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**Revisiting Hayek’s ‘Constitution of Liberty’ in America’s Semiquincentennial
Year**

by

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We’re well into celebrating America’s 250th year.

Our founding was marked by the adoption of the Declaration of Independence on July 4, 1776, and the run-up to this Independence Day is a fitting time for Americans to reflect on the meaning and importance of that document and the Constitution.

To that end, it’s worth revisiting Friedrich Hayek’s 1960 “The Constitution of Liberty.” Hayek, an Austrian-born economist and political philosopher, was a co-recipient of the 1974 Nobel Prize in Economics for his work regarding the role of prices and dispersed knowledge in a free market economy.

After living in Britain during World War II, Hayek was appointed to a professorship at the University of Chicago in 1950.

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Writing in the wake of the tumult and horrors of the first half of the 20th century, including the totalitarian evils of Nazism and Stalinism, Hayek said his aim in “The Constitution of Liberty” was not to provide a detailed program of policy but rather to delineate the criteria by which particular measures must be judged if they are to comport with a regime of freedom.

Thus, Hayek declared his intent to show that “liberty is not merely one particular value but that it is the source and condition for most moral values.” As important, “what a free society offers to an individual is much more than what he would be able to do if only he were free.”

Evident throughout his work, Hayek had a deep appreciation for the U.S. Constitution, which, in his words, “attempted, by an elaborate system of checks and balances, to prevent the abuse of the powers of government and to secure the preservation of liberty.”

While declaring that the experience of the 20th century taught us much that a Madison or a Mill could not perceive, Hayek nevertheless emphasized that “a frequent recurrency to fundamental principles is absolutely necessary to preserve the blessing of liberty.”

It would be hyperbole to suggest that whatever travails America confronts today rise to the level, say, of defeating Nazism in World War II or emerging as the United States of America after four years of the Civil War.

Yet it would be wrong not to acknowledge that apostles today from both the extreme left and right sides of the political spectrum propose what Hayek called “alternative social orders.”

These actions — including measures to curtail unwanted speech, threaten the independence of the judiciary and weaponize the legal system — undermine the rule of law and free enterprise. Whether these actions arise from a lack of understanding or deliberate maliciousness, the ill effects are the same: They are inconsistent with fundamental principles of constitutionalism and must be rebutted.

Throughout “The Constitution of Liberty,” Hayek sets forth the guideposts for such rebuttal. Here I highlight only a few key points. Above all, the rule of law means that the government’s coercive power is legitimate only when exercised through general, abstract and predictable rules that apply equally to everyone, rather than through directives aimed at particular people or groups.

Also, “only where independent courts have the last word” is liberty safeguarded.

As for the incessant demand for ever more “equality,” Hayek attributed it to those who desire to impose on society a preconceived pattern of distribution. These demands are “irreconcilable with freedom,” leaving no room for spontaneity, which contributes to innovation.

Regarding the place of administrative agencies in our constitutional system, Hayek warned: “If anything has been demonstrated by modern experience ... it is that, once wide coercive powers are given to governmental agencies for particular purposes, such powers cannot be effectively controlled by democratic assemblies.”

Lacking such control, decisions of the bureaucrats “will be more or less arbitrary.”

For Hayek, principles central to the rule of law, nurtured in English law, found a new and clearer expression in the Declaration of Independence and the Constitution. These foundations of American constitutionalism undergird the development of a political order designed to preserve individual freedom.

Reviewing “The Constitution of Liberty” during America’s semiquincentennial celebration should spur all Americans to rededicate themselves to first principles so that liberty’s torch may be passed to the next generation.

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