

The Constitution of the People

Submitted by Matthew Scott Salt to the University of Exeter

as a thesis for the degree of

Doctor of Philosophy in English

in September 2010

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Abstract

Once the exclusive expressions of the few, modern constitutions have long been a world prose genre. In Western intellectual, political and imperialist discourse the global present of constitutions represents a proliferation of superior practices and universal values born uniquely of European thought and culture. This thesis proposes that constitutions derive their universal truths and their powers not from this (a)historical centre, but in contingent relation to the beliefs, experiences, exigencies and aspirations of the cultures they address and form (as the People). Constitutions function in this respect as rhetorical argumentation. As culturally informed, constitutional history embodies a dynamic, contested and uneven space of relationships not explicated by a linear evolution. Thus, I propose an interwoven and unpredictably circulating world space of knowledge continually shifting its shape throughout the modern era. These propositions are explored through four constitutional texts. Chapter 2 is a genealogy of “the People” in the US Constitution(s), concentrating on the constitutional sanction of slavery, the abolition amendments and civil rights court cases. Chapter 3 elucidates the interrelationship between the declaration of enlightened autonomy in the 1827 Cherokee Constitution and the consequent re-writing of US constitutional law and history required to disguise avarice beneath moral superiority. Chapter 4 considers the constitutions of Vietnam and the creation of a national People as inseparable from struggles against external forces. Chapter 5, on the 2004 Interim Constitution of Iraq, examines the Western creation of an abstract “Iraqi People,” kept distinct from the divisions and aspirations of actual peoples. As read texts and as cultural objects constitutions *exist* in multitudinous, simultaneous, social, legal, political and intellectual realms of interpretation and perceived value. The interdisciplinary approach taken here is therefore essential and demanded. I conclude that the struggle of human communities has brought progress

in world constitutionalism; power reluctantly accommodates the expectations of those that sustain it.

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