

## **The Influence of Puritanism on Constitutional Rights in Early America**

### **Abstract**

The aim of this article is to explain how John Calvin's (1509-1564) Protestant Reformation influenced Puritans who in turn impacted numerous constitutional documents in early America. A notable Puritan who migrated to New England in the late 1620s was John Winthrop (1588-1649), and he later became the first governor of Massachusetts Bay Colony and had the idea of "A City on a Hill". We also have William Bradford (1590-1657) and William Brewster (1567-1644) authors of the Mayflower Compact. Nathaniel Ward (1578-1652) of the 1641 Massachusetts Body of Liberties, Roger Williams (1603-1683) advocated for a "Wall of Separation" of the Church and State, and later became the first governor of Rhode Island. Some other Puritans in New England were: John Adams (1612-1653) the author of the 1780 Massachusetts Constitution; Elisha Williams (1694-1755), known for his pamphlet on the 1744 Essential Rights and Liberties of Protestants amongst others. The idea of these Puritans in early New England was to create a new community of religious freedom and individual rights. This struggle has over the years contributed immensely to the development of modern democracy of the United States of America.

### **Keywords**

Puritan, Calvinist, Protestants, Liberties, Constitutional documents

### **Introduction**

The sixteenth-seventeenth century marked an exodus of Puritans from England to the New England region of Massachusetts, New Hampshire, Vermont, Maine, Connecticut, and Rhode Island. Their aim was to create a society of religious freedom and the liberation of the human race.<sup>1</sup> The Puritans considered the newly found land as a community for a new type of religious liberty without interference by the civil authority, or democratic and political structure of the society.<sup>2</sup> The region also had its own liberty of conscience which means, equal right to the title, claim, liberty and prerogative to enter to enjoy every blessing of the covenant.<sup>3</sup> It explains, "The members of a civil state do retain their natural liberty or right of judging for themselves in matters of religion. Everyone is under an indispensable obligation to search the scripture for himself (which contains the whole of it) and to make the best use of it he can for his

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<sup>1</sup> John Witte Jr., Religion and the Constitutional Experiment: Essential Rights and Liberties. Westview Press, Colorado, 2000, Pp. 25

<sup>2</sup> Ibid Pp.25

<sup>3</sup> Ibid Pp. 27

own information in the will of God, the nature and duties of Christianity. And as every Christian is so bound; so he has an unalienable right to judge of the sense and meaning of it, and to follow his judgment wherever it leads him; even an equal right with any rulers be they civil or ecclesiastical”.<sup>4</sup> The notion was to encourage the Protestants to have freedom of conscience in respect to their religious practice before God who is the unalienable judge of all and given with equal rights to all people. The subject of religion was referred to as a natural right in which God instilled in us how to determine his will as a moral obligation from the Bible; “this right of private judgment in matters of religion, is this truth, that the sacred scriptures are the alone rule of faith and practice to every individual Christian”.<sup>5</sup> The idea was for every Christian in the region to express their religiosity based on the revelation received from the Bible which is free for all.

The New England Puritans promoted self-governance in their new community based on religious morals.<sup>6</sup> These morals encouraged unhindered freedom to worship God and interpret the Bible as individuals or a community. Therefore, the intention of the Puritans, “meant the laws of God as understood within the context of the community of saints”.<sup>7</sup> Therefore, the New England dwellers were to establish a new community enshrined in religious freedom and civil life. This was a type of freedom to express their religious beliefs without intimidation not a project of absolute theocracy, but to accept their biblical moral ethics as a premise for what will become the democratic rights of people. For Witte, the concept of freedom for the Puritans means a coexistence of religion and civil affairs of the community. He explained, “every religious body was likewise to be free from state control of their assembly and worship, state regulations of their property and polity, state incorporation of their society and clergy, state interference in their discipline and government. Every religious body was also to be free from state emoluments like tax exemptions, civil immunities, property donations, and other forms of state support for the church, that were readily countenanced by Puritan and other leaders”.<sup>8</sup> Thus, there was cooperation between the civil and religious life of the people with disrupting the political structure of the states. This process was sustained through various constitutional documents which were adopted by various colonies in New England. The project of freedom was a motivating factor for the Puritans who had fled persecutions in Europe or were descendants.

## I. The 1620 Mayflower Compact

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<sup>4</sup> Elisha Williams 1744 Essential Rights and Liberties of Protestants (Part II)

<sup>5</sup> Elisha Williams 1744 Essential Rights and Liberties of Protestants (Part II)

<sup>6</sup> Charles Villa-Vicencio, Christianity and Human Rights, Journal of Lutheran Ethics, Volume 4, Issue 3, 2014

<sup>7</sup> Ibid

<sup>8</sup> John Witte Jr., Essential Rights and Liberties of Religion in the American Constitutional Experiment, Notre Dame Law Review, 1996, Pp 382

The Mayflower Compact was drafted by Puritan minister William Bradford (1590-1657) and William Brewster (1567-1644) upon their arrival with other Protestants pilgrims to Cape Cod Massachusetts from England en route to Plymouth, Virginia. This was the first early set of written agreements in the region and remained relevant until Plymouth became a colony of Massachusetts in 1691. The intention of the draft was for the freedom to Godly worship and political structure in the community.

The aim of the Mayflower Compact is explained:

“Having undertaken, for the Glory of God, and advancements of the Christian faith and honor of our King and Country, a voyage to plant the first colony in the Northern parts of Virginia, do by these presents, solemnly and mutually in the Presence of God and one of another, covenant and combine ourselves together into a civil Body Politick, for our better Ordering and Preservation, and Furtherance of the ends aforesaid; And by Virtue hereof to hereof to enact, constitute, and frame, such just and equal Laws, Ordinances, Acts, Constitutions and Offices, from time to time, as shall be thought most meet and convenient for the General good of the Colony; unto which we promise all due submission and obedience”.<sup>9</sup> The document was drafted and signed to ensure the pilgrims submitted their rights under common laws, to protect and respect of the rights of all persons in their new community.

## II. 1630 Covenant of the First Church in Boston Massachusetts

John Winthrop was the first governor Massachusetts when the first church was built in the region and his idea was to adopt an independent covenant for governing the region. He explained, “that his gracious goodness, and fatherly care, towards us: and for further and more full declaration thereof, to the present and future ages, have undertaken (for the promoting of his glory and the churches, and the honour of our blessed Jesus, in our more full and free subjecting of ourselves and ours, under his gracious government, in the practice of, and obedience unto all his ordinances and orders, which he hath pleased to prescribe and impose upon us) a long and hazardous voyage from East to West, from Old England in Europe, to New England in America that we may walk before him, and serve him, without fear in holiness and righteousness, all the days of our lives”.<sup>10</sup> Winthrop was clear on his agenda for the early New Englanders who fled Europe to the new land; which was for the worship of God and expression of their religious freedom in accordance with the Bible. This was based on Calvin’s thought on the obedience of God and the civil government, in which he emphasized the obedience to God as superior to the laws of men.<sup>11</sup> (4.20.5)

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<sup>9</sup> The 1620 Mayflower Compact (The Avalon Project, Yale Law School)  
[http://avalon.law.yale.edu/17th\\_century/mayflower.asp](http://avalon.law.yale.edu/17th_century/mayflower.asp)

<sup>10</sup> The Watertown Covenant July 30, 1630 (Massachusetts)

<sup>11</sup> Calvin’s Institutes of the Christian Religion 4.20.5

### III. The 1639 Fundamental Orders of Connecticut

This document was written by Puritan leader Rev. Thomas Hooker (1586-1647) and was adopted in Windsor, Hartford and Wethersfield towns in Connecticut with the fundamental order focused on a written constitution for the region. The draft can be summarized as:

The role of public officers and magistrates; nominations of governors and magistrates; courts of elections and consideration of the Commonwealth of the people in making public laws; the rights of freemen, powers to vote; fairness and justice before magistrates; and taxation.<sup>12</sup>

### IV. Church Government and Church Covenant Discussed 1643

Rev. Richard Mather (1569-1669) drafted the Church Government and Church Covenant Discussed 1643 as an answer to the church elders in Massachusetts, New England. An important part of this was his response to the churches in New England on a model of church government, in which he incorporated many of the articles on the idea separation of church and state as a church minister.<sup>13</sup> Mather also advised on the separation of the power of magistrates in matters civil and clergy in ecclesiastical; the ordination of ministers, and the advisory function of individual congregations under the umbrella of synods.<sup>14</sup>

### V. The Massachusetts 1641 Body of Rights

Nathaniel Ward (1578-1652) settled in New England in 1634 and was also one of the early Puritan theologians in the region. He championed for rights in the newly found land and drafted the Body of Liberties in 1641, which served as an extract for the John Adams' 1780 Massachusetts Constitution. The draft of the Body of Liberties established the first sets of the constitutional body of rights in the colonies of America in the seventeenth century. Till today, the document has remained significant as the first sets of documents containing early human rights laws. The extract of the Bill of Rights contained the first basic or primary laws for public, private and procedural rights to be obtainable in the Massachusetts Bay Colony and was printed in books. Also, the 1641 Body of Liberties made it clear that the Massachusetts colonies valued the protection of rights and liberties as essential to peace and stability of the church, state, and society.<sup>15</sup>

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<sup>12</sup> The 1639 Fundamental Orders of Connecticut

<sup>13</sup> Richard Mather (1569-1669) Church Government and Church-Covenant Discussed. An Apology of the Churches in New-England for Church-Covenant (London,1643) is a defense of the practice of covenanting as the basis of organizing a church, 1643, Pp 35-36.

<sup>14</sup> Ibid, Pp 20-21

<sup>15</sup> The Massachusetts Body of Liberties 1641 (1)

The Body of Liberties was formulated upon very strong Calvinist convictions and document reflected the rights to life, liberty, property, family, and reputation as prescribed in the second table of the Decalogue. For instance, “You shall not murder, you shall not commit adultery, you shall not steal, you shall not give false testimony against your neighbor, you shall not covet your neighbor’s house” (Exodus 20: 13- 17). The Body of Liberty explained, “No man’s life shall be taken away, no man’s honor or good name shall be stained, no man’s person shall be arrested, restrained, banished, dismembered or anyways punished unjustly”.<sup>16</sup> The document contained some criminal procedural rights and protections for all persons whether inhabitants or foreigners. It encouraged all people to enjoy the same justice with the equal and impartial execution of the law. Grand juries were to be used to make preliminary findings in cases of capital crime (idolatry, witchcraft, homosexuality, adultery, kidnapping, treason or perjury leading to wrongful execution).<sup>17</sup> The accused, in cases of capital crime, had the right of hearing before an impartial judge and the right to a speedy trial by the Magistrates.<sup>18</sup> The Body of Liberties had special laws for liberties and protection for women, children, and servants.<sup>19</sup> It formally legalized the traditional common law against tyrannical rights of the paterfamilias. The law empowered each parent to bring about legal procedures for settling disputes within the home.<sup>20</sup>

Furthermore, all freemen (either male or female) eligible to vote were allowed to vote in political elections, to stand for political office, and to participate in a popular referendum or fundamental issues of law and morality.<sup>21</sup> The Body of Liberties provided a right to the sanctuary for anyone professing the true Christian religion and who fled to the colony to escape tyranny, oppression, war, famine or shipwreck. It also included a general prohibition against slavery where lawful captives were taken captives in just wars.<sup>22</sup> The concluding part of the Body of Liberties advised the colonies to adhere to the law of God in their administrating of the state laws. The church was also advised to exercise full liberty in all ordinances of God according to the Holy Bible and liberty in elections and ordination of church pastors and ministers.<sup>23</sup> The 1641 Body of

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<sup>16</sup> The Massachusetts Body of Liberties 1641 (1)

Also see; John Witte. Jr., John (2007) *The Reformation of Rights: Law, Religion & Human Rights in Early Modern Calvinism*. Cambridge Press. pp 283-288

You shall not murder, you shall not commit adultery, you shall not steal, you shall not give false testimony against your neighbor, you shall not covet your neighbor’s house” (Exodus 20: 13- 17).

<sup>17</sup> The Massachusetts Body of Liberties 1641 (94)

<sup>18</sup> Ibid (18-41)

<sup>19</sup> The Body of Liberties of Massachusetts 1641 (1,79,80)

<sup>20</sup> Ibid

<sup>21</sup> Ibid (62-70)

<sup>22</sup> The Body of Liberties of Massachusetts 1641 (91)

<sup>23</sup> Ibid (95)

Liberties was duplicated in parts of New England colonies with the intention to be enacted as a constitutional Bill of Rights in the Massachusetts Bay Colony. Moreover, it influenced the recognition of New England as a society on the theological construction of rights and liberties based on the covenant of the Holy Bible.

Some list of covenants rights approved in the 1641 Massachusetts Bill of Rights includes individual or specific rights such as the procedural due process, right to bail, right to a jury during trial, right against cruel and unusual punishment, and right against double jeopardy.<sup>24</sup> Also, there were laws protecting rights of women and men, rights of servants, rights of children, liberties, the concern of the freeman, liberties of foreigners or strangers, liberties of the brute creature, capital laws (capital punishments), the declaration of Jesus Christ concerning the Churches amongst others.<sup>25</sup>

#### VI. **Roger Williams (1603-1683) “Wall of Separation” of the Church and State**

Williams was a Puritan minister and founder of Rhodes Island in New England in 1636. He advocated for the separation of the Church and the State for the civil authority. His idea was for the church to regulate religious affairs, while the state would focus on civil affairs of the people.

He explained:

“When they have opened a gap in the hedge or wall of Separation between the Garden of the Church and the Wilderness of the world,” he warned, “God hath ever broke down the wall itself, removed the Candlestick, &c. and made his Garden a Wildernesses on this day. And that therefore if He will ever please to restore His garden and paradise again, it must of necessity be walled in peculiarly unto Himself from the world, and that all that shall be saved out of the world are to be transplanted out of the wilderness of the world and added unto His Church or garden”.<sup>26</sup> The wall separating the State from the Church is not a physical wall, but that which keeps the two apart for them to be accountable to God. Therefore, the church should focus on the laws of God which restore us to his garden, completely free from the distraction of the world, while the state focus on the civil aspects of the community. The church and state can still relate are together in the community, but their functions must be independent on matters of religious freedom and civil liberty of the people.

Williams further explained, “From Moses and from Christ, the two great prophets and messengers from the living God, the one type or figure of the later. Moses gave positive rules, both spiritual and civil; yet also he gave some not positive but permissive, for the

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<sup>24</sup> Ibid

<sup>25</sup> The Body of Liberties of Massachusetts 1641 (1, 18, 45, 91,95)

<sup>26</sup> Roger Williams, *The Bloody Tenent, of Persecution, for Cause of Conscience Discussed* (1644); Mr. Cotton's Letter examined and answered, University of Toronto Library, 1848, Pp 435

common good. So, the Lord expoundeth it”.<sup>27</sup> This can be likened to the importance of the Ten Commandments in the Old Testament given for the moral and ceremonial life of the people, while Moses acted as their civil magistrate. Hence, the law was not abolished but became fulfilled in Christ; “Mathew 5: 17, Do not think that I have come to abolish the Law or the Prophets; I have not come to abolish them but to fulfill them”. The moral law is still very relevant because it helps our conscience to be obedient to God and subject to rulers. Regardless Williams banishment from Massachusetts, his influence as the founder of Rhodes Island was for a community of religious and civil freedom.

#### VII. **The General Laws and Liberties Concerning the Inhabitants of Massachusetts: The Code of Massachusetts 1648**

The second edition of the 1641 Body of Liberties was improved upon to promote customary, civil, and religious rights in New England. The Massachusetts government had amended the earlier 1641 Body of Liberties to enable the establishment of the 1648 edition. The new constitution focused on the laws of God and equality of all; which is void of any form of discrimination based on the salvation of Christ, to redeem humanity from all evil.<sup>28</sup> The draft acted as a body of laws established to protect both individual and collective rights of the citizens of Massachusetts. The list of laws protecting the rights and freedom of the persons in the 1648 constitution draft includes:

Abilities and Actions: This is for cases or matters of debts which must be lawfully settled under the authority of the courts.

Age: The colony approved 21 years of age as a requirement for electoral voting of during elections and for punishment or imprisonment for people who commit any form of offense. It means children and people less than 21 years cannot be imprisoned alongside special cases such as the mentally ill.<sup>29</sup>

Ana-Baptists: The Ana-Baptist Christians were forbidden from heretical preaching and opposing the baptism of infants or else they face banishment by the law.

Arrests: Any form of unlawful arrest is forbidden and if anybody is arrested such as person must be tried by the court and has the rights to appeal to a superior court if unpleased.<sup>30</sup>

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<sup>27</sup> Ibid, Pp 138

<sup>28</sup> The Laws and Liberties of Massachusetts 1648, Cambridge, Harvard University Press, The Henry E. Huntington Library, 1929

<sup>29</sup> Ibid

<sup>30</sup> Ibid

Capital Laws: The law upholds the worship of God and any person found in the worship of a strange god or witchcraft is sentenced to death (Holy Bible, Leviticus 20:27).<sup>31</sup> Also, the law forbids blasphemy, bestiality, murder, cruelty, etc, and gave special consideration to children, strangers, Catholics Jesuits, the church, fornication, Magistrates, Bond-slavery, etc.<sup>32</sup> The 1648 Law and Liberty of Massachusetts was drafted to express laws with laid down principles of Bible ordinance based on Protestant ideology of freedom.

### VIII. The 1780 Massachusetts Constitution

The 1780 Massachusetts Constitution was drafted by Puritan John Adams' (1735 - 1826) and he later became the second president of the United States of America from 1797 - 1801. The Massachusetts Constitution aimed for a representative democracy where the rights of each citizen of America are protected. The preamble of this document focused on the term "natural right" and "the blessings of life" which should be enjoyed by all and the civil government must use its legitimacy to protect these from being violated. It states, "The end of the institution, maintenance, and administration of government is to secure the existence of the body-politic, to protect it, and to furnish the individuals who compose it with the power of enjoying, in safety and tranquillity, their natural rights and the blessings of life; and whenever these great objects are not obtained the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness".<sup>33</sup> It is the duty of the government to preserve the life of the people and also enable them to enjoy the institution of government and if a government fails in this, the people can change such government. The entire preamble makes it clear that the government is a social compact in which people submit their rights to a government under certain law for their rights to be protected. It is then the duty of the people to form a constitution which is the basis in which a government is formed.<sup>34</sup>

The Articles I and IV of Adams' 1780 Massachusetts Constitution used the term "Unalienable Rights" just as in the 1776 Declaration of Independence. This term means rights such as life and liberty cannot be forfeited, withdrawn or violated against.<sup>35</sup> Adams' usage as a secular democratic language unlike the Inviolable, previously used by Calvin and Beza in explaining rights or law which should not be broken or infringed

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<sup>31</sup> The Laws and Liberties of Massachusetts 1648, Cambridge, Harvard University Press, The Henry E. Huntington Library, 1929

Also, Leviticus 20:27, A man or a woman who is a medium, or who has familiar spirits, shall surely be put to death; they shall stone them with stones. Their blood shall be upon them.

<sup>32</sup> The Laws and Liberties of Massachusetts 1648, Cambridge, Harvard University Press, edition in the Henry E. Huntington Library, 1929

<sup>33</sup> The Constitution of Massachusetts 1780, Preamble.

<sup>34</sup> The Constitution of Massachusetts 1780, Preamble.

<sup>35</sup> Vocabulary.com, <https://www.vocabulary.com/dictionary/unalienable>



because both the law and rights of men were given by God. For instance, Article I in the first parts of the document of the made it clear, that the inhabitants of Massachusetts are entitled to Unalienable rights. This explained, “All men are born free and equal and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness”.<sup>36</sup> The use of unalienable rights in this Constitution was to affirm that all humans are born free and are to enjoy all unhindered liberties such as the rights to life, property, and personal wellbeing. This freedom does not permit anybody to murder or kill another because nobody has the rights to deprive another of life, which is also in the Decalogue “Thou shall not kill” (Exodus 20:13). The right to life, in this case, was given freely given by God and it is also the duty of the government in this regard to protect life and all that concerns the freedom of the people. The idea of unalienable is further repeated in Article VII of the same first part emphasized on the role of the government to protect the unalienable rights of the people as a basic right because the government itself is formed by the people.<sup>37</sup> Hence, the primary duty of the government is for the people’s welfare and protection and not for the few privileged.

Also, the 1780 Massachusetts Constitution gave considerations for religious rights such as the rights to religious expression and public religion, freedom of religious worship, rights of Protestant clergies to teach the Bible, freedom for religious associations, and other instructions for religious morality which are contained in Articles II and III.<sup>38</sup> The constitution contained seven chapters and many articles which focused on all forms of rights of the people to property, constitutional representation, a fair hearing before magistrates, public officers, children, education and industries, freedom to speak, etc. An important part of this document is the emphasis on “God” which was mentioned eight times. The first three usages in Articles II and III in the first part advised on unhindered the worship of God as the Supreme Being, or for public instruction, conscience or morality, etc.<sup>39</sup> The other parts in chapter V refers to the honor of God the Christian religion has brought to the United States, and the blessings of God revealed in education<sup>40</sup>The final part was in the point of oat for public offices to enable them to full their obligations of the states and defend the rights of the people with the help of God: “So help me God”.<sup>41</sup>

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<sup>36</sup> 1780 Massachusetts Constitution (Part I, Article I)

<sup>37</sup> Massachusetts Constitution 1780 (Part I, Article I)

Also see, (Part I, Articles II, III)

<sup>39</sup> Massachusetts Constitution 1780 (Part I, Articles II, III)

<sup>40</sup> Massachusetts Constitution 1780 (Part V, Section I)

<sup>41</sup> Massachusetts Constitution 1780 (Part V, Article I)

For Witte, the 1780 Massachusetts Constitution became the foundation of modern human rights, religious freedom, and liberation of New England and the entire confederated states that formed the United States of America.<sup>42</sup> This constitution expressed equality in the freedom of religions for both private and public worship in Article II. It explains, “it is the right as well as the duty of all men in society to publicly and at stated seasons worship the Supreme Being, the great creator, and preserver of the universe”.<sup>43</sup> While Article III; provided the reasoning of, “public worship of God and instructions in piety, religion, and morality to promote their happiness and secure the good order and preservation of their government”.<sup>44</sup> The constitution supported all people involved in political leadership in maintaining the task of rigorous moral and religious standards, which they confirmed in their oaths of office. It also appealed for moral qualities as essential ingredients for education within the state. It explains, “the encouragement of arts and sciences, and all good literature tends to the honor of God, which is the advantage of the Christian religion with a great benefit and honor to the United States of America”.<sup>45</sup>

Furthermore, Witte believed, the 1780 Massachusetts Constitution struck a balance between the establishment of one public religion and plurality of all private religions.<sup>46</sup> However, the constitution brought about the harmony of religion that included the liberty of private religion and the establishment of public religion.<sup>47</sup> For Adams, public religion should be moderate and equitable by its provisions and by the juxtaposed guarantees of private freedom for all.<sup>48</sup> Also, this idea of John Adams reflected in his 1774 Dissertation on the Canon and Feudal Law which was a bitter invective (highly critical), on the civil and ecclesiastical tyrannical oppression by the Catholic Church before the Protestant Reformation in England.<sup>49</sup>

Witte categorized the 1780 Constitution into various establishments mainly:

**Ceremonially Establishment:** This was included in the preamble of the constitution as the covenant or compact between people and God. It allowed people to be governed by the common good, for the goodness of Massachusetts as encouraged in the Holy Bible.

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<sup>42</sup>John Witte Jr., *Law Religion and Human Rights in Early Calvinism, Puritan New England*, Journal of Church & State Emory University, 2007 pp 218, 278

<sup>43</sup> Bill of Rights, Massachusetts 1780 (Part 1, Document 6)

<sup>44</sup> Witte. Jr., John, *Publick Religion: Adams v Jefferson*, 2004 (Retrieved 25 August, 2017) (<http://www.firstthings.com/article/2004/03/publick-religion-adams-v-jefferson>)

<sup>45</sup> Ibid

<sup>46</sup> Witte. Jr., John, ‘A Most Mild & Equitable Establishment of Religion’: John Adams and the Massachusetts Experiments. *Journal of Church & State*, 1999. Pp 218, Pp 139-241

<sup>47</sup> Ibid, Pp 213-252).

<sup>48</sup> Huston, H. James, *Religion and the New Republic: Faith in the Founding of America*, Lanham and Oxford: Rowan and Littlefield publishers, 2000, Pp19

<sup>49</sup> John Adams, *A Dissertation on the Canon and Feudal Law 1765*

The aim was to create and confirm the identity of the people and citizens of Massachusetts with their; common morals and mores (devotion to the common good) and their cardinal institutions (their rights and frame of government). The ethics of the law was to encourage the people on gratitude, peacefulness, integrity to void fraud, non-violence, prayerful and peaceful devotion of religious freedom.<sup>50</sup>

**Moral Establishment:** The moral aspect of the public religious establishment included the introduction of covenant and oath-swearing ceremonies which were written in the 1780 constitution. For instance, Article XVIII of the constitution was in adherence to the idea of moral duties as an integral of the character of public offices and public officials. Also, Article VII explains, “Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people. Also, Adams referred to these same moral qualities as essential ingredients, of education within the state mentioned in the framework of government in Article V. It says, “wisdom and knowledge, as well as virtue, generally diffused among the body of the people and citizens, is required for the protection and preservation of human rights and liberties of the entire state”.<sup>51</sup>

**Institutional Establishment:** This part specifies that religious institutions should be supported by taxes. Religious practices by law were required by persons to attend a preferred form of public worship, to compel them to pay tithes in support of ministers and teachers. Also, it compelled religious denominations to incorporate themselves into the state-registered religious societies and, to require them to be faithful in their attendance in worship lest their tithes are diverted.<sup>52</sup> This part of the establishment was perceived by many as a shift, from the gentle patronage line to odious persecution leading to much criticism in Article III. However, it never forced Christian worship or sacraments upon non-believers and people of other religions such as Muslims and Jews. Nevertheless, Adams’ 1780 draft has been continuously improved since its inception. The constitution has helped in shaping moral values into the democratic contents into the 1787 Bill of Rights of the United States of America.<sup>53</sup>

## **IX. The 1658 Puritan Laws and Liberties**

The enactment of the law reaffirmed the desire of the Puritans in New England to imbibe laws which were inspired by the Bible. The document was on self-government for the religious and civil institution in the region as explained at the beginning of the document. It explains, “that God gave them the right Judgments and true laws; for God

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<sup>50</sup> John Witte Jr., ‘A Most Mild & Equitable Establishment of Religion’: John Adams and The Massachusetts Experiment, *Journal of Church & State*, 1999, Pp 218, Pp 139-241

See also, *The 1780 Massachusetts Constitution*

<sup>51</sup> *Ibid*

<sup>52</sup> *Ibid*, Pp 218, Pp 139-241

<sup>53</sup> *Ibid*, Pp 218, Pp 139-241

being the God of order and not of confusion hath Commanded in his word; and put man into a capacity in some measure to observe and be guided by good and wholesome laws which are so fare good and wholesome; as by how much they are derived from and agreeable to; the Ancient platform of Gods law; for although sundry particulars in the Judicial law which was of old enjoined to the Jews”.<sup>54</sup> This idea was also similar to Calvin’s idea in the Institutes on God as the originator of the law; such as the Ten Commandment and its emphasis on the types and uses of the law.<sup>55</sup> Such similarities include instructions to worship God, the prohibition on idolatry as ceremonial law; and love your neighbor as yourself was moral law; while Moses performed judicial duties. The social order and civil administration also exist to avoid the breakdown of law and to ensure the protection of people’s rights in the community. To this, the document encouraged Christians to obey God, church clergies, and the government in their obligations in the community.<sup>56</sup>

X. **James Madison’s Federalist No. 51 (1788) & John Calvin’s “The Many Functions of God’s Law 1558”**

James Madison (1751-1836) was not a Puritan, but his article on The Federalist No.51 of 1788 reflected elements of John Calvin’s 1558 Many Functions of the Law. Madison drafted the 1787 Constitution and the Bill of Rights of the United States of America, and he is referred by many authors as the father of the United States Constitution. Madison was influenced by Calvin who was exposed to Apostle Paul concept on the law in Romans 3:19-20, “Now we know that whatever the law says, it says to those who are under the law so that every mouth may be silenced and the whole world held accountable to God. Therefore no one will be declared righteous in God’s sight by the works of the law; rather, through the law, we become conscious of our sin”. Calvin explained therefore as; “Were we like angels, blameless and freely able to exercise perfect self-control, we would not need rules or regulations. Why, then, do we have so many laws and statutes? Because of man’s wickedness, for he is constantly overflowing with evil; this is why a remedy is required. If we were all healthy, we would have no need for medicine, but man’s intemperance means that there will always be diseases, and, therefore, remedies must be sought out. The existence of so many civil laws bears testimony to the fact that we are totally evil and depraved and, therefore, need to be restrained and harnessed”.<sup>57</sup> This means the law was given to us to redeem us from evil actions, thereby creating an order for all men in the community. Thus, the obedience to the law such as the Ten Commandments brings us back to God and restores us to a state of perfection just like the angels of God. Therefore, many laws and statues exist to

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<sup>54</sup> Puritan Laws and Liberties 1658

<sup>55</sup> The Calvin Institutes of the Christian Religion (Second edition 2.12.5), (Fourth edition 4.20.15)

<sup>56</sup> The Watertown Covenant July 30, 1630 (Massachusetts)

<sup>57</sup> The Many Functions of God’s Law 1558, In the volume Sermons on Galatians, Edinburgh, 1997

regulate our religious freedom and civil liberties in the community. Although, St. Paul's focus on Romans 3:19-20 is likened to how the law redeems people from sinfulness and was more spiritually closer to God, but Calvin's usage is in respect of the functions of the laws for the regulation of the rights of people in the community.

Madison explained his thought in the Federalist No. 51 of 1788 similar to Calvin as:

“If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed, and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions”.<sup>58</sup>

Madison's idea was so clear on the relevance of a civil government which is formed by the people and their rights guaranteed by the government. Madison's article was written after the 1787 United States Federal Constitutional Convention which established democratic laws for the country. The Federalist article focused on the representation of people in government with the acknowledgment of their religious freedom, rights to property, equality, and non-discrimination of persons, etc.<sup>59</sup>

### **Summary**

The agenda of Calvinist Puritans in New England was to establish a new community of religious freedom and human liberty will be expressed without fear and hindrance. These earlier Puritan dwellers in New England interacted with their counterparts in Virginia, Pennsylvania and other colonies of early America for the 1776 Declaration of Independence of the United States of America. The impact of Calvinism was not just about religious freedom, but on democratic rights in early America constitutions such as the 1647 Laws and Liberties of Massachusetts, the 1658 Puritan Laws, and Liberties, 1780 Massachusetts Constitution, etc. The Puritans in early America didn't completely shift their focus from the moral aspects of the society but also craved for a society where people can access to constitutional documents consisting of all forms of rights such as commerce, property, gender equality, and women emancipation, etc. For instance, Max Weber's thesis of 1905 “The Protestant Ethic and the Spirit of Capitalism” acknowledged Protestant-Puritan idea as haven spearheaded the course of modern capitalism. It affirmed, “taken together, these represent a mixture of necessary and precipitating conditions which, in conjunction with the moral energy of the Puritans,

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<sup>58</sup> James Madison, The Federalist No. 51 (1788)

<sup>59</sup> Ibid

brought about the rise of modern western capitalism. But if Puritanism provided that vital spark igniting the sequence of change creating industrial capitalism, the latter order, once established, eradicates the specifically religious elements in the ethic which helped to produce it".<sup>60</sup> The rights to commerce or property mean people encourage wealth creation and enabled the government to generate revenue from taxes used for the welfare of the state.

In general, according to Witte, the era of Calvinist Reformation on religious rights implanted a foundation for the expression of freedom and respect of the law for centuries in Europe. He explained, "The Calvinist Reformation congregationalized the faith by introducing the notion of rule by a democratically elected consistory of pastors, elders, and deacons. In John Calvin's days, the Geneva consistory was still appointed and held broad personal and subject matter jurisdiction over all members of the city. By the seventeenth century, however, most Calvinist communities in Europe and North America reduced the consistory to an elected, representative system of government within each church. These consistories featured separation of the offices of preaching, discipline, and charity, as well as a fluid, dialogical form of religious polity and policing centered around collective worship and the congregational meeting. The Protestant Reformation also broke the primacy of corporate Christianity and placed a new emphasis on the role of the individual believer in the economy of salvation. The Protestant Reformation did not invent the individual, as too many exuberant commentators still maintain. Rather, sixteenth-century Protestant reformers, more than their Catholic contemporaries, gave new emphasis to the (religious) rights and liberties of individuals at both religious law and civil law".<sup>61</sup> Calvin's Protestant approach focused on religious rights relating to moral law and also aspects of positive law in recognition to the civil government. Calvinism portrayed the doctrine of God as the originator of the law and humans are governed by Godly ordinances such as the Ten Commandments which was given for man's moral consciences. This did not dispute the role of magistrates and rulers who were also considered as given their rights as rulers over the subjects by God. This means, religious beliefs are part of what makes up communal values and structure, upon which the community is governed by sets of formulated creeds. To deny the people of their religious the orientation means to restrict their ability to express their moral conscience and thoughts. The Calvinist-Puritan movement in New England influenced the nation of America in its democratic agenda on individual rights, religious freedom and other forms of associations which were proven to resilient in the struggle for equality in their new community.

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<sup>60</sup> Max Weber, *The Protestant Ethic and the Spirit of Capitalism* 1905, translated to English by Talcott Parsons 1930. Library of Congress Cataloging in Publication Data, (Introduction) Pp XVII

<sup>61</sup> John Witte Jr., *A Dickensian Era of Religious Rights, The Reformation of Rights: Law, Religion and Human Rights in Early Modern Calvinism*, Cambridge University Press, 2001, Pp 734,



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