

How and why is federalism enshrined in the us constitution? assignment



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How and why is federalism enshrined in the Constitution? (15 marks)

Federalism is the system of government in which power is dispersed between central and state governments, each level of government having different responsibilities. Article four of the constitution is devoted to outlining the federal-state government relationship. Section one states that all states will honor all of the other states laws; this ensures that a marriage in F-lorded is also considered marriage in Arizona.

Similarly, section two guarantees that citizens of one state are treated fairly and equally like all citizens of other tastes. For example, it enshrines that a person fleeing a crime from a state with certain punishments, shall be returned by another state if necessary. Moreover, the 10th amendment in the Bill Of Rights reserves powers to the states and to the people that aren't in the federal governments' domain. Essentially meaning, powers not mentioned in the constitution that don't deal with national issues are left for the states to decide on.

A key example being policing and other local matters. British oppression had made the Founding Fathers fearful of unchecked centralized power. The Tenth Amendment was enacted to limit federal power. The sheer size of the U. S. Means that states such as Alaska have different cultures and demands compared to California. As a result, governing the enormity from Washington would be very difficult. This is why states have their owl legislatures with significant responsibilities such as education, healthcare and judiciary procedure.

The states are funded in part by the federal government which allows states to allocate their funding for the pressing issues in their region, which might not be an issue in a state. This enables a more democratic process as citizens elect officials on a state basis who are more understanding of local issues and ideas whilst also electing a President and Congress to look after the general welfare and security of the United States. Federalism means that the central government lays claim to less powers and responsibilities than it would do if it weren't for the states.

It could be argued that federalism adds another check and balance-the federal government may be rich in tax revenues but has little influence within America and plays a bigger role internationally than mystically. The constitution was drawn up in response to tyrannical rule by Britain; fearful of a strong, distant and central power ignorant of the people, fearful of this being repeated, Federalism was seen as the best option. It was a compromise between self-governing autonomous states and a strong, overpowering central power.

It meant at the time, that resources could be allocated accordingly to state demands whilst the federal government could unite forces in the event of an attempted invasion by a foreign power. Transformed beyond recognition from the vision Of the Founding Fathers'. Discuss this view of the modern US constitution. (45 marks) The US constitution has been the blueprint for countries around the world seeking to emulate a democratic system of governance. The constitution today sit II stands strong and is treated with the utmost respect by many Americans and its words are biblical to fundamentalists such as ' Tea party' Republicans.

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The constitution was drawn up in wake of the tyrannical rule by the British Empire, over-taxed and underrepresented; the 13 colonies on the eastern coast were no longer content with the status quo and declared independence from their colonial rulers. Judging from the historical context, it is clear that the Founding Fathers wanted to prevent a situation similar to this ever arising again. This is why a constitution was drawn up compromising autonomous states and a strong central power which would oversee issues of national and international importance.

Article 1 of the constitution established congress as the national legislature, giving it specific powers and responsibilities such as those to ‘ coin money’ and ‘ declare war. It is slightly ironic that this so far specific article is also home to the most enigmatic aspect of the U. S. Constitution; “ provide for the common defense and general welfare of the United States’ and to make all “ necessary and proper laws”. The generalization in these terms has led Article 1, Section 8 to be labeled as the ‘ elastic clause’ of the Constitution.

These terms don’t mention anything specific which has led them to be widely interpreted and argued over. The constitution has without doubt changed since its ratification in 1788, but because the Founding Fathers’ foresaw the necessity for change. They realized that it had to be designed to live and grow as the nation grows, which ended it has and is evident in the fact that it is a global superpower and is home to the world’s currency reserve. Article 5 is a living testament to this as a sign that the Philadelphia convention delegates knew that it would have to change with the times.

This article reserved the responsibility of amending the constitution to congress and the states' providing both could deliver a ' super majority. Only 27 amendments to the constitution have ever been ratified (including the 10 in the Bill of Rights), demonstrating the religious nature of the constitution. Apart from the abolition of slavery, no subsequent amendments to the constitution have dramatically changed its nature. This demonstrates the almost religious nature of the constitution-changed so few times as to protect its power and standing in the governance of America.

The constitution is living document, designed to be relevant for whatever period of time. However, despite this, the Bill of Rights, effectively apart of the constitution, is aimed at protecting citizens rights from a tyrannical government. But, recently, certain articles have been the source of controversy. A notable example being the 2nd amendment, the " right of the people to keep and bear arms" to enable citizens to defend themselves from an autocratic ruler.

This is a source of national debate, events such as the Sandy Hook massacre have led gun control campaigners to demand laws passed to make the supply of guns much tougher. But, opposition in the form of Republicans, see it as a violation to the 2nd amendment. Unlike the rest of the constitution, this is an archaic clause, only suitable for the circumstances in which the constitution was written, and not in the 21 SST century when the threat of a foreign power invading/a violent government has gradually minimized.

The Founding Fathers' established the Bill of Rights to " sugar the constitutional pill" which gave an immense degree of power to the federal

government and its branches. The 2nd amendment is not part of the elasticity of the constitution which sought to establish freedom and individual liberties. In fact, it could be argued that it detracts from the nature of freedom as citizens live their lives with the threat of gun violence whilst the constitution legalizes it. This clearly wasn't the intentions of the Founding Fathers'.

The federal government over the last century has undertaken some of the susceptibilities that traditionally belonged to the states. The changing federal- state relationship has primarily occurred under Democrat presidents, such as Franklin Roosevelt with the New Deal and President Obama with his economic stimulus package in 2009 and his flagship reform; ' Beamer'. Such packages stipulate that states commit to providing certain services and invest in specific infrastructure projects.

Traditionally, the 10th amendment protected states autonomy but Democrats have used the elastic clause of Article 1 to claim that they are providing for the " general welfare" of the united States. But, many Republicans argue that the federal government is encroaching state rights with its demands for road building, improvements to education and compulsory healthcare insurance from employers. Although the central governments demands have been legitimate and well intended, the federal two-tier relationship was designed for two different layers of government doing different roles.

But, elasticity of the constitution has led to the tax-rich Washington based administrations take action in times of economic hardship. Federalism has

had to be diminished for the national DOD, which in itself is approved of in the constitution. The main body of the constitution and the Bill of Rights conflict with each other as providing for the general welfare of the country and passing “ necessary’ laws may take away part of the state legislatures reason for being. The 1st amendment was established to guarantee the most basic and fundamental rights of religion; freedom of speech and freedom of press.

Since the threat of terrorism has plagued western society, organizations such as the NSA and CIA have infringed on citizens rights to free speech by listening into private phone calls ND the scanning of emails and social network accounts. Many argue that these federal agencies have long exploited the excuse of protecting national security whilst bearing the hallmarks of an overbearing government preventing its citizens from expressing themselves freely without fearing reprimand and insecurity in their everyday lives.

The revelations of Edward Snowden have given us an insight into just how extensive government spying is. Again, the federal government has defended its actions by using the elasticity clause, stating that it is acting to protect the national welfare. But, it s clearly unacceptable for a self-proclaimed democratic country to be suspicious of its subjects in this manner. The Founding Fathers’ could have never foreseen this situation in which technology is used to “ protect citizens”.

But, since the system they established gives the government power to this, it can still carry on its extensive spying programs. Moreover, attempts have

been made to make flag burning illegal under the constitution. Flag burning is commonly used as a publicity stunt by Salamis extremists who feel that their religious beliefs conflict with American life. Banning of flag burning would reverent a specific section of American society from expressing their religious and personal views even if they do sometimes condone terrorism.

It is unclear, again, what the Founding Fathers' views were on the 1st amendment. As the constitution is a living document designed to evolve with the times, it is the responsibility of the current generation of citizens to interpret it and act accordingly. Total freedom given to extremists expressing their opinion could lead to citizens fearing for their lives in the event of a terrorist attack. Like most aspects of the constitution, freedom in one area could undermine it in another. The 8th amendment strictly prohibits "cruel and Unusual punishments".

This short and vague term has led many to believe that capital punishment should be abolished as it takes citizens lives. Some activists in favor of capital punishment believe that the 8th amendment technically allows for it to exist, many claim that the punishment in the form of lethal injection is not "cruel" because as opposed to other methods such as death by firing squad or electric chair, the convicted feels very little pain and dies in a more humane circumstance than the latter two options. The Supreme Court as never declared capital punishment as 'unconstitutional', despite many unsuccessful reviews.

It is perfectly legitimate for some forms of the death penalty to be considered humane and not cruel within reason. The Founding Fathers'

established a broad framework for subsequent generations to alter as necessary. No matter, capital punishment seems anomalous for a country whose constitution stipulates the prohibition of cruel and unusual punishments. Like with many other constitutional arguments, the historical context must be taken into account. At the time, the 13 colonies wanted to rate a civilized and stable society. In conclusion, the constitution has evolved simultaneously with the united States.

The country that the Founding Fathers' created has expanded and transformed beyond recognition through time. Therefore, it is legitimate for the constitution to mirror this. Except, it hasn't. The constitution still stands in its exact form as it did upon creation, excluding the Bill of Rights which was an addition also enacted by the Founding Fathers', only 17 amendments have been passed. None of which have directly affected the nature of the historical document. Although the institution might have stayed the same, the arguments and its purposes have developed dramatically.

Both left and right, citizens respect the constitution and try to exploit its hollow meaning clauses for their own policies. It is treated reverently and still serves its purpose today; ensuring accountability at every level of government. Perhaps it is too rigid in some aspects by granting the "power of the purse" to a partisan Congress and nearly allowing America to default on its debts. Their vision will still be upheld so long as the Supreme Court continues to function as the umpire of constitutional debates.