

The New York Times

https://www.nytimes.com/2017/09/16/opinion/sunday/constitution-economy.html?emc=edit_th_20170917&nl=todaysheadlines&nid=36598603&_r=1

Our Constitution Wasn't Built for This

By GANESH SITARAMAN

SEPT. 16, 2017

(image below: Nicolas Ortega)



Exactly 230 years ago, on Sept. 17, 1787, a group of men in Philadelphia concluded a summer of sophisticated, impassioned debates about the fate of their fledgling nation. The document that emerged, our Constitution, is often thought of as part of an aristocratic counterrevolution that stands in contrast to the democratic revolution of 1776. But our Constitution has at least one radical feature: It isn't designed for a society with economic inequality.

There are other things the Constitution wasn't written for, of course. The founders didn't foresee America becoming a global superpower. They didn't plan for the internet or nuclear weapons. And they certainly couldn't have imagined a former reality television star president. Commentators wring their hands over all of these transformations — though these days, they tend to focus on whether this country's founding document can survive the current president.

But there is a different, and far more stubborn, risk that our country faces — and which, arguably, led to the TV star turned president in the first place. Our Constitution was not built for a country with so much wealth concentrated at the very top nor for the threats that invariably accompany it: oligarchs and populist demagogues.

From the ancient Greeks to the American founders, statesmen and political philosophers were obsessed with the problem of economic inequality. Unequal

societies were subject to constant strife — even revolution. The rich would tyrannize the poor, and the poor would revolt against the rich.

The solution was to build economic class right into the structure of government. In England, for example, the structure of government balanced lords and commoners. In ancient Rome, there was the patrician Senate for the wealthy, and the Tribune of the Plebeians for everyone else. We can think of these as class-warfare constitutions: Each class has a share in governing, and a check on the other. Those checks prevent oligarchy on the one hand and a tyranny founded on populist demagoguery on the other.

What is surprising about the design of our Constitution is that it isn't a class warfare constitution. Our Constitution doesn't mandate that only the wealthy can become senators, and we don't have a tribune of the plebs. Our founding charter doesn't have structural checks and balances between economic classes: not between rich and poor, and certainly not between corporate interests and ordinary workers. This was a radical change in the history of constitutional government.

And it wasn't an oversight. The founding generation knew how to write class-warfare constitutions — they even debated such proposals during the summer of 1787. But they ultimately chose a framework for government that didn't pit class against class. Part of the reason was practical. James Madison's notes from the secret debates at the Philadelphia Convention show that the delegates had a hard time agreeing on how they would design such a class-based system. But part of the reason was political: They knew the American people wouldn't agree to that kind of government.

At the time, many Americans believed the new nation would not be afflicted by the problems that accompanied economic inequality because there simply wasn't much inequality within the political community of white men. Today we tend to emphasize how undemocratic the founding era was when judged by our values — its exclusion of women, enslavement of African-Americans, violence against Native Americans. But in doing so, we risk missing something important: Many in the founding generation believed America was exceptional because of the

extraordinary degree of economic equality within the political community as they defined it.

Unlike Europe, America wasn't bogged down by the legacy of feudalism, nor did it have a hereditary aristocracy. Noah Webster, best known for his dictionary, commented that there were "small inequalities of property," a fact that distinguished America from Europe and the rest of the world. Equality of property, he believed, was crucial for sustaining a republic. During the Constitutional Convention, South Carolinian Charles Pinckney said America had "a greater equality than is to be found among the people of any other country." As long as the new nation could expand west, he thought, it would be possible to have a citizenry of independent yeoman farmers. In a community with economic equality, there was simply no need for constitutional structures to manage the clash between the wealthy and everyone else.

The problem, of course, is that economic inequality has been on the rise for at least the last generation. In 1976 the richest 1 percent of Americans took home about 8.5 percent of our national income. Today they take home more than 20 percent. In major sectors of the economy — banking, airlines, agriculture, pharmaceuticals, telecommunications — economic power is increasingly concentrated in a small number of companies.

While much of the debate has been on the moral or economic consequences of economic inequality, the more fundamental problem is that our constitutional system might not survive in an unequal economy. Campaign contributions, lobbying, the revolving door of industry insiders working in government, interest group influence over regulators and even think tanks — all of these features of our current political system skew policy making to favor the wealthy and entrenched economic interests. "The rich will strive to establish their dominion and enslave the rest," Gouverneur Morris observed in 1787. "They always did. They always will." An oligarchy — not a republic — is the inevitable result.

As a republic descends into an oligarchy, the people revolt. Populist revolts are rarely anarchic; they require leadership. Morris predicted that the rich would take advantage of the people's "passions" and "make these the instruments for

oppressing them.” The future Broadway sensation Alexander Hamilton put it more clearly: “Of those men who have overturned the liberties of republics, the greatest number have begun their career by paying an obsequious court to the people: commencing demagogues, and ending tyrants.”

Starting more than a century ago, amid the first Gilded Age, Americans confronted rising inequality, rapid industrial change, a communications and transportation revolution and the emergence of monopolies. Populists and progressives responded by pushing for reforms that would tame the great concentrations of wealth and power that were corrupting government.

On the economic side, they invented antitrust laws and public utilities regulation, established an income tax, and fought for minimum wages. On the political side, they passed campaign finance regulations and amended the Constitution so the people would get to elect senators directly. They did these things because they knew that our republican form of government could not survive in an economically unequal society. As Theodore Roosevelt wrote, “There can be no real political democracy unless there is something approaching an economic democracy.”

For all its resilience and longevity, our Constitution doesn’t have structural checks built into it to prevent oligarchy or populist demagogues. It was written on the assumption that America would remain relatively equal economically. Even the father of the Constitution understood this. Toward the end of his life, Madison worried that the number of Americans who had only the “bare necessities of life” would one day increase. When it did, he concluded, the institutions and laws of the country would need to be adapted, and that task would require “all the wisdom of the wisest patriots.”

With economic inequality rising and the middle class collapsing, the deep question we must ask today is whether our generation has wise patriots who, like the progressives a century ago, will adapt the institutions and laws of our country — and save our republic.