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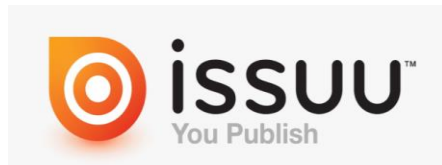
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RILALE

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COLONIAL AMERICA AND THE QUESTION OF LEGITIMACY

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ABSTRACT

The question of legitimacy in colonial America provokes enormous controversies among Americans. The conception of the right to command and the duty to obey varies in interpretations from one social group to another one. What is law and what is not, create dramatic frustrations and contentions even among founding fathers, from Declaration of Independence to federal Constitution. This article intends, basing on contents analysis as a scientific method in empiric researches, to demonstrate how Americans succeeded in detecting and acknowledging 'the people' as the be-all and end-all in field of legitimacy.

Key Words: legitimacy, Americans, contentions, social group, the people.

RESUME

En période coloniale, la question de légitimité cause d'énormes controverses au sein des Américains par le biais des groupes sociaux. La conception du droit de commander et du devoir d'obéir aux lois varie en interprétations d'un groupe social à un autre. De la Déclaration de l'Indépendance à la constitution fédérale, ce qui est loi et ce qui ne l'est pas créent de dramatiques frustrations et de désaccords au sein même des pères fondateurs. Cet article se propose, à l'usage d'analyses du contenu comme méthode scientifique d'études empiriques, de démontrer comment les Américains ont réussi à détecter et fait foi au peuple comme l'alpha et l'oméga en matière de légitimité.

Mots Clés : légitimité, Américains, désaccords, groupe social, le peuple.

INTRODUCTION

The American Heritage Dictionary, the Second College Edition defines legitimacy as the quality or fact of being legitimate and legitimate as something which is in compliance with the law or in accordance with established or accepted patterns and standards. And, the *Oxford Advanced Learners' Dictionary* the sixth edition deciphers legitimate as something for which there is a fair and acceptable reason or, allowed and acceptable according to the law. Weaving on from these references, the question of legitimacy could be seen as the condition of being in line with law, rule, or principle and a legitimate power as deriving from some source of established authority that clearly allocates the right to command and the duty to obey.

Under strives of inventing, formatting or building an appropriate American character, the early American history reveals the ups and downs of colonial America in the quest for legitimacy: the need to create and validate viable public institutions, statuses and relationships. Because any form of legitimacy requires compliance from the community with the assurance that it affirms the belief that the rulers and their requirements constitute an acceptable order of custom and authority, dilemmas and ambiguities come up with other recorded patterns among Americans regardless to their social status. In fact, English colonies in the New World inherited increasingly traditional European standards which proved not 'characteristically American' due to their inappropriate character to offer adequate solutions to vital hardships of the newly being-built nation. Insofar as the issue of legitimacy could be viewed as a psychological phenomenon, it strictly banks on the assumption that a particular set of institutions is appropriate for a certain society and that they function in a manner accepted or understood by the society. Yet, transplanted English laws hit the bloc of intellectual legitimacy in the New World and dramatic confrontations epitomize several aspects of law making and compliance, going with.

Since it has always been an inevitable reality and an important parameter in social sciences that things change with time and that circumstances determine all societal and individual consciousness as well, the 17th Century America underwent that quest for integrity and recognition mostly in terms of public institutions' validity. Grasping a clear comprehension about the American legitimacy in the early colonial life-experience would help to shed light on conceptions of the colonies' relationships to England, help to explain patterns of behavior, belief, instability and subsequent events after independence. In the same drive, it could help apprehend an insight into various themes and issues regarding religion, law, politics and society with people becoming the touchstone of legitimacy and power despite various crises about the quest for constitutional, institutional and social integrity. Ambiguities, complexities and confusions over English transplanted standards would be thrashed out through the prism of content analysis method with a tangible focus on the trilogy: interests, states and societies.

1. Power and Crises of Legitimacy in Early Seventeenth Century America

With the expression of a harsh need to establish an inalienable order of custom and authority among Americans of early seventeenth century, the conception of legitimate power nourishes many and diverse interpretations from social groups. In mostly contradictory ways, challenges to the legitimacy of governments, conflicting claims, colonial boundaries and territorial hegemony appear blatant and cause serious upheavals or crises in identifying suitable right to command and inflexible duty to obey. Fundamental and well-agreed upon rules are inexistent with colonists

who consciously or unconsciously fuel the debate over controversies in early America.

1.1. Power legitimization and Sources of Legitimacy in early America

The increasing number of immigrants, the presence of many cultures and the diversification of activities essentially based on specific interests put in jeopardy the question of authority. There is then, a serious problem with power affirmation and an appropriate legitimacy about the later one in an environment where antagonisms, controversies and ambiguities prevail among social groups in presence. Denying or defying authority has always been a daily practice because relationships among members of the same socio-cultural space rest upon vague and fleeting basis. The ways leaders are selected or appointed and the contents of their specifications to posts provoke disdain and misunderstanding in the ranks of the governed. A good illustration of such a cacophony prevailed in the community when in 1691, King William III appointed Benjamin Fletcher to be governor of New York and also commander in chief of Connecticut's militia. In fact, Benjamin Fletcher was the most important African-American in the most influential radical union of his time, colonial governor and funder of the first Trinity Church in 1698. Michael Kammen, a prominent American historian describes in his book entitled *People of Paradox: An Inquiry Concerning the Origins of American Civilization*, the situation which predominates after Fletcher's appointment and mainly when he has to exercise his new functions, in the following way:

When Fletcher reached the colonies in 1692, however, he found that Connecticut's assembly vigorously rejected his right to control their militia. Consequently, late in the crisp autumn of 1693, Fletcher hied himself to Hartford and caused his royal commission to be read publicly. The Yankee governor, Robert Treat, listened with disdain, then ordered the drums to be beaten in defiance. When Fletcher threatened Treat with imperial retribution, Connecticut's elected executive stepped forward, and with his hand on the hilt of his sword, declaimed: 'if my drummers are again interrupted, I'll make sunlight shine through you. We deny and defy your dramatic authority'. So the story is told. (Michael, p.31).

Interplays between authorities and social groups about power and its exercise offer recurrent scenes of defiance, rejection and recognition of public institutions. Instability reigns and consequently, life in the new nation fails to see adequate criteria of legitimacy and discordance about both compliance and recognition. Since the need of an acceptable order of custom and authority implies the assurance that the rulers and their prerequisites meet peoples' aspirations in every aspect, public order automatically suffers a great deal of instability. The later one represents a threat to the running of the whole community as long as it creates havoc in relationships linking active partners in the making of that nation and whoever belongs to the different socio-cultural groups present in that same community. The appropriate way through which, power exercise would definitely be appreciated and

commonly agreed upon rules be accepted, remain to be identified in this special American context. The same author exposes the different ways required for power to be legitimized and lasting stability to prevail. He substantially says:

There are various ways in which power may be legitimized and stability achieved: through personal confidence in the qualities of a charismatic leader; through the traditionalism which emanates over a long time from a system larger than any individual and faithful to 'original principles' - what Max Weber called "the authority of the eternal yesterday"; and through belief in the validity of legal statute and functional competence based on rationally created rules'. (Michael, p.31)

Yet, hardly could charismatic leaders be found or detected and socio-cultural groups meet their specific needs under the managing clairvoyance of colonists without contentions and harsh differences in face to challenge. Because traditional European standards merely match with the American socio-political realities, there is no way the 'authority of the eternal yesterday' as Max Weber stigmatizes traditionalism, could successfully help fulfill power legitimation. As it has generally been admitted by social scientists that the sources of legitimacy in political society may be hereditary, aristocratic, democratic, elective, or a combination, the situation of English colonies seems in accordance with an appropriate combination. In limelight, rather than hereditary, the English colonies inherited increasingly in terms of legitimacy in democratic and elective sources. Yet, the colonists acknowledge this reality with great reluctance just because it clearly indicates a serious departure from traditional European standards.

Consequently, a great number of colonial governments and institutions successfully fulfilled a condition of only quasi-legitimacy in the purpose just to prevent anarchy. They were able to acquire gradually, sufficiently wide acceptance or acknowledgement so as not to be compelled to rely exclusively upon deception, corruption and any other physical constraints. Yet, this acceptance was not frank but hypocrite and incomplete, suspiciously accompanied by mistrust. Reasons were already present from the outset and run so deep in the American colonial experience which, throughout the seventeenth century reveals the ups and downs of hard situations of legitimacy fight.

1.2. American Early Crises of Legitimacy.

At the very start and mainly in the seventeenth century, there is a common notice that the vast majority of settlers faced in a variety of ways, some challenges related to their legitimacy. Because reasons or motivations for settlement differ and truths of the ground bound men and women of any social rank to notions of adaptation, many settlers found themselves living beyond the reach of sanctioned government, without charters or with patents of questionable validity. Such a situation sheds light on settlers' search for valuable or recognized validity related to their presence in the New World and a colonial European hegemony's practices. Consequently, the later

ones instill indelible marks in Americans' daily life. William Bradford presents the situation in the following way:

The Pilgrims held tenaciously but tenuously to their rock at Plymouth for three generations, unable to obtain a patent from the Crown; in 1692 they were absorbed by the Bay Colony. Connecticut and Rhode Island anxiously sought valid and valued charters, sending John Winthrop, Jr., and Roger Williams, their best men, repeatedly to London for that purpose. Even the patriarchal Puritan statesman, John Winthrop of Massachusetts, declared in 1635 that 'We should do nothing hereafter but by commission out of England'. (William B, p.164)

Power exercise and profit-yearning activities in early America nourished a harsh antagonism among social groups due to the question of legitimacy which local governments and colonists failed to meet common interpretation or understanding. European cultural patterns being widely rooted and promoted, contentions over colonial charters sparkled with serious political tensions. Officials in London lacked no opportunity to attack a number of colonial charters, joint-stock as well as proprietary. They were abundantly interpreted in contradictory ways and challenges to the legitimacy of government in many colonies generated deplorable political tensions. The issue of land and its related tenure stand as another facet of the contention around legitimacy which nourishes every debate among seventeenth century settlers. Beforehand, it would be nice to recall that when the Old World found the New one, people quickly adapted to the earth's physical features such as landforms, climate, bodies of water, vegetation and soil while others put forward claims to these new lands. Because land tenure held a high standard place in the making of America as a whole, many colonists were definitely troubled by their own illicit encroachment upon Indian lands. In that drive of thought, Pilgrim casuist has put forward as a question, 'What right have I to go live in the heathens' country?'. The Oxford Advanced Learners' Dictionary, Sixth edition pp 554 defines heathen as people who have a strong religious belief as a way of referring to a person who has no religion or who believes in a religion that is not one of the world's main religion. To that interrogation, the Pilgrim casuist has provided the following question:

This then is a sufficient reason to prove our going thither to live lawful: their land is spacious and void, and there are few and do but run over the grass... They are not industrious, neither have art, science, skill or faculty to use either the land or the commodities of It... As the ancient patriarchs therefore removed from straiter places into more roomy, where the land lay idle and waste, and none used It... so it is lawful now to take a land which none useth, and make use of it.(Dwight, H.pp.91-92)

From the content of the above answer proffered by the Pilgrim casuist to the question of being worth or not living in the New World, one could easily notice a kind of ambiguity regarding the issue of legitimacy towards land occupation. With the supposed arguments that could allow anyone to get settled and make use of land in his own free will, that Pilgrim could be animated by an uneasy conscience. Yet, from the beginning of American history, remarkable abuses complicated transfer of land titles from Indians who were objects to many colonization manoeuvres from

Europeans. Colonial laws and loggerheads between colonists and Indians exhibit evidences about crises around the quest for legitimacy in colonial America. Local governments didn't meet easy tasks in dealing with land issues of any kinds during colonial time in America. Varied forms of colonial laws did strike at the difficulty by declaring null and void all bargains made with the natives that didn't have governmental approval. Political tensions stemmed from diverse sorts of disagreements because of such laws that mainly sought to remove causes of resentment among the Indians by preserving fraudulent purchases and likewise preserving the rights of the Crown or proprietors to the lands. Moreover, formal relations between colonists and Indians constantly lacked legitimacy in the eyes of Colonists, Indians and Americans as well because treaties set to sink differences were often predicated upon fraud and deception from protagonists themselves. Such a situation favored illicit trade and agreed-upon boundary lines between settlements that could be spilled over with no fear of punishment or slightest reproach.

At times, because nations of Western Europe had conflicting claims in the New World, colonial boundaries and territorial hegemony appeared unclear and compromising. Pioneers of each nationality blamed local governmental authority about the visible lawlessness within the American being built. Contentions between English laws and home-made ones implicitly offer a scene of deplorable interdependence. Mark DeWolfe Howe, an American editor, author of the book entitled *Law and Authority in Colonial America* and prominent figure of the American legal history, illuminates:

In early seventeenth-century England, the legal system stood in desperate need of rationalization and reform. The complexities and confusion of English law were transported to the colonies, however, ineluctably blurring even further the dimensions of legitimacy abroad. In addition, the Puritans of New England were charged with building a body of private, non-constitutional law of their own - a code of laws out of line with English standards. Since no other seventeenth-century colony had so complete a compilation of law as Massachusetts, law was clearly a greater source of ambiguity than of well-defined orthodoxy. Common law simply could not function in the colonies in the same way it did in England. There were no trained lawyers, little attention to previous case law, and written judicial opinions virtually did not exist. (Mark, DeWolke H. pp.11-14)

The inappropriate English laws to be applied in the New World and the urgent need for legal institutions instigate conflictual tendencies among Americans. The European institutes of laws were quite inadequate sources of intellectual legitimacy in the New World where realities call for a particular kind of legitimate endeavors in line with emergencies to meet. Crises of legitimacy with the quest for integrity and recognition of institutions nourish a certain number of social ambiguities difficult to quench.

2. Social Institutions and Insight into Ambiguities they Generated

Within the long process in the making of America, socially as well as politically, ineluctable needs urge inhabitants of the New World to take initiatives in order to help establish rules that meet adherence of the people. What is law and what is not create havoc among social groups and jeopardize relations between communities because menaces of illegitimacy represent permanent dangers in the New World. Settling social institutions for the purpose of public order highly needed to restore peace, raises contentions through ambiguities that lay indelible landmarks about the American quest for legitimacy in early seventeenth century. Fighting for integrity and recognition within a context of perpetual social changes made the stability of legitimate systems precarious at best.

2.1. Public Institutions and Crises of Legitimacy

Social control and good order are guaranteed to people of a given community where legitimacy reigns as an ineluctable condition to be fulfilled by social organizations as well as by individuals. When people and their leaders as well accuse one another of being irregular, illegal and disorderly because of the instable decisions they take, the fits and starts around being recognized or not and finally by incoherence about regulations, public institutions face undoubtedly crises of illegitimacy. The lack of social legitimacy in seventeenth America projects in Americans' everyday life an instability which consciously or unconsciously establishes a danger to public order. Michael Kammen presents the situation as follows:

Most of the public institutions which developed in the seventeenth-century colonies underwent this quest for integrity and recognition. The early assemblies, for example in sufferance in many cases: Virginia's burgesses went unrecognized by the Crown from 1619 until 1639. The complex system of great and small burgher rights in New Netherland was designed to provide social legitimacy for the most important magistrates, officers, and ministers. Massachusetts Bay established Harvard College strictly on its own authority; therefore, whenever the colony's constitutional identity came under attack, Harvard legal status fell into jeopardy as well. When the Bay Colony lost its charter in 1684, it was assumed that Harvard's charter of 1650 was also null and void. The failure of towns to develop in the Chesapeake colonies indicated to many - who judged by Old World standards - a lack of social legitimacy (Michael, p.36)

When miscomprehension kettles boiled to rebellions in many colonies, insurrectionists, established and provisional governments lack proper credentials to defend their integrity and likewise, their legitimacy. This appears so blatant that *'the lawes are soe uncertaine and unknown that the people canot sere their Course with safetie in respect of them, which is a great grievance'* said Michael G. Hall in his book *The Glorious Revolution in America: Documents on the Colonial Crisis of 1689*. At home, local authorities lack leverage, witness and live insecure tenures with decisions mostly unwelcomed by populations being administrated. Unclear laws and cacophony among provincial legislatures, the Crown and the validity of royal instructions animate the everyday life of Americans early on in their perpetual quest for

legitimacy. Institutions rest on insecure bases because squabbles were frequent with governors, colonists and laypeople because institutions were endowed with multiple functions, most of them were quite unclearly defined. They consequently generate contentions over which local institutions hit chaos with the difficult problem of relating the laws to the legal system of Great Britain or to local institutions which couldn't function without any authority being dictated by the English statutes. The later ones, being in permanent conflicts with local institutions project or expose the fragility that characterizes that ambiguity around 'what is law and what is not law'. In one of his scientific outputs, *Essay Upon the Government of the English Plantations on the Continent of America*, the American author, educator and director of the Folger Shakespeare Louis Barter Wright addresses the issue in these lines:

It is great Unhappiness, that no one can tell what is Law, and what is not, in the Plantations; some hold that the Law of England is chiefly to be respected, and where that is deficient, the Laws of the several Colonies are to take place ; others are of the opinion, that the Laws of the colonies are to take first place, and that the Law of England is of force only where they are silent; others there are, who contend for the Laws or the Colonies, in conjunction with those that were in force in England at the first Settlement of the Colony, and lay down that as the measure of our Obedience, alleging, that we are bound to observe any late Acts of Parliament made in England, except such only where the Reason of the Law is the same here, that it is in England ; but this leaving too great a Latitude to judge; some others hold that no late Acts of Parliament of England do bind the Plantations , but those only, wherein the Plantations are particularly named. Thus are we left in the dark, in one of the most considerable Points of our Rights; and the Case being so doubtful, we are too often obliged to depend upon the Crooked Cord of a Judge's Discretion, in matters of the greatest Moment and Value. (Louis, pp.15-17)

Interpretations about the concept of legitimacy and the legitimacy of law give way to numerous contentions among people of colonial America. Since both of them have much to do with who can make, discover or apply the law; they also and so much diligently depend upon how the law is made, discovered, and applied, and upon the procedures which are used to bring the law into force. Because of the litigious character that people of colonial America developed was a function and at the same time a symptom of the lack of clear criteria of legitimacy, many changes occur with prospects of peace-keeping. Thus, for laws to be dignified and clarified by being given explicit public expression, colonies are required to codify their laws, make clear and an up-to-date digest of laws.

Still in early America, apart from the laws and their manners of enforcement as clearly exposed above, other regulations and reagents of human relationships did operate in ways seen by European measures of judgement as eccentric and quite unacceptable. Paper currency and land boundaries were in one word, part and parcel of the quest for social and cultural norms and for stable political institutions as well. The validity of traditional interpretations of laws, create more havocs than help settle peace. Generally, accepted land boundaries through the medium of traditional ways of interpretation provide territorial hegemony or geo-political legitimacy. Thus, the permanent search for determinative land settlements animate Americans of the

seventeenth century because they would help avoid controversies about limits. Yet, issues of self-image and social legitimacy appeared so complicated that they significantly impacted social institutions with religions at stake of important metamorphosis.

2.2. Quest for social Legitimacy and Related Controversies.

European standards influence in many regards social institutions in early America. The quest for legitimacy couldn't escape that sine-qua-non requirement without which, any expression of legal authority is simply doomed to fleeting considerations in the eyes of Americans themselves because problems of self-image and social legitimacy were already complicated issues to be dealt with. Established churches suffer the same case with a kind of dichotomy about the recurrent question of episcopacy which is defined according to the American Heritage Dictionary as a system of church government in which bishops are the chief ministers. A living example, right to justify the controversy about a legitimate episcopacy is the Anglican quest for an American bishop. In fact, in the absence of an American bishop, the bishop of London should have the colonies a part of his jurisdiction. Yet, the nature and extent of his supervision appear in the eyes of many Americans unclear in practice, and quite ambiguous even in theory. Texts, contexts and applications diverge with more worry than peace to make prevail among communities which were in fact at stake in their hard fight for legitimate authority. Authority was to be dictated basing on European standards even though realities in the American context exposes challenging difficulties that need to be adequately thrashed out. In his unpublished doctoral dissertation entitled 'The Americanization of the Dutch Reformed Church', John P. Luidens depicts the case as follows:

A significant number of colonial religious groups looked to their European hierarchies as ultimate sources of authority. This was especially true of the Anglicans and Roman Catholics. The Dutch Reformed Church so relied upon the Classis of Amsterdam to supply colonial clergy that the Classis became accepted as the only source of legitimate ministerial authority. That assumption remained unchallenging until 1737, and operative until 1791 when the Dutch Reformed group in America finally asserted its independence. (John, P.L.pp.40-47)

Inconsistencies reach sects of very grounds with that immediacy of religious truth that characterizes them, against the formal way of legitimate religious authority. Fighting to obtain a commonly agreed upon status in public law brings dissenting groups to call of many names or denominations the above mentioned antagonisms. The later ones impact in one way or the other on relationships among sects and likewise on colonies. The harsh quest for social legitimacy lays emphasis, consciously or unconsciously on dissensions in the rank of religious authorities and the mutual accusations they all develop against one another. Ministries lack no opportunity in addressing or pointing social dichotomies in their arduous struggle for an acceptable

status in public law that could guarantee free practice of religions with full recognition of institutions at home as well as abroad. So hard were accusations among ministries that their main points sometimes reveal disdain and awkward judgments not appropriate from religions authorities even in a context of a constant fight for legitimacy. In his excellent book entitled *American Christianity: An Historical Interpretation with Representative Documents*, H. Shelton Smith explains:

In the middle colonies and in New England, Old Lights levelled the accusation at New Lights that they lacked theological legitimacy, and that they fostered "Disorders and Errors". New Lights, in their turn, accused the Old of lacking spiritual legitimacy: that was the great danger of an unconverted ministry". Today we expect a psychoanalyst to have undergone analysis himself himself; in those days devout men expected their ministries to be converted. (H, S.S.pp.262-263)

Appearance and reality coincide little or even not when one looks at the way legitimacy fight procures dissensions and complicated havocs among social groups in American. Being socially built, the American society witnessed that horrible case of religious dissensions which proves once again the limitless character of the question of legitimacy. The harsh accusations from one set to another as clearly mentioned above in the address of H. Shelton Smith, highlight a kind of eccentricity around social matters since the situation combines self-image fight and social legitimacy as well as the implications the latter one induces. Moral authorities could help longing with the common issue due to its cortège of obligations which embark every field of social and political endeavors. Yet, main instigating reasons or motivations that give birth or gear up to such a societal impediment originate from early America, with the very first premises of social constructions.

It's been a common knowledge that the seventeenth century settlement welcomed many servants with no written indentures. Along with time, because the problem of legitimacy involves the interests of everybody, every social group, such a state of social plague creates a serious concern of ambiguous legal and social identities mainly with regards to social class citizens. In order to clearly specify the length of time with servants who arrive with no indentures should serve, each colony issues and develop some proper standards, usually known as the 'custom of the colony'. With regards to peace and security to reign, this social measure became statutory law by the means of a channel or momentum which runs from expedience to acceptance to perpetuation. Creating by consequence an inflation of statuses, it includes a kind of oddity about social legitimacy which stands as a serious matter to be dealt with by Americans of every stride mainly in times of major events.

3. America: Between sovereignty and legitimacy fulfilment

Some important events fueled sufficiently the debate over the issue of legitimacy fight in early America. Failure to apply at will the English standards in America leads to apprehend some interesting insights about the American sovereignty which

was at stake at a given time in its social building. The lack of appropriate and indigenous laws, added to the problems of legitimacy and illegitimacy in the American colonial context induce specific crisis absolutely related to the quest for legitimacy that could suit Americans' tastes. The American Revolution as well as the American Renaissance didn't help meet the point easily. They rather offer opportunities to dig out from some considerations, other facets of the issue under study.

3.1. American Revolution and the quest for social legitimacy

With the advent of the American Revolution which is widely seen with an economic basis or motivations, the various crises of legitimacy in early America with colonists at the forefront of challenges to wage, the quest for constitutional, institutional and social integrity matter in many ways. Beyond the economic motivations that geared up to the American Revolution, the quest for social legitimacy could be noticed or hidden behind the rejection of Parliament by colonists as an imperial legislative body and mostly the moral legitimacy of the crown. The ideological crisis sparkled or reached an uncontrollable pick when the parliament denies any possible distinction to be made between legitimate powers of parliament and those of the provincial assemblies. Consequently, the question of sovereignty became in no time a serious concern of the American Revolution, for sovereignty stands as a critical quality of constitutional legitimacy. The crisis for legitimacy was widely felt in the American wake for Revolution. Confusion in laws is plain to see not only because any case of constitutionality in colonies originates from English pillars but also, governments are mixt and irrevocably dependent on English standards and authority. Thus, John Dickinson, the famous author from Pennsylvania foresees a conventional crisis of legitimacy in that colonial context with the American Revolution set to meet a specific dream. In his outstanding and widely read *Farmer's Letters*, he expressively stipulates the case as follows:

A nation may change their King, or race of Kings, and, retaining their antient form of government, be gainers by changing... But if once we are separated from our Mother country, what new form of government shall we adopt, or where shall we find another Britain to supply our loss? Torn from the body, to which we are united by religion, liberty, laws, affections, relation, language and commerce, we must bleed every vein. (J.D.pp 13-77)

Dickinson is indirectly advocating the immediacy to supply or provide a new and quite adequate legitimacy that could suit Americans' tastes. Complaining or lamenting to witness the presence of a gap void and so wide to fill, he desperately sees an orphan America from her mother country, doomed to collapse while getting lost from basic societal values. Nevertheless, before the nation being officialized, some steps were taken to find a reasonable medium to legitimize the American Revolution and the after-match as well. Circumstances determine new consciousness with colonists who, by the means of committees of correspondence, assemblies and

some specific affinities and conventions and associations, helped hold the right end of the stick. In the same vein of maintaining peace and order, the newly independent states purposely settled 'anti-parliaments' of their own tastes and good will. Meanwhile, questions like legality and autonomy, constitutionality and legitimate revolution were discussed and apprehended by Americans themselves with support of other moderate spokesmen.

In fact, between the Stamp Act and the continental Congress, colonists genuinely convened a certain number of extra-legal committees where some moderate but leading figures meant for the patriot cause, meet to discuss at depth the issue of legitimacy. Because the later one tops over any other topic of greater consideration, politicians, philosophers, lawyers and other social scientists gather around the emergency case and proffer beneficial outputs in line with American home-made laws. From John Adams, leader of the American Revolution and second US President to John Locke, English philosopher and 'father of Liberalism', Richard Morris, American historian and specialist in colonial American legal history to Edmund Burke, the Irish statesman and philosopher, the fight for the American legitimacy remains at the center of all the recurrent debates. In his book entitled, *People of Paradox: An Inquiry Concerning the Origins of American Civilization*, Michael Kammen says:

No wonder moderate spokesmen of the patriot cause tried valiantly to couch their communication in the language of legitimacy. John Adams devoted himself to the rationalization of a 'lawful revolution', and advocated scrupulously attention to legality. I had good policy... and lawful assemblies. The traditions of English constitutionalism, especially John Locke's famous statement of Whig principles in 1689, were repeatedly invoked to legitimize revolutionary recourses. Colonial lawyers, moreover, used the conservative common law as a weapon for constitutional emancipation and local autonomy. There was thus a kind of conservative radicalism; or, as Richard B. Morris has put it, "revolutionary legalism". Understandably, the, Edmund Burke would remark of America that "in no country perhaps in the world is the law so general a study" (M, k. p50)

It's been for both Revolutionaries and great authors of the American Renaissance quite difficult to apprehend the paradox or dilemma they all had to face once embarked upon a new trend of governance which requires for the best of the nation, a republican legitimacy. While Revolutionaries had to deal with ambiguities because colonists' interests diverge, authors of the American Renaissance hit the block of the lack of adequate and indigenous literary sources, precedents and styles to weave on from. The case was the same with patriotic politicians of the revolutionary era who were in a suffocating agony in their efforts for a new and different quest for republican legitimacy harshly needed by Americans of every social living standard. With the total rejection of the implementation of English authority, tangible loggerheads characterized contentions over the issue of legitimacy which embarks every domain even though the political one urges for a kind of immediacy. Between the exercise of a political power and the manifestation of a legitimate strength,

William Livingston voices the part when threatened by a magistrate's decision to oppose his political power:

He cannot do such Acts as Magistrate; but must be esteemed a Person exerting Strength without Power, that is, legal Power; which every Man of superior Strength hath, by the Law of Nature, a manifest Right to oppose. To resist in such a case, is not resisting his Authority, but Force illegal and unauthoritative. (M.K. p51)

The will or the pressing need to create and perpetuate new forms of government wages the greatest crisis of legitimacy for revolutionaries. Because denunciations of the legal privilege based upon status were widely expressed in early bills of rights, originating from some newly independent colonies, the repudiation of American forefathers' dilemmas launch other hostilities in the realm of social legitimacy. Understanding new constitutions under the required conditions of acceptability and opportunity, legitimacy remains in many regards, another nut in the throats of both revolutionaries and leaders in general.

3.2. Between Declaration and Federal Constitution: When 'The people' matter

In the wake of the quest for the legitimacy and legal exercise of power with a newly born nation like the one of the United States of America, though the best interests of the nation are placed at the center of all debates but the roles of 'the people' are utterly recommended. Legitimacy and power could prove vain in regulation and practice when people are put aside, neglected or submitted to silence, then speechless to make their voices heard about issues of their own interests. In such a deplorable context, authority would be dictated and habitual questions of legality and legitimate power would certainly remain null and void with uncountable ups and downs hard to manage. Between the Declaration of Independence and the Federal Constitution, extra-legal bodies work out ways and means to prove and defend the constitutional authority, government exercise and the restoration of the legitimate power of the 'People'. In the same dynamism, Samuel Adams a well-known politician of the American Revolution and leader of the Massachusetts 'Radicals' declares emphatically:

There is Decency & Respect due to Constitutional Authority, and those Men, who under any Pretence or by any Means whatever, would lessen the Weight of Government lawfully exercised, must be Enemies to our happy Revolution & the Common Liberty. County Conventions & popular Committees served an excellent Purpose when they were first in Practice. No one therefore needs to regret the Share he may then have had in them. But I candidly own it is my Opinion...that as we now have constitutional & regular Governments and all our Men in Authority depend upon the annual & free Elections of the People, we are safe without them... If the publick Affairs are illy conducted, if dishonest or incapable Men have crept unawares into Government, it is happy for us, that under our American. Constitution the Remedy is at hand, & in the Power of the great Body of the People. (Samuel Adams to Noah Webster, April 30, 1784)

Even though it could be assumed that new constitutional conditions require undoubtedly new theory of legality, legitimacy and power remain in the hands of 'the people': the touchstone of any socio-political accomplishment. Meeting their

tastes, collecting their needs to satisfy and making the nation stand for the best interests of everyone, call for the consent of Americans themselves no matter what is their social rank. Factions are regularly born and manifestations are radical basing on dissensions but instead, a legitimate connection between interests, society and state could help sink differences among people: the sole constituent power and ultimate authority of legitimacy.

From the Declaration of Independence to the effectiveness of a Federal Constitution endowed with respectability and full fulfilment of republican prerogatives, the most serious question was around the source of legitimacy or the enabling power of the new constitution. Americans of every social or political stripe grant a particular attention and importance to that curiosity that becomes in no time a pre-requisite that could tempers down because known and rightly apprehended by everyone. Acknowledging that the authority and power of the 'people' in such a context determine the validity and respectability of the new constitution, the American academic and Congregationalist minister defended the legality of the Continental Congress in the following words:

The King must know, the British Parliament must know, for the World will know it, that the American Continental Congress of September 1776 was a regular legal patriotic Body...and that the Mode of their Election by a patriotic spontaneous selforigination from the People is defensible on the first Principles of Society and the English Constitution, and justifiable and glorious on the Principles of the Law of Nature and Nations and the finest Reasonings of the Jus civile. (The Literary Diary of Ezra Stiles, New York, 1901)

Recorded addresses are many, multiple and multiform because interests grow highly in number with congressmen who constantly come over with personal comments and viewpoints under the umbrella of extrapolation. Their complexity and explicitness pose a serious problem with regards to respectability and credibility to the new government upon which rests hopes of diverse sorts to be satisfied. Drawing people's attention on the inflexible usefulness and the important function of legitimacy in a democratic Republic, James Madison defines in *The Federalist Papers*, Number 39, what a republic means as follows:

a government which desires all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior. It is essential to such a government that it be derived from the great body of the society, not from an inconsiderable proportion, or a favoured class of it. (Madison, *Federalist*, Number 39)

Because the great body of the society being 'the people' and fully conscious of the fact that their tastes and wills of every kind should inspire and guide leaders of first rank in the democratic building of the nation, other precautions are quite compulsory. Among the later ones, count the necessity of the Bills of Rights and the contentious issues among newly born states, related to many points: land, commerce, currencies... Discussions within the many extra-legal bodies after convention help to put wise Americans of every social or economic stripe about the inflexible rights they

are endowed with, their usefulness and further implications for the well-being of people and likewise for the whole nation. Legitimizing the new government along with its respectability and credibility and the republican prerogatives to be fulfilled by the later one, James Madison let know the following when he introduced the first draft of the Bill of Rights in 1789:

...all power is originally vested in, and consequently derived from, the people. That government is instituted and ought to be exercised for the benefit of the people ... that people have an indubitable, inalienable and indefeasible right to reform or change their Government, whenever it be found adverse or inadequate to the purposes of its institution. (The Federalist Papers, pp.241-244)

Though the existence of a written constitution doesn't guarantee unanimity on the foundations of the American nation, clinging on its standards could help better it for constitutional purposes that could vary depending on realities to face. Because people are granted the undeniable rights for amendments located in the global perspective of letter and spirit of the constitution, such a consideration motivates them to quench quarrels and act accordingly in claims of theirs. The consent of the governed matters to the extent that it represents in one way or the other the most reliable source of sovereignty. Legitimacy takes place and people are undoubtedly identified as the touchstone of all legitimate power.

CONCLUSION

The quest for legitimacy in early America reveals in process of time in the history of the United States of America another facet of ambiguities related to the social construction of the American character. Colonial America remains with no doubt, the very period of time in the history of the United States of America within which condition of being in line with laws, rules or principles stands as the paramount target to reach by Americans themselves regardless to social or political status. The challenge to reject the European standards being imported, imposed and instilled in American lifestyles urges Americans to successfully struggle for the need to establish an inalienable order of custom and authority. Yet, the non-existence of indigenous and well-agreed upon regulations lead social groups and leaders to huge contradictions over the conception of legitimate power, its exercise and perpetuation.

Making rules that meet the adherence of people around the complexity or duality of 'what is law and what is not', raises contentions among social groups. In such a vein, social institutions fail in addressing questions related to public order; integrity, recognition and stability of legitimate systems miss the point of common agreement among Americans. Interests, states' prerogatives and social controversies erect 'the people' as the touchstone of legitimacy and illegitimacy in America. In spite of the dichotomy which nourishes contradictions among founding fathers and other outstanding leaders around issues of sovereignty and legitimacy, it has essentially

been admitted that the people are the fountain of all legitimate power, and their happiness being the object of all its delegations.

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