



DOI: 10.22363/2313-1438-2024-26-4-619-629  
EDN: VGYHPU

Research article / Научная статья

## The Constitution as an Object of Political Analysis

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**Abstract.** The constitution is typically the primary political and legal act of the state and is a subject of study for representatives of a variety of scientific disciplines. The political science community's attention to the document remains minimal. Meanwhile, the constitution serves as a valuable source of information. Working with the constitution, one can develop an objective understanding of the state, its origins, current situation, and possibilities for its political course within the country and on the international stage. These circumstances indicate that the constitution is a crucial subject for political science analysis. At the same time, the constitution is an accessible and open document; as a result, there is a risk of its superficial perception due to ignoring several circumstances. This article highlights the fact that numerous interpretations of the term “constitution” have emerged in Russian and international sociopolitical and scientific discourse. There are also alternative state constitutions. The constitution serves to legalize and legitimize the political order, particularly in emergency situations resulting from a change of power. In this regard, it is important to identify essential political clauses of state constitutions. The possibility of discovering evidence of the nation's identity in the constitution, as well as a solid genetic relationship between the present and the past and future, is critical to comprehending its political relevance. When connecting the principles enshrined in the constitution, it is vital to consider the declarative nature of the document's provisions as well as their futuristic orientation toward the development of the future. When examining the state constitution, it is essential to consider the broad event, chronological, and other contexts, rather than a simplistic interpretation of its contents.

**Keywords:** constitution, political science analysis, discourse analysis, state, identity

**Conflicts of interest.** The author declares no conflicts of interest.

**For citation:** Belozerov, V.K. (2024). The constitution as an object of political analysis. *RUDN Journal of Political Science*, 26(4), 619–629. <https://doi.org/10.22363/2313-1438-2024-26-4-619-629>

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## Конституция как объект политологического анализа

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**Аннотация.** Конституция выступает, как правило, главным политическим и правовым актом государства и является объектом познания представителей различных отраслей научного знания, в основном права. Внимание политологического сообщества к документу остается ограниченным. Между тем конституция — важный источник сведений, работая с которыми посредством правильно определенного метода, можно составить объективное представление о государстве, генезисе, состоянии и перспективах его политического курса внутри страны и на международной арене. Названные обстоятельства указывают на то, что данный документ является важным объектом политологического анализа. При этом конституция представляет собой доступный и открытый документ, в связи с чем возникает риск ее шаблонного, поверхностного и стереотипного восприятия вследствие игнорирования ряда обстоятельств и процессов, обусловленных учетом условий, в которых она появилась и реализуется. Автор обращает внимание на то, что в общественно-политическом и научном дискурсе в России и за рубежом сложились и функционируют различные трактовки понятия «конституция». Существуют и альтернативные конституции государства представления и концепции относительно ее как документа и понятия. Посредством конституции происходит легализация и легитимизация политического порядка, особенно в чрезвычайных условиях, вызванных сменой власти. В этой связи возникает необходимость выделения в конституциях государств ключевых политических положений. По ряду формулировок документа разворачивается острая борьба между оппонентами, которые представляют обществу и отстаивают свое видение устройства страны. Важным для понимания политического значения конституции является и возможность обнаружения в ней признаков идентичности нации и устойчивой генетической связи настоящего с прошлым и будущим. При соотнесении заложенных в конституцию идеалов и чувственных образов с политической практикой важно считаться с декларативным характером положений документа, их футуристической ориентацией на созидание будущего. При анализе конституции государства следует учитывать широкий событийный, хронологический и иной контекст, воздерживаясь от упрощенного восприятия ее положений.

**Ключевые слова:** конституция, политологический анализ, дискурс-анализ, государство, идентичность

**Заявление о конфликте интересов.** Автор заявляет об отсутствии конфликта интересов.

**Для цитирования:** Белозёров В.К. Конституция как объект политологического анализа // Вестник Российского университета дружбы народов. Серия: Политология. 2024. Т. 26. № 4. С. 619–629. <https://doi.org/10.22363/2313-1438-2024-26-4-619-629>

### Introduction

A state's constitution, as its primary political and legal act, is frequently the subject of inquiry by legal scholars. Furthermore, representatives of other disciplines of scientific knowledge, such as linguists, pay close attention to the content of this document [Taeva 2019; Frolova 2018].

The constitution is also a significant source of information, and working with it, using a well defined approach, helps one form a fair assessment of the country, its origin, state, and purposes. As a result, it is reasonable to argue that this document is likewise a subject of political science examination. Diagnosing and forecasting a country's political course is a complex theoretical and applied undertaking. Political science now possesses enormous cognitive potential, allowing it to be solved in one form or another. Within this framework, productive ways are being established that allow dealing with texts while focusing on their political aspect (primarily at Lomonosov Moscow State University) [Shirinyants 2019].

The constitution is the most accessible and open document, thus there is a temptation to interpret it in a formulaic and superficial manner. A full examination of the constitution from a political science perspective necessitates focusing on a variety of factors, including ones that may go unnoticed by researchers.

### **Plurality of constitutions**

It is generally accepted that the constitution is the main political and legal act of the state. Meanwhile, the concept itself is widespread in various fields and in science, for example, in biology, medicine and anthropology, to denote certain phenomena (e.g., the structure of the human body). In terms of the sociopolitical realm (from Latin *constitutio* — establishment, definition), it refers to the structure, organization, justification, and consolidation of political space, as well as the declaration of such a framework. In the context of diverse cultures and historical eras, the comprehension of the constitution by society, in connection to it, forms its own assessments, concepts, and interpretations of the constitution [Ilyin 1997: 310–316].

Simultaneously, examples of the concept of “constitution” may be found in the sociopolitical field, where specific parts of societal life are identified and their structure is defined.

Thus, in connection with the periodically intensifying discussion of the need and possibility of regulating economic issues of everyday importance for the whole society and their conceptualization, efforts are being made — in Russia and abroad — to develop an economic constitution [Andreeva 2008]. Moreover, the term “economic constitution” itself has been present in sociopolitical and scientific discourse for more than two centuries. The discussion takes place mainly in connection with determining the need and limits of state intervention in economic life. In some countries, attempts have also been made to adopt independent legal acts with the corresponding name, intended to act as an alternative to the state constitution [Schmitt 2016].

Considering the special significance of the issues of defense, organization and use of military force in the life of society, a number of scholars in the past and now raise the question of a military constitution. The Prussian military theorist Clausewitz wrote about the need for a military constitution for his country. Furthermore, the

discussion focused on military order, the structure of Prussia, and the military foundations of the state.

The regulation and design of the military structure of the state were given considerable attention by the young Hegel in his unfinished manuscript on the constitution of Germany, which was not published during his lifetime [Hegel 1893]. Moreover, both authoritative German thinkers reflected on the constitution of the military structure of the country virtually simultaneously. The Russian military theorist A.A. Svechin drew attention to this circumstance: "...We cannot categorically and completely reject the theory of the accidental coincidence of the thoughts of Clausewitz and Hegel, as two fellow travelers. "The historical conclusions and notes made by Clausewitz in 1803–1805 after reading the works of Malet du Pan, Robertson, Ancillon, Johann von Müller — the best historians of that time — about Richelieu, about Machiavelli, about the fragmentation of Italy and Germany, about the formation of European states, about Gustavus Adolphus — are as like as two peas in a pod reminiscent of Hegel's 1802 work "The German Constitution", written, obviously, under the influence of the same historical works. These works by Clausewitz and Hegel, reflecting mainly the desire for the unification of Germany, were published only many years after the death of both authors. Clausewitz's mind was undoubtedly akin to Hegel's" [Svechin 1935].

Several years later, already mature and experienced and impressed by the national upsurge in the German states during the struggle against French rule, the Prussian philosopher of war, using the word "constitution" (German: *Verfassung*) in a work written in 1819, insisted on precisely this kind of military structure for the country, based on military service [Clausewitz 1858]. In doing so, he raised the question of the political and legal regulation of the participation of the masses in the defense of the country. As A.A. Svechin noted, "in the very moderate views of Clausewitz, a constitutional monarchist, political and military issues were closely linked, and, defending the *Landwehr*, Clausewitz also demanded a constitution" [Svechin 1935].

In post-Soviet Russia, representatives of the military leadership have expressed the position that military doctrinal documents of states are approaching constitutional provisions in their status. In this regard, the statement by I.N. Rodionov, who held the post of Minister of Defense of Russia (July 17, 1996 — May 22, 1997), is noteworthy: "military doctrine is a kind of military constitution of the state, the provisions of which must be known to everyone<sup>1</sup>." When assessing the vision of such a status of military doctrine, it should be taken into account that it actually proclaims why the country is preparing its army, what is unacceptable for it and what will trigger a military response, under what conditions it can resort to the use of military force, and what are the limits of such use.

<sup>1</sup> Rodionov I.N. What kind of defense does Russia need? // Independent Military Review. 1996. No. 22.

It is appropriate to draw attention to the fact that the theoretical constructs that arise as a result of discussions about the possibility or necessity of an economic and military constitution proceed from the recognition that these spheres of society's life are of an existential nature, and therefore they require fundamental political and legal regulation. After all, we are talking about the viability and the very possibility of the existence of the people, on whom the entire burden of expenses and sacrifices falls.

The examples of constitutional “fragmentation” given above rather testify to the importance and priority of solving specific crucial issues of the structure of society, which become relevant under certain conditions, especially in extreme situations. Therefore, in the constitutions of many states, considerable attention is paid to issues of the structure of economic life and military force. It happens that other provisions are also updated in the document. In this regard, the desire of researchers to isolate the core part, the key provisions, when analyzing constitutions is understandable.

### **Constitution of the political order**

As legal scholars rightly define, the constitution is the fundamental law of the state, expressing the will and interests of the people as a whole or of individual social strata (groups) of society and securing the most important principles of the social structure and state organization of the country for the realization of their interests<sup>2</sup>. The purpose of the constitution — as the main political and legal document determining the life of the country — is revealed in its functions, which usually include constituent, organizational, foreign, ideological and legal policies.

A constitution's purpose is most obviously demonstrated when a new political entity arises on the global scene and declares itself publicly. Therefore, the constitution of a state that emerged, for example, as a result of a social revolution, records and declares a new status quo. It reflects the established political and legal order that corresponds to the interests and ideas about the structure of society and the future of the country of the group that came to power, having won a victory in the struggle over its opponents. The adoption of a constitution under these conditions represents the legitimization and legalization of the new power, the creation and proclamation of the order and rules on the basis of which new relations will be built in the country and the future will be created. As the Indian political scientist P. Sharan emphasized in this regard, “the institutionalization of political power is carried out mainly through constitutions, which are more than just documents. In fact, these are complex examples of institutions, laws and practices that regulate and organize the political system” [Sharan 1992].

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<sup>2</sup> Avakian, S.A. (2000). *The Constitution of Russia: Nature, evolution, modernity*. Sashko. Retrieved from <https://constitution.garant.ru/science-work/modern/1776651/chapter/89300effb84a59912210b23abe10a68f/>

The role of a constitution is not limited to the establishment of a new government. As history shows, it sometimes becomes an object of political struggle. It should be noted that the periodically intensifying struggle of various groups to change certain provisions of the current constitution in the country or to adopt a new one testifies to the political significance of this document. This circumstance should explain, for example, the emergence of constitutional projects in post-Soviet Russia. They are prepared by political forces professing various ideologies and publicly presenting their own vision of the document as a whole or of its individual provisions [The Constitution and Doctrines... 2009; Krasnov 2012; Sulakshin 2016]. Similarly, changes in the country's sociopolitical structure are justified and advocated in light of future projections. Indeed, measures about the need for a new constitution were proposed up until 2020. Representatives of the current government typically plead for the immutability of the entire document or the inviolability of important parts of the constitution in the name of the country's sustainable and stable growth [Medvedev 2018].

Therefore, even taking into account the unconditional recognition of the constitution as a political document in general, it is possible to identify more clearly expressed key provisions in it, forming its core and reflecting the essence and foundations of power relations. Such provisions, subject to confirmation in connection with the proclamation of the essence of the new power status quo that has arisen, include national values, the status of the individual, the distribution and limitation of powers, the understanding of violence in politics, property relations, etc. In this regard, the German political philosopher and lawyer Carl Schmitt rightly drew attention to the fact (The Doctrine of the Constitution, 1928) that the constitution of any legal state, along with the presentation of specific methods of organizing and structuring power, always contains a more general part, "containing the principles of political form" [Schmitt 2017]. Moreover, it is not at all necessary for the relevant provisions of the document to be singled out in a separate section or chapter.

In light of the necessity to focus on political issues, the practice of establishing so-called political constitutions has gained traction in a number of countries. This strategy is used, especially in a number of Latin American countries (Spanish: *constitución* — arrangement, *constitución política* — political arrangement). For example, the main political and legal act of modern Bolivia is called "*Constitución política del estado*" ("Political structure of the state")<sup>3</sup>. Political constitutions are in effect in Colombia<sup>4</sup>, Costa Rica<sup>5</sup>, Mexico<sup>6</sup>, and Peru<sup>7</sup>.

<sup>3</sup> Bamco Central de Bolivia. Retrieved from [https://www.bcb.gob.bo/webdocs/NUEVA\\_CONSTITUCION\\_POLITICA\\_DEL\\_ESTADO.pdf](https://www.bcb.gob.bo/webdocs/NUEVA_CONSTITUCION_POLITICA_DEL_ESTADO.pdf)

<sup>4</sup> Constitucion Política de Colombia. Retrieved from <https://www.corteconstitucional.gov.co/inicio/Constitucion%20politica%20de%20Colombia%20-%202015.pdf>

<sup>5</sup> The introduction to the Constitution of Costa Rica states that the document is a political constitution: 17808\_2. pdf (corteidh. or. cr)

<sup>6</sup> Constitución Política de los Estados Unidos Mexicanos (www.gob.mx)

<sup>7</sup> Constitucion Política Del Peru (oas.org)



### **Identity and genetic connection with the past**

The constitution is a manifesto of the identity of the nation, especially if it proclaims a new political institution of the country. At the same time, it is quite possible to see that almost any state constitution contains pompous formulations, uses an elevated style, slogans and appeals designed to demonstrate high ideals to the public in the country and beyond, to generate sensual images, including showing the image of a bright future that the state is creating. That is, in a certain sense, almost all constitutions contain signs of romanticism.

Hence, it is wrong to perceive the constitution and its contents as an unconditional demonstration of the country's complete rejection of its past. Therefore, it is wrong to proceed from the obligatory mutual exclusion of the established political status quo on the one hand and the previous historical development of society on the other. Especially when it comes to such complex social spiritual phenomena as circumstances of an anthropological nature and/or the historical memory of the people.

To one degree or another, the constitution declares for the citizens themselves and for the outside world the historically formed way of life in a specific country, the traditions and customs of the people, their attitude to religion, and other cultural and value-based phenomena of power significance. It is characteristic that the thesis “he who does not work, neither shall eat”, which was implemented in the Soviet — officially atheistic — time and was enshrined in the constitutions of 1918 and 1936 and in the moral code of the builder of communism (1961), coincides with (i.e. is actually borrowed from) the biblical commandment contained in the Second Epistle of the Apostle Paul to the Thessalonians: “If anyone will not work, neither shall he eat” (2 Thessalonians 3:10). In general, the implementation of the Soviet project of world order to one degree or another presupposed an appeal to the accumulated experience of humanity in the struggle for social justice. It is characteristic that the philosopher Nikolai Berdyaev, explaining the nature of Soviet power in Russia, sought to discover its connection with Russian spirituality (“The Origins and Meaning of Russian Communism”).

Other examples can be given of how, even in the case of a radical proclamation of a break with the previous order, traces of the past are found in one form or another in the constitution, and the values and ideals that have developed among the people in the course of previous historical development are present and manifest. In this regard, Hegel, to whom the German constitution was presented as the organization of the body of the country (“Die Organisation dieses Körpers, welche die deutsche Staatsverfassung heißt. .”), emphasizing the presence of a genetic connection with the past, wrote sublimely: “The forms of this organism express justice and power, wisdom and courage of times long past, honor and blood, well-being and need of generations long since decayed, and the morals and relationships that disappeared with them” [Hegel 1893].

While agreeing with the assessment of the German philosopher, who drew attention to the presence in constitutions of manifestations of the people's identity, their inherent preferences and stereotypes, and national myths, one cannot agree with M.V. Ilyin's

idea of the content, functionality, and reasons for the emergence of constitutions in our country, believing them to be primarily a personalized product of a specific state leader: “The real political meaning and value of these texts is small. The most useful thing in them is to sharpen the style and train the political imagination of the relevant figures” [Ilyin 1997].

The above assessment is fragmentary, to a certain extent dismissive and superficial. For example, in order to understand the state and social structure of Russia, reflected in the constitution, one cannot help but take into account, in particular, the synthetic understanding of one's country that has taken root in the people's consciousness over many centuries. For example, as academician D.S. Likhachev established, since ancient times, under the Russian land our people understood not only the Russian country, but also the Russian people and the Russian army [Likhachev 1987]. In this regard, the position of those Russian authors who consider historical continuity as a constitutional category seems more balanced [Aliyev, Mezhuiev, Rudakov 2021]. Through a comprehensive understanding of Russia's historical origins, this guarantees a rational break from the association with the political regime (which can be evaluated externally as “good” or “bad”) and, on the other hand, offers chances to preserve the nation's identity and consolidate it.

### **Constitutional ideals and political practice**

The circumstances of a sociopsychological and cultural-mental nature, and, of course, not only them, can explain the fact that in real life the provisions of the constitution are not always observed literally and strictly, implemented immediately and without fail. That is, the very fixation of values, norms and patterns of behavior in the highest legal act of the country is still not enough for their implementation. In fact, their presence in the constitution is a necessary, but not sufficient condition for their implementation and realization in practical life.

In reality, political values and ideals are enshrined in the constitution based on the principle of obligation, the designation of the desired state, which the country and society strive to achieve. Therefore, in the sociopolitical practice of any country without exception that has declared itself democratic, one can find signs, sometimes very visible, indicating a discrepancy between their characteristics and the generally accepted understanding of the said regime. In this regard, the German researcher Ralf Dahrendorf is right, having drawn attention to the fact that “the best institutions are never exactly the same as on paper. ... A real constitution must always take into account the history, culture and other unique conditions of certain societies. Therefore, it is difficult to transfer it from one country to another” [Dahrendorf 1992].

Understanding domestic and foreign experience, including mistakes, misconceptions and illusions, expectations reflected in constitutions, encourages



us to think about the need for targeting social development and defining the image of the future by setting out the relevant provisions. Thus, reflecting on the constitution of our country in connection with the 13th anniversary of its adoption, the Chairman of the Constitutional Court of the Russian Federation V.D. Zorkin sees its viability in the fact that it contains an image of the country's future and outlines its contours. Meanwhile, as V.D. Zorkin noted, “at present, with all the abundance of program documents and strategies for the development of various spheres of economic and social life, we clearly lack a clear, holistic, strategic in the true sense of the word, image of the future that could unite various strata of society and become the basis for social harmony. In order to develop a strategy for a particular area of state and social life, it is necessary to have a common image of the future and see how the development of relevant relations fits into this desired image.”<sup>8</sup>

It is possible to identify other manifestations of original ideals and ideas about the world order in constitutions. Thus, when studying these main legal acts of states, it is possible to discover signs of commitment of one or another political subject to certain traditions and methods of protecting the country, organizing its defense, and to get an idea of the unique perception of the purpose and structure of military force.

Understanding the difference in acceptability, content and limits of the use of violence, including armed violence, both within the country and abroad to solve political problems also contributes to highlighting the differences that have developed in the sociopsychological and cultural-mental attitudes of societies. In a number of cases, these features are quite specifically reflected in the provisions of the main legal acts of states. Thus, the attribution by the US Constitution to the powers of Congress (Section 8, Article 1) of the right to define and punish acts of piracy, issue certificates (i.e., permits) for privateering and reprisals quite convincingly testifies to the unique understanding of war, the means and methods of waging it that was initially developed by the American nation. The approach enshrined and legitimized in the US Constitution presupposes the readiness and ability to fight foreign policy opponents by involving even criminal structures, without establishing restrictions for them, without using its state military organization, the army. If in Russia such actions are still met with surprise or misunderstanding, within the framework of Anglo-Saxon political culture they are considered quite natural and used in everyday practice. In this and other similar examples one can be fully convinced of the validity of Hegel's assertion that “weapons are nothing other than the essence of the combatants themselves” [Hegel 1971].

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<sup>8</sup> Zorkin, V.D. (2023, December 11). Under the Sign of the Constitution. December 12 marks the 30th anniversary of the Basic Law of the country. *Rossiyskaya Gazeta*. (In Russian).

## Conclusion

The aforementioned circumstances demonstrate the legitimacy of considering the constitution as a significant and complex cognitive object of political science analysis. Correlating the state's primary political and legal document with a more comprehensive event-based, chronological, and other particular context than a straightforward and literal interpretation and perception of its provisions is perfectly acceptable.

However, acknowledging the fragmentary and discontinuous nature of the analysis that has occurred, the author does not claim to have conducted a thorough and comprehensive study of the topic, restricting himself in many ways to the phrasing of the question. Without a doubt, more investigation is required, and it appears that this is imminent.

Received / Поступила в редакцию: 06.08.2024

Revised / Доработана после рецензирования: 21.10.2024

Accepted / Принята к публикации: 30.10.2024

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