

Restoring America's Common Enterprise

 realclearpolitics.com/articles/2024/10/27/restoring_americas_common_enterprise_151844.html

Peter Berkowitz

The United States is nine days away from a portentous presidential election that, however it turns out, promises to leave around half the nation believing that catastrophe has been narrowly averted and the rest believing that all is lost. Desperate hopes and apocalyptic fears suffuse the electorate. Significant swathes of the right and left – especially among the intellectual class – believe that the other side is dishonest, wicked, and bent on overthrowing democracy in America. This tendency to loathe those in the rival political camp presents an overriding threat to the nation.

To endure, a rights-protecting or liberal democracy needs citizens who regard themselves as engaged in a common enterprise. They must share a language. They must respect basic moral and political principles. They must take pride in their nation's accomplishments while facing up to and correcting their country's flaws by upholding the best in the nation's traditions and heeding justice's enduring imperatives. They must trust that as they generally follow society's written and unwritten rules, so too will others. And they must partake of a broad commitment – that receives expression in the exercise of toleration and civility – to securing a freedom for each consistent with a like freedom for all. Otherwise, democracy will dissolve into authoritarianism as citizens lose the ability to cooperate in nurturing their communities, maintaining a prosperous economy, and protecting their equal rights.

Seeing themselves as engaged in a common enterprise can be a challenge for citizens of a rights-protecting democracy. That's because rights and democracy encourage individuals – and the groups to which they belong – to go their own ways. Endowed with differing abilities and dispositions, free citizens develop distinctive interests, hold a diversity of opinions, and pursue happiness in their own manner.

To preserve unity within this diversity, rights-protecting democracies must educate citizens about their common enterprise. That common enterprise consists in large measure, citizens must learn, in maintaining a political order that enables individuals and families – and the associations they form – to disagree peacefully and even productively not only about ordinary public policy but also about ultimate questions concerning moral excellence and the path to salvation.

A rising challenge to America's common enterprise stems from adamant calls to discard the Constitution. The formal crystallization of the country's dedication to equal liberty under law, the Constitution – its premises, operations, and goals – is permanently open to discussion. But instead of arguing about the interpretation of this or that constitutional provision and rather than debating schools of constitutional jurisprudence, prominent progressive voices

increasingly condemn the Constitution as a whole. To take one conspicuous example, Harvard Law School Professor Ryan D. Doerfler and Yale Law School Professor Samuel Moyn argued in the New York Times in “[The Constitution Is Broken and Should Not Be Reclaimed](#)” that to save democracy we must “reclaim America from constitutionalism.”

Leading members of the so-called “new right” – a loose association of [national conservatives](#) and [common-good conservatives](#) – join, in effect if not intent, progressives in repudiating the Constitution. Self-styled “postliberal” conservatives identify classical liberalism as the root cause of America’s moral, political, cultural, economic, and national-security woes. But the Constitution – which seeks to secure the [unalienable rights](#) affirmed by the Declaration of Independence through limited government grounded in the consent of the governed – is steeped in classical liberalism. Consequently, the new right’s attacks on classical liberalism make common cause with progressives who wish to rid the country of the Constitution.

Against the enthusiasms for overcoming the Constitution, eminent conservatives maintain that recovery of the Constitution’s underlying political theory and its judicious design of primary political institutions can avert the crisis of democracy in America. These conservatives tend to be steeped in history and political philosophy, ancient and modern. They are disposed to support former president Donald Trump without disregarding his shortcomings. And they are well represented in “Democracy in America: a symposium,” which appears in the New Criterion’s October issue.

Embracing its responsibility as a journal of arts, letters, and the larger public interest – and as a leading publication of thoughtful conservatism – The New Criterion addresses head-on the central issues. In his [introduction](#) to the symposium, magazine editor Roger Kimball argues that democracy in America confronts a “siege” that has been gathering momentum for more than 15 years. “Barack Obama’s victory in 2008, followed by the incomprehensible victory of Donald Trump,” writes Kimball, “has radicalized and emboldened the Left.”

In its emboldened radicalism, Kimball argues, the left has combined in a single indictment the contention that Trump aims to institute despotism and the accusation that the Constitution undermines democracy and subverts the common good. The proof that our Constitution is anti-democratic and dysfunctional, progressive intellectuals contend, is that it allowed Trump to win election as president once and may do so again.

In contrast, the contributors to The New Criterion symposium maintain that a principal source of the nation’s ills is the disparagement of, and departures from, the Constitution. The contributors highlight the spirit of liberty under law that animates the Constitution and the structure of government by which it maintains freedom. Inspired by Tocqueville’s 19th-century masterpiece, “Democracy in America,” they also stress such non-governmental supports of freedom as family, faith, civic association, liberal education, and the moral and intellectual virtues.

In “Our Athenian American democracy” my Hoover Institution colleague Victor Davis Hanson argues that contrary to the Constitution’s design – and notwithstanding progressive complaints about democracy’s demise – the United States has embraced, to the detriment of freedom, a purer form of democracy. In its classical form – direct rule of the people – democracy lacked checks on majority will. Indeed, “there was never an Athenian effort to guarantee the rights of the individual against the state,” writes Hanson. “That idea only arrived in the Middle Ages, when it was embodied in Magna Carta, and it later figured prominently in the European Enlightenment and the foundation of the American Republic.” While members of America’s founding generation quarreled vociferously about proper constitutional limits, they were all but unanimous in believing that formal constraints on legislation, executive action, and judicial authority were crucial to the protection of individual rights. Hence, argues Hanson, “the greatest threat to the republican system of the United States may well be the efforts of Washington bureaucrats and agencies to destroy some 236 years of constitutional checks and balances and the political customs that have evolved along with them.”

In “Tocqueville vs. progressive democracy” Daniel Mahoney, professor emeritus at Assumption University, agrees with Hanson that progressive conceptions of democracy subvert the basic rights and fundamental freedoms on which the American experiment in ordered liberty rests. That’s in part, argues Mahoney, because progressive conceptions of democracy incorporate highly partisan positions that erode the habits of heart and mind necessary for self-government. These include antipathy to tradition, particularly traditional views about religion and sex; preference for cosmopolitanism mixed with distaste for patriotic nationalism; and celebration of self-creation combined with disparagement of self-restraint, honor, and duty.

Manhattan Institute senior fellow James Piereson contends in “The Washington octopus” that the current strife between the people and the elites in America reflects the old “conflict between ‘country’ and ‘court’ parties” that marked 18th-century politics in Britain and America. Like the court party, contemporary progressives endeavor to direct citizens’ lives from the capital city. Like the country party, many on the right today want to preserve, consistent with basic rights and fundamental freedoms, local control over local affairs. Reformers, argues Piereson, must reverse the concentration of power in Washington built up over decades owing to FDR’s New Deal, post-World War II national-security demands, and LBJ’s Great Society. For starters, he proposes transferring elements of the federal bureaucracy out of Washington – relocating, say, the Department of the Interior to “Montana, Idaho, Utah, or the Dakotas” and the FBI or the Department of Education to “Kansas City, Wichita, Dallas, or any number of other cities.”

In “Tocqueville’s limitations” Claremont Institute Fellow Glenn Elmers offers a friendly corrective to the great Frenchman, who understood equality as primarily a “sociological force” fueled by a passion to level human affairs. In contrast, America’s founders viewed equality in terms of formal rights that must be institutionalized. A return to equal rights under

law, argues Elmers, would limit contemporary managerial elites' schemes to shift power from the people to federal bureaucrats in Washington. This would hinder the capital city's imposition on the nation of versions of equity and social justice that seem to many ordinary people neither equitable nor just.

Confronting what he regards as the progressive juggernaut, Kimball concludes "that conservatism has three main choices." The first, "outright surrender," is dishonorable. So is the second – "the dhimmitude of the well-pressed but housebroken Right that exchanges its pampered place on the plantation for political irrelevance." Accordingly, Kimball opts for the third – "the perhaps paradoxical option of what we might call Alinskyite conservatism, after the canny left-wing activist Saul Alinsky." It "eschews the quietism of surrender for the activism of what Donald Trump calls 'winning.'"

The activist option aimed at winning is preferable provided two conditions are met. Activism must revolve around the energetic defense of constitutional essentials. And winning must signify the restoration of a common enterprise to secure the liberty under law that is the enduring promise of rights-protecting democracy in America.

Peter Berkowitz is the Tad and Dianne Taube senior fellow at the Hoover Institution, Stanford University. From 2019 to 2021, he served as director of the Policy Planning Staff at the U.S. State Department. His writings are posted at [PeterBerkowitz.com](https://peterberkowitz.com) and he can be followed on X [@BerkowitzPeter](https://twitter.com/BerkowitzPeter).