

# NATIONAL REVIEW

## Why's Washington Spending So Much Money? Blame a Faulty Understanding of 'Rights'

The Founders believed rights entailed restrictions on government power. The dominant progressive view imagines rights as granted by government.

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Having dawdled all year, Congress in December is facing yet again a funding deadline to keep the government open, plus a deadline to raise the nation's debt limit. Failing on the latter, the government could run out of money to meet its obligations as soon as December 15, Treasury secretary Janet Yellen has reported. Not since 2001 has Congress balanced the federal budget — and it's getting worse. Our children and grandchildren stare today at a federal debt approaching \$30 trillion, even as major entitlement trust funds will be depleted in little more than a decade.

How did we come to this? It didn't happen overnight. At bottom, it's a product of a slow shift in cultural values. One way to help explain this shift is to look at two celebrations that will also be before us in December: Human Rights Day on December 10, marking the day in 1948 when the United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR); and Bill of Rights Day on December 15, when we'll celebrate the 230th anniversary of the ratification of the Constitution's first ten amendments. Both documents celebrate rights, but here's the difference. America's Founders were focused on liberty — concerned about what government can do *to* us, not what it should do *for* us. The U.N. declaration's authors had moved on. They saw government as a benefactor, created to provide us with all manner of goods and services — as of *right*, no less.

Ratified shortly after the Constitution itself was ratified, the Bill of Rights restrains the exercise of federal power — and state power too, once the Civil War Amendments were ratified. With roots in Roman law, English common law, and especially in the Enlightenment's natural-rights thinking, it reflects the vision of liberty under limited constitutional government that was promised in America's birth certificate, the Declaration of Independence.

That vision came under attack with the rise of progressivism late in the 19th century. Progressives, coming from our elite universities, were social engineers animated by the new social sciences and by European social-welfare schemes. They thought they could order our lives better than we ourselves could, left to our own devices in free markets. Thus, they sought to supplant common-law adjudication with policy-driven legislation and regulation. Early on, the courts often stood athwart that effort, finding it inconsistent with our Constitution of limited government. But after Franklin Roosevelt's 1937 threat to pack the Supreme Court with six new members, the Court caved, effectively opening the floodgates to the modern redistributive and regulatory state that we know and love so well today.

Thus, while the Constitution hadn't changed, our reading of it had — and with it, our understanding of “rights.” We see that clearly with the drafting of the Universal Declaration of Human Rights, championed especially by Franklin Roosevelt's wife, Eleanor, in the aftermath of World War II. Thus, the UDHR begins with the traditional rights to freedom, albeit often in vague language. But it goes on to include what in U.N. parlance are called “social, economic, and cultural rights” — rights to social security, employment, just and favorable remuneration, periodic holidays with pay, even “a standard of living adequate for the health and well-being of [oneself] and of [one's] family, including food, clothing, housing and medical care and necessary social services.” It's a cornucopia of utopian aspirations, all in the name of human *rights*.

Conceiving these statutory “entitlements” as rights sets them at war, of course, with the very idea of “a right.” To have a right, as put by James Madison, the principal author of the Bill of Rights, is to have a justified claim to what is one's own, starting with one's liberty. But these new “rights” are claims to what belongs to others — their liberty or property. They're not free. In fact, they're purchased with our freedom. And the more government provides such “rights,” the more government expands and freedom recedes.

What's worse, as our lives become increasingly entangled in the welfare state, we grow ever more dependent on these entitlements and ever more demanding: free child care, no college tuition, debt forgiveness, business subsidies, and on it goes. Our critical faculties are dulled, our characters compromised, our individual responsibility surrendered for collective responsibility.

And it isn't simply on the domestic front that these new rights have taken their toll. The compromise that produced the U.N.'s declaration — joining natural-freedom rights and statutory redistributive rights — has yielded increasingly perverse results over the years. Today, for example, some of the world's most tyrannical regimes are sitting on the U.N. Human Rights Council, justifying their actions by their putative provision of these redistributive rights — and justifying their need, accordingly, to prevent their citizens from leaving, as in the old Soviet Union and today's North Korea, Cuba, and, most recently, Hong Kong.

We're far from those regimes, of course, but the logic of the “rights” they invoke to justify their actions cannot be ignored, especially when we see Congress desperately searching for ever more ways to pay for the cornucopia it's promising.

It was a bad business, that 1948 compromise. And so was the 1937 assault on the Supreme Court. Both muddied the waters the Founders had made clear. Today, increasingly, we lack the

clarity, the independence, and the discipline we need to secure the blessings of liberty to ourselves and, still more, to our posterity.