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From Athens to America: The Checks and Balances of a Democracy

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Abstract:

The United States government has been compared to the 4th century BCE democracy of Athens for centuries and is often viewed as a copy of that ancient city-state. While this appears true superficially, it is important to determine whether the two systems of government are actually alike. When the United States Constitution (1788 C.E.) and Aristotle's *Constitution of the Athenians* (~327 B.C.E.) are compared, one finds that while the structures and political bodies are similar in form, their function and behavior are very different. This is not just due to a difference of 2000 years, or that they had different technology, but because of fundamental variations in legislation and roles in government. In fact, based on the etymological meaning of the word "democracy", it can even be said that neither is a "true" democracy in the first place, due to either an exclusion of a majority of citizens (Athens) or the implementation of representatives rather than direct voting (United States). As clean as it would be to say that Athens and America are alike in their government, that statement is factually inaccurate.

Keywords: Democracy, Δῆμος (*dēmos*), Κράτος (*krātos*), Τριττύς (*trittys*), Νομοθέται (*Nomothētai*)

Echoes of Ancient Greece are found everywhere in American culture, and nowhere is their influence more prevalent than in politics. From the colonnades of United States political

buildings to the ideals of having “equal justice under law”¹, American politics gives off the appearance of the golden age of Greece, particularly Athens. Even in the public-school systems, children are taught that Athens was the first democracy, and the founders of the United States and writes of the US Constitution used those Athenian ideas to craft their own. There are many things not quite true about this teaching, starting with the fact that Athens was not the world’s first democracy. However, the cleanliness of this statement is alluring. Athens is (whether accurately or otherwise) often called the most educated, or wisest, or even the best Greek *polis*, essentially a city-state, and it makes sense that Americans would want their government modeled after this Ancient pillar of learning. In fact, many reputable organizations, including those such as “National Geographic”², report that both governments had a Constitution, and that even that document brings them closer together. It begs the question; how similar are these governments in reality? Is the United States Constitution a slightly modified copy of ancient Athens? Many would like to believe that this simplification is true. However, while the government of 4th century BCE Athens and that of the United States of America appear to have similar structures on the surface, their functionality is different in almost every way, especially in the process of creating new legislation.

The *Athenian Constitution* (*Ἀθηναίων πολιτεία*), also known as *The Constitution of the Athenians*, was written as one of many treatises on Greek city-states in preparation for Aristotle’s *Politics* – a work that holds importance even to modern times. The number of treatises is dependent on which ancient author one follows – Diogenes Laertius states a total of 158, while a Ptolemy work lists the figure of 171³. Though all of these constitutions bear Aristotle’s name, it

¹ Hughes, *United States Supreme Court Building*, West Pediment Inscription

² National Geographic Society, “Greek Influence on US Democracy”

³ Keaney, *The Composition of Aristotle's "Athenaion Politeia"*, 4

is believed that they were in actuality written by many of his students, with the possible exception of this one – the *Constitution of the Athenians*. Since Aristotle was living in Athens at the time, and since it was such an important piece of *Politics*, some scholars hypothesize that Aristotle wrote it himself, though this subject is under much debate⁴. Based on historical events mentioned within this work, the *Athenian Constitution* has been determined to have been compiled between 329 and 325 BCE⁵. The document is composed of 69 chapters, split into two main sections. The first 41 chapters are comprised of a detailed history of the city, from Ion and the mythical figure Theseus to Athens' 4th - 5th century democracy. The last 28 chapters are a summary of what that democracy entails, from the legislative process to even the detailed method of randomized selection that was employed to introduce new officials. All in all, the *Athenian Constitution* is a comprehensive overview of Athens' history and government at the time of its composition⁶.

The *United States Constitution* is likely more familiar than Aristotle's, as it is both still in existence and still is used in government proceedings. After victory in the American Revolutionary War and the (for all intents and purposes) failed Articles of Confederation, a new government constitution was drafted in the 1780s and ratified in 1788. While technically drafted by James Madison, the document was actually the work of dozens of delegates over several months. The process was long and fraught with confrontation and debate, as it attempted to satisfy thirteen states that had essentially operated independently for nearly a decade⁷. Unlike the Athenian version, which was more of a summary than an actual legal document, the American

⁴ Keaney, *The Composition of Aristotle's "Athenaion Politeia"*, 6

⁵ Keaney, *The Composition of Aristotle's "Athenaion Politeia"*, 10

⁶ Aristotle, "The Athenian Constitution"

⁷ "The Constitution", section 4

version is used as a series of laws that can be amended and creates the backbone of the United States legal system⁸.

In order to do a comparison of democracies, the origin of the word “democracy” must first be analyzed. Although the idea of shared responsibility for leadership can be traced back to early hunter-gatherer tribes, the use of the word “democracy” is most prevalently found in writings by Athenians – mainly Aristotle and Plato. However, it’s first usage may be by Herodotus, a Greek historian (though not an Athenian) who wrote his *Histories* around 425 BC.

⁹As previously discussed, Aristotle did not write *The Athenian Constitution* until almost a century later, though it is in Aristotle’s writings that the word “democracy” is perhaps most well-known. The literal origin of the concept comes from two early Greek words – δῆμος (demos), meaning “the people” (discussed in next paragraph) and κράτος (kratos), meaning “power” or “strength”. So, from these two, democracy can be defined as a system where the “power” lies with “the people”.

However, “the people” is an ambiguous term, and needs context to give a better idea of what the Greeks meant when they used the word δημοκρατία in their explanations of the Athenian government. At that time, there were approximately three main denotations of the word δῆμος (demos), all of which can be found in *The Athenian Constitution*. First, it referred to a group of people under the same leadership. This can be seen in Chapter 23 in the phrase “ἦσαν δὲ προστάται τοῦ δήμου κατὰ τούτους τοὺς καιροὺς...”¹⁰ which roughly translates to “the leaders **of the people** in these times were...” and is followed by two names. In a second, similar definition, δῆμος can mean “the common people”, where they are distinct from a more wealthy

⁸ *United States Constitution*

⁹ Herodotus, *Histories III*, 80-83

¹⁰ Aristotle, *Athenaion Politeia*, 23

or powerful group of citizens. An example is found in Chapter 5: “καὶ τῶν πολλῶν δουλευόντων τοῖς ὀλίγοις, ἀντέστη τοῖς γνωρίμοις ὁ δῆμος”¹¹ meaning “and the many being enslaved to the few, **the people** were set against the well-known”. Here, while all the Greeks are in the same group, δῆμος only refers to the regular citizens. Lastly, δῆμος (demos) is found in reference to what is known called a “deme”. Demes had first been established in the late 6th century by a political figure named Cleisthenes¹², and they were a breakdown of all Athenians into at least 150 groups of citizens¹³, essentially acting as small administrative districts. The *Constitution of the Athenians* makes reference to this fact when it describes the process of selecting jurors. Aristotle writes “ἐπιγεγραμμένον τὸ ὄνομα τὸ ἑαυτοῦ πατρώθεν καὶ τοῦ δήμου”¹⁴, which translates roughly to “The name of their father and of their *deme* (δήμου) were inscribed on [the jurors’ tickets]”. Here it is clear that the deme is a separate entity from an idea of a “common people” or even “Athenian people”, as it is an identifying characteristic about the juror themselves. Through these three separate meanings of the word δῆμος (demos), it is clear that the idea of democracy can be interpreted as a combination of the three. The power lies with the people – encapsulating all of Athens, the commoners, and even down to every district of the city – where each person is treated equally (with the exception of slaves, women, non-citizens, etc.).

The *Constitution of the Athenians* describes a convoluted system of nearly a dozen assemblies of citizens, countless magistracies, and dozens of rules for elections and eligibility for positions. However, in a comparison with the American system, it is easiest to break down the Athenian government into the same three branches, or categories – Legislative, Executive, and

¹¹ Aristotle, *Athenaion Politeia*, 5

¹² Aristotle, *Athenaion Politeia*, 21

¹³ Encyclopedia Britannica, *Deme*

¹⁴ Aristotle, *Athenaion Politeia*, 63

Judicial. One fact holds true for all positions, that the person must be a citizen. An eligible Athenian citizen was a man whose parents had both been citizens and was older than twenty years, since from the ages of eighteen to twenty they were trained for battle and in civil matters, before being inducted into official citizenship¹⁵. The citizens of Athens were split up into ten tribes, each of which consisted of three *trittyes* (“τριττύες”, singular *trittys*, “τριττύς”). A *trittys* was a group of people (consisting of a few demes) that were determined based on population and proximity – each *trittys* was designated as coast, city, or inland, and one from each geographic location was combined to make a tribe. It was by these tribes that citizens were elected and served in government proceedings¹⁶.

The largest and most complicated section of Athenian democracy (though consisting of the fewest groups) was primarily legislative, and was comprised of two bodies: the βούλη (the Boule) and the εκκλησία (the Ecclesia). The Ecclesia, often called the (Popular) Assembly, was open to any male citizen (while women could be citizens, they had no political rights), and needed as many as 6,000 members for some important votes. Members of the Ecclesia would gather to discuss and vote on decrees, treaties, and laws according to an agenda set by the Boule, and also worked to elect certain magistrates. The laws they voted on would be submitted to the “judicial branch” for acceptance or rejection¹⁷. One of the most important aspects of the Ecclesia was that every member was able to speak their mind when they desired, though other citizens could be quite harsh if the speaker was uninformed. There were forty assemblies of the Ecclesia every year, and while some had specific purposes and subjects for their discussions, they all

¹⁵ Rackham, “Athenian Constitution”

¹⁶ Aristotle, *Athenaion Politeia*, 21

¹⁷ Rackham, “Athenian Constitution”, 44

followed the same basic open format¹⁸. Most voting was done through the raising of hands though some votes were taken by secret ballot through small marked stones¹⁹.

The second legislative body was the Boule (The Council), which was much more complicated. Members of the Boule were chosen by lot from eligible volunteer Athenian citizens older than thirty, and had five hundred total councilors - fifty from each tribe. They each served for a full year, and could only serve twice in their lives. Each of the ten tribes took turns as the *Prytanny* for a tenth of the year – either 35 or 36 days according to the lunar calendar. The prytanny would convene the Boule every day (except holidays) and make the agenda for that day's meeting. There was also a president of the prytanny, who was elected by lot and served for a single day and night (though never twice), and his responsibilities were to hold the keys of the city and receive political messengers to Athens. The prytanny president also had the power to both dismiss the day's meeting and decide on the results from the day's voting²⁰. The responsibilities of the Boule as a whole were to prepare proposals for decrees and laws, oversee and organize the meeting and voting of the Ecclesia, and to oversee various magistracies of Athens. To help in overseeing the Ecclesia, nine members of the Boule (not from the current prytanny) were selected by lot to preside over the sittings of the Ecclesia whenever it met. These two legislative bodies were dependent on each other to pass decrees and laws, though the Boule had considerably more power as the Ecclesia could only discuss items that the Boule considered worthy to put on that assembly's agenda²¹.

¹⁸ Rackham, "Athenian Constitution", 43

¹⁹ Demosthenes, *Against Timocrates*, 20

²⁰ Aristotle, "The Athenian Constitution", 44

²¹ Aristotle, "The Athenian Constitution", 43

Perhaps the smallest “branch” of the Athenian government was the executive and military portion, which consisted of several magistracies and the archons. There were nine archons chosen by lot, three of which had specific duties and titles – the Eponymous Archon that acted as the Head of State, the Polemarch Archon who was the main military leader, and the King Archon who was responsible for religious duties²². The other six archons assisted with the organization of feasts and festivals, as well as presiding over the *Heliaia* (see the section on the Athenian judicial branch). The magistrates had many varying roles to play in government. Between the military and civil magistrates there existed more than 600 positions, including various superintendents, commissioners, generals, and treasurers. All were citizens elected by the Ecclesia after preliminary consideration by the Boule and were supervised by the Boule as well²³.

The final “branch” of Athenian democracy was judicial – a series of courts that were concerned with various duties and processes of election. The smallest and most elite court was the *Areopagus* (Ἄρειος πάγος), which translates to “Hill of Ares” – a testament to its physical meeting place²⁴. The only citizens allowed to be members of this court were retired archons, and they ruled as jurors for the rest of their lives²⁵. The Areopagus was devoted primarily to cases of Athenian homicide, though they would occasionally be called upon for other serious crimes. Any other cases were heard by *Heliasts* – volunteers older than 30 years who had been elected by lot and consisted of around six thousand members^{26,27}. On the day of a trial, Heliasts were further

²² Aristotle, “The Athenian Constitution”, 56

²³ Blackwell, “Athenian Democracy: A Brief Overview”

²⁴ Blackwell, “Athenian Democracy: A Brief Overview”

²⁵ Aristotle, “The Athenian Constitution”, 60

²⁶ Blackwell, “Athenian Democracy: A Brief Overview”

²⁷ Rackham, “Athenian Constitution”, 63

split up randomly into smaller courts. Juries typically consisted of a few hundred members, who would hear both criminal and civil cases and judge them according to the laws. Juries also had the power to judge whether decrees were legal. The other group of Heliasts were also randomly selected by lot, and were labeled as *Nomothetai* (νομοθέται), literally “law-makers”. Their role was to vote on the laws suggested to them by the Ecclesia²⁸.

While the system of government outlined by the United States Constitution is likely more familiar, it is important to review its intricacies briefly in order to properly compare the two systems. The United States has a representative democracy, which means that citizens vote for members of the government instead of having a direct voice in the process. A United States citizen must either be born in the country or undergo a citizenship test. In order to vote, they must be eighteen years of age and a resident of the state where they cast their vote. The United States government is clearly split into three distinct branches, again the Legislative, Executive, and Judicial, each of which has their own Article (section) of the Constitution²⁹. While the constitution has had many amendments since it was written, the basic function of the branches remains largely the same as was originally intended. States are divisions of the nation, and each has their own government they must abide by, as well as the overarching federal government. Though perhaps a gross oversimplification, it is mostly accurate to say that state governments have similar positions as the federal government (though with varying names of positions) and function as small countries as far as legislation and the carrying out of laws.

The Legislative branch, known collectively as Congress, consists of two distinct houses – the House of Representatives and the Senate. As a representative democracy, citizens do not

²⁸ Demosthenes, *Against Timocrates*, 21

²⁹ *United States Constitution*

have a direct vote in either of these bodies, and instead elect representatives to vote for them. The House of Representatives has 435 members, split among the 50 states by population. These representatives serve for two-year terms and must be 25 years old and an American citizen for seven years. Unlike the House, the Senate's members are evenly delegated to the states, with two senators for each, resulting in a total of 100 US Senators. A senator must be 30 years old and a nine-year citizen of the United States, with a term of six years³⁰. Despite having short terms, the members of both houses can be re-elected for another term indefinitely. The legislative branch serves to make the laws of the country, and either of the houses can introduce a new law, which at that point is called a bill. In the house where the bill was introduced, it undergoes discussion and revision in committees until voted on with a majority. If the majority passes that bill, it moves on to the other house of Congress and the process is repeated there. Once passed in both houses, the bill is sent to the executive branch for official signing and implementation. Each house has a majority and minority leader (representing the political parties therein), who set the agenda for each day's legislation, place limits on debate times for each action, and act as the primary spokesperson for their party. However, any member of Congress has the ability to speak to the rest of their house.

The executive branch of the United States government has one primary leader, the President, who has a vice president and a cabinet of advisors under them. They serve many purposes and have many titles, including commanding the military, serving as the nation's figurehead, and appointing members of the judicial branch. One of their more important roles is as the one who signs bills into laws. A president can veto any bill, sending it back to the houses of Congress, where it can only be passed again with a 2/3 vote. The president must be 35 years

³⁰ *United States Constitution*, Art. I

of age, a natural-born American citizen, and will serve for a 4-year term³¹. Later amendments to the US Constitution ensured that a president would not serve more than two terms³². Just as the members of the legislative branch, the president (along with their vice president) is elected by the citizens (the electoral college complicates the process but is not worth discussing here).

The last US branch is the judicial branch, tasked with judging a variety of cases. The highest court is the Supreme court, which determines the constitutionality of laws and acts as the highest court in the nation (in a primarily appellate fashion). Besides the supreme court, there are many state and local courts that judge criminal and civil cases, as well as the legality of state laws. While the breakdown is somewhat complicated, there are basically two types of courts – trial courts, where a plaintiff brings a charge against a defendant, judged by either a judge or a jury. While this process varies slightly between civil and criminal cases, either has the right to a “jury of their peers”, meaning that other ordinary citizens will deliver a verdict after having the cases presented to them. The other kind of courts are appellate courts, where a previously determined verdict can be appealed when it is believed that the previous ruling has been unlawful. Federal judges are appointed by the president (part of the executive branch), and state judges are either elected by citizens or appointed by higher officials³³.

At this point, it is clear that there are many similarities between the two democracies, including the number of legislative bodies, separation of power into multiple “branches”, democratic election, and many more aspects. On the surface, the two immediate differences between Athens and the United States is the fact that the US has a representative democracy, and that only a small subset of the Athenian population could actually participate in government.

³¹ *United States Constitution*, Art. II

³² *United States Constitution*, Amend. XXII

³³ *United States Constitution*, Art. III

While these are important distinctions to recognize, they are obvious and do not impact how the government actually functions. As far as functionality, one of the most interesting comparisons that can be made between the two systems is in regard to their respective methods of creating legislation, and can serve as a representation of the many similarities and differences. While externally the Athenian and American law-making process may seem similar, with their multiple-branch involvement, bicameral legislative branch, and various checks and balances, their actual functionality is quite different in many ways. However, despite their differences, the two constitutions both go to great efforts to ensure that no single branch has too much power over the creation of laws.

To start with, both government systems begin their lawmaking in the legislative branch, and require the approval, in the form of a majority vote, of both “houses”. The first major difference is found when the bicameral structures are compared. The United States houses of Congress, while having slightly different responsibilities, are relatively similar in terms of their lawmaking power. Conversely, the Athenian Ecclesia and Boule had vastly different powers and responsibilities. For a law to be introduced, a member of either house of Congress could suggest a bill, which would then be discussed by that house in committees and then amongst all members of the house. However, in 4th and 5th century Athens, a law or decree could only be proposed in the Boule, and while they had the power to choose which proposals would be debated, they could not actually debate instituting the law themselves. Instead, a successful proposal would be passed on to the Ecclesia, where it could then be discussed and debated³⁴. The acceptance of a proposal or bill in either government only required a simple majority, which in the case of Athens was more than 50% of the Ecclesia, made up of all attending Athenian citizens. American bills pass

³⁴ Blackwell, “Athenian Democracy: A Brief Overview”

when a simple majority from *both* houses vote in its acceptance, usually meaning at least 51 senators and 218 House representatives.

Another comparison in the legislative branches for the acceptance of a proposal is found in how these proposals are brought before their respective assemblies. The majority leaders of Congress are the ones who choose the order of each day's agenda for their house, and have the power to convene the meetings. In Athens, the Ecclesia could not convene itself, but instead required orders from the Prytany (the leading "tribe" for that part of the year) for when to meet and what to deliberate. So, while the responsibilities of the Prytany were similar to that of an American majority leader, they were mostly in control of the other house, rather than their own. While Aristotle is not completely clear about the difference between what a law (*nomos* "νόμος") and a what decree (*psephisma* "ψηφισμα") meant in terms of how it was carried out, he is clear on the difference in how they are accepted³⁵. Once a law or decree has been passed by the Legislative branch, the next step for that piece of legislation is perhaps where the biggest difference between the Athenian and American law-making processes is found. The American bill must be signed by the president, the head of the executive branch, while Athenian executives had no part in the creation or acceptance of laws. If a US president decides to veto a bill, Congress can return with a two-thirds majority from both the House and Senate and overturn the president's veto, resulting in that bill becoming an official law. A decree could be immediately formalized by the Ecclesia after a simple majority vote of those in attendance. An Athenian law required an extra step, and after a majority vote in the Ecclesia, it would be sent to the judicial branch for another vote before it became a formal piece of legislature.

³⁵ Aristotle, *Athenaion Politeia*, 54

Following their acceptance by the legislative (and American executive branch), American laws and Athenian decrees could still be countered through another series of checks and balances, this time by the judicial branch. The US Constitution does not explicitly mention this power, called “judicial review”, but it had been mentioned and intended by early American politicians (primarily Alexander Hamilton) even before the Constitution itself had been ratified. In the United States, it is the Supreme Court that has judicial review, meaning that it can judge the constitutionality of laws enacted by Congress and the president. If a law is overturned by the Supreme Court, it can no longer be enacted or enforced in that form³⁶. Athenian decrees also had a similar check on them, as this was one of the many kinds of juries that would be formed from Heliasts. While Aristotle did not mention this manner of judicial review, it can be inferred from many other works, one of which is in Demosthenes’ *Against Timocrates*, where he states “take the decree, sir, and read it to the jury”, when referencing the acceptance of a decree.³⁷

Athenian laws had their own extra step before they could be accepted, but instead of using the executive branch like the United States would later do, they would send the law proposals to a specialized jury – the Nomothetai. These jurors, literally “law-makers”, were given only one job, which was to determine whether a new law proposal was just and did not go against current laws. Again, these Nomothetai, while not mentioned by Aristotle (as he does not actually relay how laws were passed once through the Ecclesia) are once again mentioned in writings by Demosthenes³⁸. Therefore, while American laws and Athenian laws and decrees all are drafted by a bicameral legislative branch, require acceptance by another branch (executive or judicial) and can be checked by the judicial branch, the actual implementation of law-making is

³⁶ Supreme Court of the United States, “The Court and Constitutional Interpretation.”

³⁷ Demosthenes, *Against Timocrates*, 27

³⁸ Demosthenes, *Against Timocrates*, 21

vastly different. As far as the label “democracy”, as previously discussed based on its denotation from Ancient Greek, neither is a true democracy. Athens only allowed its male citizens (a small subset of the actual population that included thousands of non-citizens, slaves, and women) to participate in either the judicial branch or legislative branch, and citizens of the United States (which finally include women since an amendment in the first half of the 20th century³⁹) are reliant on elected officials to vote for them. These caveats mean that neither government actually has its power (κράτος, “kratos”) with all the people (δῆμος, “demos), as all meanings of *demos* and the word “democracy” would imply.

Many would like to say that the American government is a copy of the golden age of Athens, touting that to be the first democracy, but it is much more complicated than that simple conclusion. It would be wrong to deny the similarities between the two systems of government, but while the structures seem to function the same on the surface, they are quite different in their operation. First, only male Athenian citizens over twenty were allowed to participate in government, and all United States citizens over eighteen have a part. However, Athenian citizens had a direct impact on their democracy, while citizens in the US are beholden to their elected representatives to vote for them (the presidential election is complicated by the existence of the electoral college, and keeps citizens from having a direct vote as well). Also, while each has three “branches”, the American branches all have similar amounts of power and can place checks on the other two. The Athenian executive branch was entirely dependent on commission by the legislative branch, and approval by the judicial, and the Athenian legislative branch had a majority of the power. The United States’ bicameral houses of Congress have nearly equal amounts of power (with a few exceptions) and the Athenian legislation, while also bicameral,

³⁹ *United States Constitution*, Amend. XIX

had two houses with very different functions from each other, and the Ecclesia was completely dependent on the Boule to function. Lastly, the Constitutions are completely different, as the United States uses theirs as a basis of their government, and Athens' was written in reflection of the previously existing systems and is technically an essay written about the government of 4th century BCE Athens. So, while it is simple and nice to call the American democracy a copy of Ancient Athens, and they are both democracies by the definition of the word, they are far too different in their functionality for that to be accurate.

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