

Culture & Crisis
Reconciling Constitutionalism & Federalism in a Time of Crisis

Glenn T Bass Jr
Perspectives on COVID
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Biography

As a South Carolina native, my beginnings were in Charleston County. I was raised and taught lessons from the small-town scenario of Hollywood, South Carolina. I moved to Montgomery County, Maryland and attended Paint Branch High School. After high school, I joined the United States Army as an Infantryman and deployed representing OEF/OND. My collegiate education started at the age of 21 where Liberty University has given me a stellar education receiving my Baccalaureate and Dual-Master's degrees, respectively. Currently I am a doctoral candidate in the PhD program for Criminal Justice. I have received numerous collegiate achievements and awards that reflect the Dean's List and The Society for Collegiate Leadership and Achievement. I was awarded membership into the International Association of Crime Analysts in 2018. My law enforcement career has spanned a plethora of positions from being a special police officer, investigator, investigation/compliance, federal police officer and personnel security.

Abstract

The purpose of this paper is to delve further into the topic of Culture & Crisis: Reconciling Constitutionalism & Federalism in a Time of Crisis through Liberty University's Helms School of Government & Journal of Statesmanship & Public Policy. The United States of America is currently under siege by the COVID-19 virus. This virus has steadily killed hundreds of individuals and consequently nearly shutdown the American socio-economic system. Through a constitutional government and federal principles, the executive functions have been able to address this time of crisis. However, there are different views referencing exactly how to address the needs of our nation during this time of crisis. This threat to public health is perceived differently by the Republican and Democratic parties. Democrats have been viewed as trying to present the severity of the situation, in terms of health, finances, and safety. The Republicans are viewed as presenting information that does not demonstrate such a severity of the situation; however, they do understand the perceived threats which have invoked several governmental functions (e.g., relief funds, unemployment insurance). These views can be skewed, as Republicans and Democrats, as they live in different counties which have been impacted differently by the COVID-19 virus. Tensions have been on the rise due to this phenomenon which can be handled efficiently through the execution of deliberative constitutionalism. These issues and more will be discussed further.

Keywords: deliberative constitutionalism, culture, crisis, federalism, COVID-19, republican, democrat, federal, principles, public health

Introduction

Vaccines, quarantine, facemasks, and social distancing have been the general themes within the fiscal year of 2020. What started off as global flu, made its way into the United States of America and completely dismantled the American economy. As of 26 March, there were more than 470,000 confirmed cases of COVID-19 around the world and more than 20,000 deaths, touching every continent save Antarctica¹. Analysts stated that we should have seen this coming however, what was explained as simple flu exploded into a pandemic virus. The deadly nature of this coronavirus can be explained simply as an infection of the host (e.g., human) which turns this individual into a cellular factory to manufacture more viruses...our interconnected global economy both help spread new infectious diseases². One of the greatest threats to global public health in over 50 years has caused the executive function to act. Several different principles have facilitated the executive office functions; however, the Republicans and Democrats have had to review health, finances, and the safety of our society. The perceived threats were undervalued, and economic functionality has been in dire need of assistance.

Literature Review and Analysis

A literature review presents a research topic through scholarly articles, books, or other research resources. Deliberative constitutionalism can be summarized as the incorporation of democratic theories that will further present a constitutional practice and discipline. Kong and Levy claim that a constitution's overriding objective should be to create an institutional framework for rigorous...public deliberation that helps a polity work through specific social controversies³. In the article, *The deliberative constitutionalism debate and republican way forward* by Donald Bello Hutt, the author details deliberative constitutionalism and states presently and overall limitations amongst the current literature. The author delineates RDC to describe three key elements such as republicanism, constitutional matters, and deliberative representation. These matters that are expounded upon, by constitutionalists, see constitutional democracies as legal and political phenomena whose creation, interpretation, and change ought to be guided by deliberation, reasoning, and justification, thus strengthening the legitimacy and discursive correctness of the legal systems to which they grant validity⁴. The current political climate suggests that our society does not have the proper instrumentation to protect the necessary freedoms that are guaranteed from our constitutional orders. Such a process ought to include the participation of citizens and it must account for representative institutions as normatively valuable⁵. In the report *Deliberative Democracy and Constitutional Review* by Christopher F. Zurn, the author delves into the means of explaining how the execution of legislation underlies several recent controversies in the philosophy of law and broader public debates...the traditional justification of judicial review as a counter-majoritarian institution

¹ Walsh, B. (2020, March 25). *COVID-19: The History of Pandemics*. Retrieved from BBC: Future: <https://www.bbc.com/future/article/20200325-covid-19-the-history-of-pandemics>

² *Ibid.*

³ Kong, H. L., & Levy, R. (2018, October). *Deliberative Constitutionalism*. Retrieved from Oxford Handbooks Online: Scholarly Research Reviews: <https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780198747369.001.0001/oxfordhb-9780198747369-e-40>

⁴ Hutt, D. B. (2020). The deliberative constitutionalism debate and a republican way forward. *An International Journal of Legal and Political Thought*, 1-21.

⁵ *Ibid.*

assumes a particular vision of what democracy is and what it should aspire to be⁶. Judicial standards that are found in the Constitution automatically present a democratic process that can be further evaluated once individual civil liberties have autonomy. At the very least, we need a good account of the difference between formally organized and governmentally institutionalized public arenas of debate and informal, non-institutionalized, and heterogeneous areas of debate⁷.

Between republicans and democrats, the constitutional orders have been derived to address a nationwide pandemic (e.g., coronavirus). However, each side views this public health crisis differently. Alec Tyson reports that more than eight-in-ten Democrats and those who lean toward the Democratic Party (85%) say the coronavirus is a major threat to the health of the U.S. population⁸ while republicans see this disease to be a minor threat to public health. There was a surge in COVID-19 cases in May 2020 which caused a negative economic response. This effect has been seen not only from the low class but has affected the middle and upper class as well. Still partisanship matters...Democrats remain much more likely than Republicans to view the coronavirus as a major threat to their personal health regardless of whether they live in counties that have experienced high, medium, or low impacts from the outbreak⁹. The coronavirus has caused the American people great suffering. Like the events that led up to September 11th, President Trump and his Administration missed multiple opportunities to protect the American people from this deadly pathogen. Instead of recognizing the danger and confronting it head-on¹⁰ the severity of this pathogen had led to the further transmission and even death of human life. This crisis could have been handled differently in its infancy, if the intelligence gathering community, provided clear and consistent guidelines for a proper response. Once the pandemic began spreading in the United States, the President's failure to lay out clear, consistent guidelines for cities, states, businesses, and school districts to control the spread of COVID-19 created widespread confusion and chaos¹¹.

Discussion and Biblical Worldview

In the Bible, there are numerous stories regarding a crisis, however, it is very hard to distinguish accurately stories that depict such an issue regarding constitutionalism and federalism. Some comparable qualities can be found within the story of Daniel in the Lion's Den. In the story of Daniel in the Lion's Den, King Darius was a ruler over Babylon and Daniel was one of his lead advisors. Some of the followers did not like Daniel so there was a plan put together to get rid of him. There was a law created that if anyone worships any other gods, other than the king, they would be placed into the Lion's Den to starve and be eaten by the lion. A stone was brought and placed over the mouth of the den, and the king sealed it with his own

⁶ Zurn, C. F. (2020, December 24). *Deliberative Democracy and Constitutional Review*. Retrieved from PGRIM: <http://www.pgrim.org/philosophersannual/pawebarts/zurnb.htm>

⁷ *Ibid.*

⁸ Tyson, A. (2020, July 22). *Republicans remain far less likely than Democrats to view COVID-19 as a major threat to public health*. Retrieved from FACTTANK: News in the Numbers: <https://www.pewresearch.org/fact-tank/2020/07/22/republicans-remain-far-less-likely-than-democrats-to-view-covid-19-as-a-major-threat-to-public-health/>

⁹ *Ibid.*

¹⁰ DNC. (2020, December 24). *Protecting Americans And Recovering From The COVID-19 Pandemic*. Retrieved from Democratic National Committee: <https://democrats.org/where-we-stand/party-platform/protecting-americans-and-recovering-from-the-covid-19-pandemic/>

¹¹ *Ibid.*

signet ring and with the rings of his nobles so that Daniel's situation might not be changed¹². After Daniel heard this law, his beliefs in the Lord did not waiver. The king started to have terrible dreams and ran to Daniel and asked if God can protect him. My God sent his angel, and he shut the mouth of the lions. They have not hurt me, because I was found innocent in his sight. Nor have I ever done any wrong before you, O king¹³. After being falsely accused and arrested King Darius ordered those men who led him to this conclusion to be tossed into the lion's den for death. This led the King to believe and hold reverence to God. Like the coronavirus, statesman identified a possible pathogenic flu that could grow to be problematic. Others thought this was too farfetched and through the idea into a 'lion's den'. Suddenly, the coronavirus has exploded which caused a global response that we were not prepared for. The king (e.g., president of the United States) has gone through great lengths to protect his kingdom (e.g., United States of America) through social precautions however there were still issues. The vaccination has been thought to seal this issue, however, there are still deaths. We should ask GOD for guidance through prayer referencing this crisis.

Federalism can be summarized as a governmental system that is primarily controlled by two levels. Constitutionalism is the idea...that government can and should be legally limited in its powers, and its authority or legitimacy depends on its observing these limitations¹⁴. Through federalism and constitutionalism, a constitutional theory has derived several advances towards legal reasoning and the overall development of lawmaking procedures. These laws must have provided justification for constitutional ongoing deliberation in representative institutions¹⁵. Referencing the crisis, the response procedures for global health pandemics have been seen before in examples such as Ebola. The United States always seems to be behind in terms of our executive functions. There always seems to be a lack of communication, intelligence gathering, or vaccination procurement during such a crisis. Understanding constitutionalism as something more than a limitation of political power, as traditional accounts...constitutionalists' concern for safeguarding fundamental liberties¹⁶.

The coronavirus has affected millions. The internet has become a viable tool for communication between businesses, however, with the increase in broadband infrastructure policies have had to be adjusted. Democrats will take action to prevent states from blocking municipalities...from building publicly owned broadband networks and increase federal support for municipal broadband¹⁷. There have been other public health pandemics that required a global response. There has always been some form of sabotage in terms of a vaccine to slow down this crisis. These global health emergencies have cost thousands of lives and unfortunately, the President-elect refused to work with our partners to identify and coordinate the manufacture of potential vaccines; cut CDC and State Department programs for early identification of infectious

¹² Daniel 6:17-18, The New International Version

¹³ *Ibid.*

¹⁴ SEP. (2017, December 20). *Constitutionalism*. Retrieved from Stanford Encyclopedia of Philosophy: <https://plato.stanford.edu/entries/constitutionalism/>

¹⁵ Hutt, D. B. (2020). The deliberative constitutionalism debate and a republican way forward. *An International Journal of Legal and Political Thought*, 1-21.

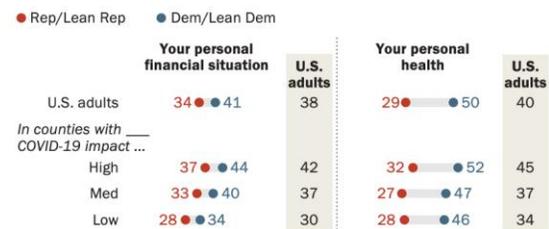
¹⁶ *Ibid.*

¹⁷ DNC. (2020, December 24). *Protecting Americans And Recovering From The COVID-19 Pandemic*. Retrieved from Democratic National Committee: <https://democrats.org/where-we-stand/party-platform/protecting-americans-and-recovering-from-the-covid-19-pandemic/>

pathogens¹⁸. These bureaucratic issues have often been deliberated as high as the U.S. Supreme Court. Statesman have implemented such changes to overall strategies for the purposes of a global health epidemic, however, concerning the executive, it is at least more accountable to the electorate than the judiciary and so concerns about paternalistic review might favor some forms of executive review¹⁹. An example of such an executive review would be the creation of the vaccination and further dissemination of the vaccination process. When there is a vaccination created for a pathogen, medical companies start tests. During prior epidemics companies like Pfizer, Johnson & Johnson, and Moderna has created a means to deal with these pathogens. Congress and the Senate often must endure stringent discussions involving the economic stipulations of affording such a vaccination. These discussions are typically seen in candidate races or even on the mass media outlets such as CNN.

Even in hard-hit counties, Democrats are significantly more likely than Republicans to see the coronavirus as a major threat to their personal health

% who say the coronavirus outbreak is a major threat to ...



Note: See box below for more details on COVID-19 impact variable
Source: Survey conducted July 13-19, 2020.

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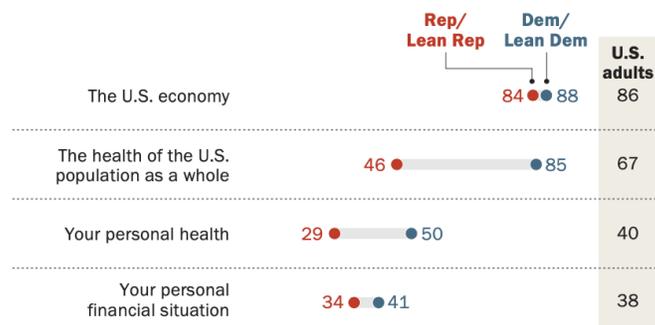
Alec Tyson, *Even in hard-hit counties, Democrats are significantly more likely than Republicans to see the coronavirus as a major threat to their personal health*, Washington DC, assessed July 22, 2020, <https://www.pewresearch.org/fact-tank/2020/07/22/republicans-remain-far-less-likely-than-democrats-to-view-covid-19-as-a-major-threat-to-public-health/>

¹⁸ *Ibid.*

¹⁹ Zurn, C. F. (2020, December 24). *Deliberative Democracy and Consitutional Review*. Retrieved from PGRIM: <http://www.pgrim.org/philosophersannual/pawebarts/zurnb.htm>

Partisans express similar levels of concern about COVID-19's impact on the economy, but differ in views of threat to public and personal health

% who say the coronavirus outbreak is a major threat to ...



Source: Survey conducted July 13-19, 2020.

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Alec Tyson, *Partisans express similar levels of concern about COVID-19's impact on the economy, but differ in views of a threat to the public and personal health*, Washington DC, assessed July 22, 2020, <https://www.pewresearch.org/fact-tank/2020/07/22/republicans-remain-far-less-likely-than-democrats-to-view-covid-19-as-a-major-threat-to-public-health/>

Conclusion

The coronavirus started off merely as a blip on the radar. A substance, known as a pathogen, that has transformed into a global health pandemic. Congress and the Senate began to gather intelligence from our federal organizations (e.g., CDC) to find that the coronavirus had spread at such a rapid rate that unfortunately to stop further absorption into our society, the United States of America has been virtually shut down. This public health crisis has led to economic dysfunction, to the extent that, even using a public restroom must be considered during social distancing. Republicans and Democrats both understand that the coronavirus needs to be properly handled, however, they differ on how extensive the damage is to the United States of America. The average taxpayer sees thousands of lives lost and unemployment increases. There are now two rounds of relief funds that have been issued to the governing public, but citizens still struggle every day to make ends meet. The Constitution was derived to ensure that life, liberty, and the pursuit of happiness are upheld. In terms of a public health crisis the consideration of health, finances, and safety is reviewed. The coronavirus is no longer a perceived threat, but a reality, and the United States was not prepared once again for a threat within our national borders. In my professional opinion, deliberative constitutionalism is a failed concept as there are no adequate provisions referencing emergency management. The purpose of this concept was to outline judicial standards, civil liberties, and autonomy. If the executive function wants to incorporate such, there need to be conjoined efforts from both the Republican and Democratic institutions.

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