

Srdjan Djordjevic, PhD

### **A TALE OF CONSTITUTIONS\***

Constitutions are like people: they are born, they live, inherit, forget, die, but still they last... Constitution creating powers are their parents, a communion of individuals determined to create a new act to make a better life for all. Thus, constitutions develop, growing from babes in arms to youth and maturity, and they have also been known to become old and leave the stage of real jurisprudential life. They may be good or bad, fair or unjust, clear or inscrutable, vocal or silent. They may even be assassinated, buried without any trace, and they have been known to kill, or at least to leave such an impression. Be it as it may, were it not for the constitutions affixing the seal of law on the state, the state would not be aware of its own existence.

The lifespan of a constitution depends on many factors, let us highlight here but a few: its creators sincerely having its longevity at their heart; genetic makeup for stability, in terms of the strength of tradition; social circumstances where a constitution grows and develops, healthy lifestyle, resistance to diseases, etc.

Once born, each constitution gains an aura of a solemn dignitary, promised and granted the supreme throne within the wide and broad family of law. Its creator grants it a sword sheathed with special powers that relentlessly sways over the practices of jural life, checking whether all the members of the familial jural cooperative are worthy and well-bred. If not, this constitutional sword aims the sharpness of its edge at the disobedient act, beheading it out of existence and correcting any errors that may have been made. That is why the constitution is a sovereign with no forgiveness or mercy. If it were to overlook an error and not exercise punishment, it would at the same time harm both itself and its creator. And the only one to be beyond reach is the creator, mightier than everybody else. Hence constitutions do not have the authority to forgive the faults of others and those of lower standing.

While still young, even childish we might say, a constitution is brimming with visionary dreams in its preamble, the part teeming with emotions, projecting a mighty look directed far ahead and conceived by pride in the past. Like any other child, a constitution of that age can consider nothing else but eternity; it finds itself the most

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beautiful of all the previous ones, and is egotistical enough not to anticipate any successors. While still so daft, it would even measure constitutional time only by itself, not giving a single thought to its own end.

Nonetheless, as this tale chronicles, there are such constitutions, albeit few and far between, that are from their very conception sensible and wise, even though they have only just been created. And perhaps they were born under a lucky star that lights their path through centuries. When a wise man tailors the true measure for the right idea, he has been inspired by a prophetic gift. The might of wisdom then foresees almost every future moment and social turmoil, and so a constitution plays the role of the queen bee, always rejuvenated by the honeydew welling up from the harmonious and clever human society. Such constitutions have been deftly prepared to welcome any new parts coming from creators and interpreters.

That is why it is a dream of any constitution to be a work with measure, just as our human lives are lived amidst attempts at measure. To be measured against, to measure ourselves, to be measured by others. If the constitution creator should fail to measure properly what kind of constitution he is creating and how he throws it into the fire of social life, he condemns it to doom, stifles it and shortens its life. A hasty creator would most often wreak havoc within a state mechanism, a sophisticated one requiring a that all the cogwheels perfectly fit. Otherwise, the mechanism breaks down, its parts collide, crash, shatter, drop off, disappear, and then the system revisits the contradictory practice, and the original state of affairs provides an opportunity for the new beginning.

However, there are long-lived ones among the constitutions, true centenarians, which depends on the particular elixir of wisdom at hand to its creators and writers. These are the long-sighted, usually elder ones, although, interestingly, constitution makers are usually younger. It is as if there were an unwritten rule, that the closer the state is to its inception, the longer its constitution is destined to live. But, it is so only at the very beginning, since it is the fate of the constitutions that the creators live together with their constitutional offspring. Probably to reaffirm the rule that older parents have smarter children. And it is only when a constitution maker is no longer that the constitution is gone, so strong and sound are the ties between them. There is little time difference between the creator and the constitution; the community that is not able-bodied but jurisprudentially barren is to disappear unless it pollinates itself with the constitution. Thus the constitution conditions the constitution creator, and the latter is a condition for the former. That is why the state is in a symbiosis with the constitution

that is its regenerator. The constitution replenishes and sustains it, makes it stable and existent. For, were it not for the state constantly being imprinted with the seal of firm orderliness, it would break apart, just like a hairline crack brings down the entire structure.

Constitutions can become exhausted. Oh, yes, they certainly can. They contain an accumulation space within, a reservoir supplying the society with their energy, prov(id)ing quality, aptness, gravity and readiness to endure. Should it fall short of that, a constitution fails, its energy is wasted for good, and it is dismissed by the society turning towards a new creation. The society always has a vital womb, bathing in its forewaters the constitutional essence. Is it not so that the state is a lasting constitutional legacy, a bondage thus defined? Is it not so that the state is most often, historically speaking, the constant revolution, rotation of constitutions? Only a few of the constitutions, the sharp-witted ones, have the air of remaining unchanged. However, even such constitutions were written in ink of vivid social focus that keeps testing and changing them. It is the ink that does not fade, always showing anew the novel content to be taken in and interpreted.

Constitutions are also often said to be bad as well, but it seems to me through no fault of their own. After all, social responsibility is the creator's, but to a forgetful mind it is easier to put the blame on that which is changed more easily, and it is easier to change a constitution than a society. On the other hand, the society is that force with the power to bestow injustice and justice, always wishing to see a perfect image in its mirror. If the society could accept their own mistake at the time it occurs, then it would be a sure sign that the purpose of its existence is being lost. It is only after some time has passed, sufficing for the consequences of not-so-good actions of the society to be felt, that the new constitution creators remember the magic formula – that it is the constitution that is the source of all previous evil. And since the constitution is but a means to hold service, it is always necessary to look sharp under its cloak, for that is where the essence patiently lies in waiting. The one whose thoughts are occupied by the constitution must seek for the truth in the primordial constitutional background. That is why I think there can be no proper interpretation of a constitution without taking into account its sociological structure and political dimension. Consequently, Lassalle's idea should not be dispensed with lightly and seen as an unacceptable concept of experiencing a constitution. Quite the reverse, although it might sound almost heretical and impracticable, I believe that constitutional and judiciary power should be

interspersed with Lassallians as well, not only with Kelsenians. The breakthrough of constitutionality compels us to recognise the existence of a broader consensus for understanding constitutions.

Finally, the ones who can never fully comprehend a constitution must admit that time that is the judge of the best of constitutions: probably the best one will be the one that lasts longest – being already a seriously formed personality, with no problem with its social life, and thus firmly anchored in the society, so that they confer on each other the prosperity of stability.