted; emperor above all
Judicial System	Judges, tribunes, and assemblies	Emperor and appointed officials
Provincial Governance	Governors appointed by Senate	Governors appointed by emperor; military presence
Military Loyalty	Loyalty to the Republic and Senate	Loyalty to emperors

After assassination of Caesar, the existing structure of governance of the government underwent a complete transformation. The collaborative decision-making under Roman Republic had transferred into a centralized system with *emperors* having supreme authority. Under the leadership of *Augustus*, the first emperor, this shift became clear. Emperors had the power to *make or block laws*, command the military as per his will, and control the administrative machinery of the state. No government position could be filled without the emperor's approval, and his word carried the force of law.

As imperial power grew, the traditional citizen assemblies and the Senate lost their influence which were once a vital organ of republican governance in Rome. The power in the hands of a single ruler marked a dramatic departure from the ideals of the Republic. The emperor became not just a political leader, but the embodiment of the state itself. Rome had entered a new era, namely imperial rule. The Roman Empire

¹⁸ ibid

changed how power worked early in the Roman Republic. Instead of many people helping to make decisions, the emperor became the most powerful person. For example, when Augustus was in charge, emperors could make or block laws and lead the army. The emperor also had control over other government workers, and no one could get a job in the government without the emperor's approval.¹⁹

Observations:

The Roman legal system separated facts from laws and followed a clear process for making legal decisions. They took big ideas about laws and turned them into rules to be followed by people in their every day. Roman law created a large collection of written rules and court decisions. The first written laws appeared in 450 B.C. on bronze tablets called the Twelve Tables. These laws helped make sure everyone followed the same rules, which is called the "rule of law." Roman law explained things like owning property, making agreements (contracts), and crimes. People who broke the law or misused their power were punished, often by being put in jail or chained.

Rome's biggest contribution to the formation of the government was that power comes from the people and that laws should be based on natural rights and limited government. Romans believed that only the people had the right to create laws, and this idea became so important that even centuries later, it couldn't be removed from Roman law. As Roman law spread across Europe, this belief became a key part of political and legal thinking during the Middle Ages.

2.3 Magna Carta:

The Magna Carta is called the "First Charter" or "Great Charter". It is a very old historical document for the protection of the rights of the people. This can be called as first constitutional law in English-speaking countries. Today, the main intent of the constitutional law is to limit the power of the government. The Magna Carta introduced the idea of the 'rule of law,' which means everyone, including the king, must follow the law.²⁰

The most important parts of the Magna Carta are clause 12, clause 28 and clause 39 and they protected the rights and liberties of the people. For example, Clause 12 provided that the king could not collect taxes or take land without permission, Clause 28 provided that no arbitrary confiscation of property by royal officials and Clause 39 provided that no one can be punished or jailed without a fair trial.²¹

In 1215, King John and a group of rebellious barons agreed on the Magna Carta during a break in a civil war and they created rules that supported justice and fairness in society. Magna Carta is the first written document available in human history which provided for the limitation on the King's power. These ideas helped shape modern laws and protect people's rights. The Magna Carta included many promises made by the King to people from the protection unfair treatment and arbitrary power. The purpose of the Magna Carta was to reduce King's arbitrary power and to provide benefits to people.²²

Our observations:

We notice that it was the first time in legal history wherein King was forced to follow the law, and King was not above the law. We notice that this document restricted the power of the King to impose arbitrary

¹⁹ National Geographic, Rome's Transition from Republic to Empire, <https://education.nationalgeographic.org/resource/romes-transition-republic-empire/>

²⁰ United for Human Rights, A Brief History of Human Rights, <https://www.unitedforhumanrights.in/what-are-human-rights/brief-history/magna-carta.html#:~:text=It%20established%20the%20right%20of,forbidding%20bribery%20and%20official%20misconduct.>

²¹ James Spigelman, Chief Justice of New South Wales 1998–2011, Magna Carta: The rule of law and liberty, 214 (2015) 40 Australian Bar Review

²² ibid

tax and prohibition on the arrest of the person with fair trial. This laid the foundation for the rule of law in English speaking world and was a major step toward democracy in England. Undoubtedly, Magna Carta influenced many important legal documents namely The English Bill of Rights, The U.S. Constitution and Bill of Rights and Modern ideas of human rights and justice. The drafters of these documents had borrowed the concepts from Magna Carta.

2.4 Hungary Golden Bull

In Hungary, King András II of Hungary ruled from 1205 to 1235. King was known for spending money on the luxurious lifestyle. He created new taxes for the collection of money and empowered others to collect the taxes from the people. He also offered royal land to others, which upset many wealthy people and royal officials. These actions of the King created conflict between the King and people. To resolve the problem between the King and royal officials, The Golden Bull was issued by King Andrew II in 1222. The Golden Bull was created at the request of the nobles and political leaders to protect their own rights and interests. Under the first golden bull, the king agreed to limit his own powers. Thereafter, King Lajos the Great, in 1351 also issued another Golden Bull for grant of additional liberties. These two documents became the foundation for the basic rights of nobility.²³

After some time, the Golden Bull of 1356 was issued by Emperor Charles IV for the purpose of standardizing the process of electing the emperor and defining the rights and duties of the electors. The Bull also granted significant rights to the electors and control over their territories and jurisdiction over their courts. Further, it provided legal rights and protections to the nobility from freedom from unfair taxes, protection of property, the right to take legal action in case of violation of laws by the King.²⁴

The Golden Bull laid the foundation for future constitutional laws of the Hungary and other European countries.

Aspects	Magna Carta (1215, England)	Golden Bull (1222, Hungary)
Issued by	King John	King András II
Reason for Issuing	Protection from unfair taxes and abuses of royal power	Protection from high taxes and loss of royal lands
Main Purpose	Limitation on the king's power	Limitation the king's power
Beneficiary	barons and all free men	nobles and royal servants
Key Rights Granted	<ul style="list-style-type: none"> - No imprisonment without trial - Fair taxation - Rule of law for all 	<ul style="list-style-type: none"> - Nobles could resist the king if he broke the law - Protection from unfair taxes - Land and property rights
Long-Term Impact	Foundation for English constitutional law and democracy	Basis for Hungarian constitutional development

²³ Attila Horváth, The Golden Bull of 1222 and The Historical Constitution, DOI: <https://doi.org/10.53644/MKI.Kas.2022.153>

²⁴ Ibid

3. Contribution made by England

This conflict between King and the Parliament was more than 100 years old and the conflict ended when Parliament gained control over the King's rule. King James, I believed in the Divine Right of Kings. As per concept of the Divine Right of Kings, King was chosen by God and King was only answerable to God only, not to the people or Parliament. This belief was originated from the religious practices of the Church and supported the idea that monarchy was a right granted by the God and it was passed down through family.²⁵

But by the time the Stuart kings came to power, Parliament had already become an important part of the government and governance. Most members of the Parliament were wealthy middle-class men like merchants and lawyers. The big reason for the conflict between the King and Parliament was that the king had financial problems. The King was required to seek permission before Parliament for additional or new money. The approval of Parliament was always subject to terms and conditions which the King did not like. They wanted more control over how the country was run in exchange for approving funds. Another reason for the conflict between the King and Parliament was the mixing of religion and politics, which was a result of the reformation. Parliament also believed that King did not follow the rules and regulations of Parliament in the governance.

The Petition of Rights 1628

In the year 1628, amidst growing tensions between the monarchy and Parliament, and the Petition of Right emerged as pivotal legal document in the constitutional history of England. This legal document addressed the most pressing grievances of the time and laying the foundation for constitutional governance in England. At its core, the Petition of Right articulated four key demands:

Aspects	Demands
Protection from the arbitrary Taxation	No new or additional taxes were to be levied by the King without obtaining consent of the Parliament.
Protection from Arbitrary Imprisonment	Individuals could not be detained without following the due process and only for lawful justification.
Freedom from Forced Quartering:	Citizens were not to be compelled by the King to give space in the house to soldiers or military officials in the private residences.
Protection from Military Trials	The prohibition on the use of military courts for trial of the civilians during peacetime

These demands were not merely procedural. These demands represented a bold assertion of civil liberties and a direct challenge to the unchecked authority of the king. By codifying this demand into laws or rules, the Petition of Right marked a significant shift in the balance of power, reinforcing the role of Parliament and safeguarding the rights of the people. Though often overshadowed by more renowned documents such as the Magna Carta (1215) and the Bill of Rights (1689), the Petition of Right holds its own as a

cornerstone of England's constitutional evolution. It served as a crucial step in the long journey toward modern democracy, reminding future generations that liberty must be defended through law and reason.

The difference between Magna Carta and Petition of Rights is as follows:

Feature	Magna Carta (1215)	The Petition of Rights (1628)
Detailed	It was a detailed document	It was not a detailed document.
Complex process	It went through a complex legal process.	It didn't go through a complex legal process.
Impact	Its impact was important with a strong or lasting as those other documents	Its impact was important, but not as strong or lasting as those other documents

For the first time, the monarchy was compelled to acknowledge Parliament's role in governance for taxation, justice, and personal liberty matters. The Petition of Right signaled the beginning of a transfer of power from the King to Parliament. It asserted that the King could no longer act arbitrarily, and that the rule of law must prevail over royal prerogative. However, King Charles did not show any importance to the reforms and remained resistant to the reforms. The act or action of the king resulted in a lack of commitment to peace and constitutional reforms. The King entered secret negotiations with various groups and broken promises by the King ultimately led to the outbreak of the Second Civil War in 1648.

In December 1648, Colonel Thomas Pride led a military intervention known as Pride's Purge, forcibly removing members of Parliament who opposed the army's interests—particularly the Presbyterians. What remained was a small faction known as the Independents, comprising roughly one-eighth of the original Parliament. This group, aligned closely with the army, came to be known as the Rump Parliament. The Rump Parliament held power until the brief experiment of the Barebone's Parliament, which was dissolved in 1653.

Instrument of Government

After the dissolution of Barebone's Parliament in 1653, England stood at a constitutional crossroads. The existing structures had failed to deliver stable governance for the government. In response, the Army drafted a pioneering document known as the Instrument of Government which was accepted by Oliver Cromwell in 1653. The Instrument marked the formal end of the Commonwealth and ushered in a new era: the Protectorate i.e. Region. This period represented a bold attempt to implement the principles laid out in the Agreement of the People; a vision of governance rooted in accountability, representation, and the rule of law.

The Instrument of Government was in enforce for nearly six years. The Instrument of Government holds a unique place in English constitutional history as the first written constitution of the modern type. It provided a formal structure for governance during a time of great political uncertainty and marked a decisive shift from monarchy to a republican form of rule. Under this new framework, the Commonwealth of England, Scotland, and Ireland was transformed into a Protectorate. Executive authority was vested in a Lord Protector which supported by a Council of State. Oliver Cromwell was appointed as the first Lord Protector, symbolizing the beginning of a new era in English governance. During this time, England was governed not by a royal decree, but by a written document that sought to balance authority with accountability.

Bill of Rights

The Bill of Rights enacted in 1689 and considered as one of the most significant and influential milestones in England's constitutional history. It marked the culmination of a prolonged and often turbulent struggle between the monarchy and Parliament and finally establishing a framework for balanced power and governance between the King and Parliament. With this Bill of Rights, the rules for royal authority were clearly defined, and the era of unchecked monarchical power came to an end.

One of the most profound shifts brought about by the Bill of Rights was the rejection of the “divine right of kings”. This document also rejected the belief that monarchs derived their authority directly from God and were answerable to no earthly power. The Bill introduced a new principle that the King ruled not by divine decree, but through a contract/ agreement with the people.

The Bill of Rights enshrined several key principles:

- **Parliamentary Sovereignty:** Only Parliament held the power to make laws and approve taxes.
- **Rule of Law:** The monarch was subject to the law and could not act arbitrarily.
- **Protection of Rights:** Citizens were guaranteed certain liberties, including freedom from cruel punishment and the right to petition the Crown.

The Bill of Rights is often referred to as the third great charter of English liberty, following the Magna Carta (1215) and the Petition of Right (1628). Together, these three documents form the legal and philosophical foundation of England's constitutional structure.

By affirming the supremacy of Parliament and embedding the rule of law into the fabric of national life, the Bill of Rights laid the groundwork for modern democracy. It not only shaped the future of British politics but also influenced constitutional developments around the world, including the United States and other parliamentary democracies.

Feature	Magna Carta (1215)	Petition of Right (1628)	Bill of Rights (1689)
Historical background	Signed by King John under pressure from barons	Presented to Charles by Parliament	Accepted by William & Mary after the Glorious Revolution
Main Purpose	Limit the king's power and protect barons' rights	Stop the king from abusing power	Establish Parliament's authority and end divine right rule
Key provisions	Rule of law, trial by jury, no illegal imprisonment	No taxation without Parliament, no forced loans, no arbitrary arrests	Free elections, regular Parliaments, no cruel punishments, no standing army without Parliament's consent
Beneficiary	Nobles and barons	Parliament and property-owning citizens	Parliament and the general public
Type of Document	Feudal charter	Parliamentary petition	Parliamentary statute

Impact	First step toward constitutional government	Strengthened Parliament's role	Finalized shift of power from monarch to Parliament
Limitations	Focused on elite rights, not the general public	Lacked enforcement power	Did not create a full constitution or prevent future abuses

Observations:

The constitutional evolution in England was a journey for shift of power from the monarchy to Parliament. Originally, monarchs like King James I adhered to the doctrine of the Divine Right of Kings and believed, Kings were appointed by God and accountable only to God and not to the Parliament. Over a period, this belief clashed with the growing influence of Parliament. At that time, the Parliament was composed of wealthy and educated middle-class professionals and did not like arbitrary exercise of power by the King. Parliament demanded greater control over governance, particularly in financial matters, as the King often required funds and disliked the conditions Parliament imposed for granting them.

A major turning point came in 1628 with the Petition of Right, a legal document presented to King Charles I. It asserted four key civil liberties: no taxation without Parliament's consent, protection from arbitrary imprisonment, freedom from forced quartering of soldiers, and prohibition of military trials for civilians during peacetime. These demands directly challenged and restricted King authority and reinforced the role of Parliament in governance.

The Instrument of Government was a landmark achievement in England's constitutional history. It is considered as the first written constitution of the modern type. One of its most significant accomplishments was the formal establishment of the Protectorate (colony), and also replacement of the monarchy with a republican structure. It unified the Commonwealth of England, Scotland, and Ireland under a single constitutional framework. The Instrument also laid the groundwork for representative governance, emphasizing accountability, rule of law, and structured elections. It was a bold experiment in constitutional design and a critical step toward modern democratic principles for a limited time period.

The Bill of Rights of 1689 was one of the most significant constitutional and legal documents in English history. The Bill of Rights ended absolute monarchy in England and started parliamentary democracy. After the great Glorious Revolution, it established clear limits on King authority and affirmed that the divine right was no longer applicable. The Bill incorporated and protected key principles such as Parliamentary sovereignty, ensuring that only Parliament could make laws and approve taxes, and the rule of law by ensuring that the King was subject to legal constraints. It also guaranteed certain civil liberties, including protection from illegal punishment, the right to petition the King, and the requirement for regular and free elections. The Bill of Rights laid the foundation for modern democratic governance in Britain and influenced constitutional developments in other nations, including the United States.

4. Contribution made by America

In the 16th and 17th centuries, Britain, Spain and other Europeans came to America looking for set of colonies. They created 13 colonies in America. The English colonies in North America were established through various methods. Virginia was the first, set up in 1606 by a private trading company and later received official approval from the Crown in 1624. Thereafter, some colonies like New Hampshire, Maryland, the Carolinas, and Georgia were also created by private companies with royal support. Some

colony like New York, New Jersey, Delaware, and Pennsylvania originally belonged to the Dutch and were transferred to Britain as part of the settlement after the Anglo-Dutch War in 1664 and were managed by the Duke of York. Meanwhile, Massachusetts, Connecticut, and Rhode Island were founded independently by settlers—Massachusetts by English Puritans, and the other two by migrants from nearby colonies—without formal backing or commercial sponsorship.²⁶

In 1607, British colonists established a permanent settlement on the Virginia. After the Virginia colony was successfully established, more Britishers arrived in America. In 1620, they initiated new permanent settlements in Massachusetts. Over time, additional colonies were created by way of expansion of existing ones or by way of settlement. The British colonists shared a common culture, language and legal system. But their local governments were not the same and had some different characteristics.²⁷

Aspects	Charter Colonies	Proprietary Colonies	Royal Colonies
Formation	These colonies were founded through royal charters	These colonies were given by the king to one or more noblemen	These colonies were directly controlled by the king
Managed or control by	By groups of citizens or companies	By the noblemen	Directly controlled by the king
Division of power	The Power was divided between King and few other people or companies	The Power was divided between King and few other people or companies	The power was controlled by the king only.
Example	Virginia or Massachusetts Bay	Maryland or Pennsylvania	New York,

Key provisions of the Key Provisions of Colonial Charters are under:

Aspects	Key provisions
Legal Authority to Establish Colonies	Charters were issued by the King to individuals, companies, or groups. Charters granted legal permission to settle and develop areas or territories in America
Governance Structure	Charters allowed colonies to form colonial governments, including councils or assemblies. Some colonies had self-governance system and others were directly controlled by the King
Types of Charters	Royal Colonies

²⁶ Luis Grau, An American Constitutional History Course for Non-American Students, Universidad Carlos III De Madrid, 2012, ISBN: 978-84-9031-277-3

²⁷ ibid

	<p>Controlled directly by the King; governors were appointed by the Crown.</p> <p>Charter Colonies:</p> <p>Had more autonomy; governed by elected officials under the terms of the charter.</p> <p>Proprietary Colonies:</p> <p>Granted to individuals or companies who had full control over governance.</p>
Rights of people	<p>The rights of the people were guaranteed in the same manner as the rights of the citizens in England.</p> <p>This included rights like trial by jury, property ownership, and freedom from arbitrary rule.</p>

By the end of the colonial period, most of the colonies had become royal or provincial colonies. In other words, the king was directly exercising the political and administrative decisions through appointment of the governors. Most of the colonies eventually developed similar systems of government based on British model. At the top of each colony's government was a governor, who served as the main executive authority. From early on, each colony had a structured government.

The power of the colony was divided among four key people as per detail below:

- A **Governor**, to be appointed by the British Crown.
- An **Advisory Council**, to be appointed, Governor.
- A **Legislative Assembly**, elected by citizens holding lands.
- An **Independent Judiciary**, which operated separately from both the executive and legislative branches.

The difference between governments in England and colonies in America is as below:

Aspect	Government in England	Colonies in America
Political Control	Overall Controlled by King and Parliament	Colonies were controlled by the governors appointed by King or local assemblies under supervision of King
Representation	Citizens had very limited representation in the Parliament	No direct representation in English Parliament
Economic Role	Industrial and commercial hub for trade and business	Source of raw materials and markets for the goods made in England
Legal Rights	Governed and protected by English common law	Very limited legal protection; subject to colonial laws and royal decrees
Culture	Urbanized, with established institutions	More rural/frontier-based; diverse populations and cultures

Taxation	Taxes levied by Parliament	Arbitrary and without due process levy of taxed
Military Presence	Britain army and navy	Totally dependent on the British army and navy
Education	Established universities and schools	Limited access to education in the colony

Mayflower Compact

At the end of the 15th century, religious tensions between the people in England had grown and Puritan English Dissidents decided to leave the country. In 1608, they moved to the Netherlands to form a community. However, they decided that they needed more freedom to practice their religion, and they wanted to live in a place which was free from any pressure from local authorities with different religious beliefs. In 1618, they decided to move to America. For this purpose, they sent representatives to England to get a charter or letter patent from the London Company. One merchant told them that he could arrange a charter from the Plymouth Company to settle in America. Thereafter, they boarded a ship by the name of Mayflower and departed for the Plymouth colony and arrived two months later in America. These settlers are commonly known as The Pilgrims.²⁸

Since the settlers arrived in America without any official permission or legal documents to establish their colony, they needed a way to organize themselves. Before landing, they created a basic agreement that outlined general rules for how they would live and work together. This agreement is known as the Mayflower Compact.

The Mayflower Compact was a short agreement made by both the Pilgrims and non-Pilgrims on the *Mayflower* to help govern their new colony fairly. It included four main ideas:

1. They must always stay loyal to King James.
2. They would make and follow laws and rules for the self-governance in the colony.
3. They would work together as one united community.
4. They would follow Christian values.

The **Mayflower Compact** was short. Still, it holds great importance in American history. It can be seen as the first step toward the democratic system the America. The Compact is considered a basic form of a constitution because it was based on an agreement among the people of the colony. It created a simple government and made it clear that everyone had to follow fair and equal laws. These laws were meant to protect justice and equality—core values that couldn't be ignored.

Conflict

Up until the mid-1700s, the American colonies were loyal to the British monarchy. But between 1764 and 1775, tensions grew because the British Parliament passed laws like the Stamp Act and Sugar Act for imposition of new taxes. The purpose of the Acts to impose the taxes to help the King in pay for the costs of war. Many colonists were angry and protested, shouting the famous slogan “No taxation without representation!”. Some of these protests even turned violent. Over the next 10 years, tensions between King and the American colonies continued to grow. As more colonies became unhappy, protests sometimes

²⁸ Luis Grau, An American Constitutional History Course for Non-American Students, Universidad Carlos III De Madrid, 2012, ISBN: 978-84-9031-277-3

turned violent. In 1773, a group of colonists protested a new tax on tea by dressing up as Americans and secretly boarding British ships in Boston Harbor. They threw all the tea into the water to show their anger. This bold act of protest later became famously known as the Boston Tea Party.²⁹

In 1774, the British Parliament responded to the Boston Tea Party and other protests by passing the Coercive Acts to punish the colonies, especially Massachusetts, which was the most outspoken. These laws reduced the colonists' civil rights and placed strict limits on trade, including blocking access to Boston Harbor. Because of how harsh these laws were, the colonists began calling them the Intolerable Acts.³⁰

After the Boston Tea Party, the British government introduced a series of strict laws in early 1774 called the Coercive Acts. In the American colonies, these were known as the Intolerable Acts. They included:

- Boston Port Act, 1774 – Closed Boston Harbor until the cost was paid for by the colony.
- Massachusetts Government Act, 1774 – transfer of power the local government to British officials.
- Administration of Justice Act, 1774 – trail of cases against accused officials accused in other colonies or in Britain.
- Quartering Act, 1774 – Required colonists to house British soldiers in empty buildings.³¹

In response to the harsh and coercive British laws, the American colonists brought together representatives from all the colonies to form the First Continental Congress.

They wrote the Olive Branch Petition to ask the King to cancel the Coercive Acts. At the same time, they planned a boycott of British goods to pressure the King into agreeing. However, the King ignored their request. The delegates returned to their colonies but agreed to meet again the next year. Meanwhile, unrest continued, and British troops tried to control it.

The First Continental Congress

In 1774, a pivotal moment unfolded in the history of colonial America. 56 delegates, representing twelve of the thirteen British colonies except Georgia, gathered in Philadelphia to address growing tensions with the British government. This historic assembly became known as the First Continental Congress. The meeting was the most influential leaders, namely George Washington, Patrick Henry, and Thomas Jefferson, Samuel Adams, John Adams and John Jay.³²

The delegates convened not merely to protest, but to unite. They discussed their common grievances, particularly the erosion of their rights since the French and Indian War. The colonists were deeply angered by the Intolerable Acts, a series of punitive laws imposed by the British Parliament in response to colonial resistance. They issued a Declaration of Rights, asserting that as British subjects, they were entitled to the full "rights of Englishmen." These included protection from arbitrary rules, the right to participate in legislative decisions, and freedom from unjust taxation. Though the First Continental Congress did not immediately lead to independence, it marked a critical step toward unity and collective action. It laid the groundwork for future cooperation among the colonies and demonstrated their capacity to organize and articulate shared political goals. Within a year, the Second Continental Congress would convene—this

²⁹ Core Knowledge Foundation, From Colonies to Independence https://www.coreknowledge.org/wp-content/uploads/2019/09/CKHG_G1_U8_From_Colonies_to_Independence_SR.pdf

³⁰ ibid

³¹ ibid

³² Core Knowledge Foundation, From Colonies to Independence https://www.coreknowledge.org/wp-content/uploads/2019/09/CKHG_G1_U8_From_Colonies_to_Independence_SR.pdf

time to lead a revolution.³³

The Second Continental Congress

In 1775, the leading figures from every American colony once again gathered in Philadelphia. This time, however, the atmosphere was markedly different. The colonies were no longer simply debating policies—they were reacting to bloodshed.

The delegates of the Second Continental Congress faced a profound dilemma. Most were deeply loyal to Great Britain and to King George III. The idea of breaking away from the British Empire was unsettling, even unthinkable to many. Yet, the reality of armed conflict could not be ignored. The colonies were at war, whether they had declared it or not.

In response to this crisis, Congress pursued a dual strategy. On the one hand, they drafted a petition to King George III, known as the Olive Branch Petition. This document was a formal request, expressing continued loyalty to the Crown and a desire to remain part of the empire. The delegates made it clear: they did not seek independence. They simply asked the king to reconsider his government's policies, repeal unjust laws, and restore the colonists' rights as English subjects.

On the other hand, the Congress recognized the need to prepare for further conflict. They began organizing a Continental Army, appointing George Washington as its commander-in-chief. This move signaled that while peace was still hope, war was now a reality.

The Second Continental Congress marked a turning point in American history. It was no longer just a meeting of concerned citizens—it was the governing body of a people on the brink of revolution. The decisions made in Philadelphia would shape the course of the colonies' future, leading eventually to the Declaration of Independence in 1776.

Observations:

The constitutional journey of America began with the establishment of the thirteen colonies by European powers during the 16th -17th centuries. These American colonies were formed and set-up through various means—some by private companies with royal charters, others through independent settlement. Colonial charters granted legal authority to settle and govern in the specified area, allowing for the formation of local governments and guaranteeing rights similar to those enjoyed by English citizens, such as trial by jury and property ownership. Over time, most colonies transitioned into royal colonies, with governance centralized under a Governor, an Advisory Council, a Legislative Assembly, and an Independent Judiciary. Despite similarities with the British system, colonial governments differed in representation, legal protections, and taxation, often lacking direct representation in Parliament and facing arbitrary rule. Tensions between the American colonies and Britain escalated in the mid-1700s due to taxation laws like the Stamp Act and Sugar Act, leading to widespread protests under the slogan “No taxation without representation.” The Boston Tea Party in 1773 and the subsequent Coercive Acts of the King. These Coercive acts restricted civil liberties and trade, prompting the formation of the First Continental Congress in 1774 to assert their rights and petition the King.

In conclusion, America's constitutional evolution was shaped by a blend of inherited British legal traditions and emerging democratic ideals. From colonial charters to revolutionary congresses, the foundations of American constitutionalism were laid through a persistent struggle for self-rule, legal protection, and representative governance. These developments not only led to independence but also

³³ ibid

influenced the broader global movement toward constitutional democracy.

5. Conclusion

The journey through the evolution of constitutionalism, as explored in this article, reveals a profound and enduring struggle for liberty, justice and the rule of law. From the philosophical roots in Ancient Greece and Rome to the legal milestones of England and the revolutionary spirit of colonial America, constitutionalism has emerged not merely as a legal doctrine in the modern world but as a living ideology that shapes the very essence of democratic governance.

Ancient Greece laid the foundation for participatory governance, introducing the concept of democracy and the importance of civic responsibility. Rome expanded this legacy by institutionalizing republican ideals, emphasizing checks and balances, and codifying laws that protected individual rights. These classical civilizations provided valuable intellectual and basic and strong structural groundwork for modern constitutional thought.

The Magna Carta, the Golden Bull, the Petition of Right, and the English Bill of Rights each marked critical turning points in the limitation of monarchical power and the assertion of civil liberties. These documents did not merely constrain rulers—they empowered citizens and institutionalized the principle that governance must be accountable, lawful, and representative.

In colonial America, the seeds of constitutionalism were sown through charters, compacts, and congresses that reflected a growing desire for self-rule and legal protection. The Mayflower Compact and the actions of the Continental Congresses exemplified the transition from loyalty to the Crown to the pursuit of independence and democratic governance.

Ultimately, constitutionalism is not confined to the existence of a written constitution. It is a dynamic and evolving commitment to uphold the spirit of law, protect fundamental rights, and ensure that power is exercised with restraint and accountability. It is the bridge between authority and liberty, between governance and justice.

As we reflect on this historical journey, we recognize that constitutionalism remains a cornerstone of modern civilization. It is a testament to humanity's enduring quest to balance power with principle, and to build societies where freedom, fairness, and dignity are not privileges, but rights.

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