

COSTITUZIONE E ORDINAMENTO COSTITUZIONALE

Il termine costituzionalismo indica la dottrina costituzionale che fece da sfondo alle grandi rivoluzioni borghesi del XVII e del XVIII secolo e che ispirò radicali trasformazioni degli ordinamenti politici in Europa e nell'America del Nord. Si trattò di un ampio movimento giuridico, politico e filosofico che individuò nei testi costituzionali lo strumento per superare l'assolutismo e garantire le libertà secondo le dottrine del liberalismo.

Nella società contemporanea appare scontata l'esistenza di una "Costituzione", cioè di un documento scritto considerato "legge fondamentale" dello Stato, ma ciò rappresenta una conquista recente in quanto solo nel XVIII secolo si sono avute le prime costituzioni scritte.

Il termine "Costituzione" deriva dal latino "*Constitutio*", e nel diritto romano indicava i provvedimenti legislativi dell'Imperatore. Nel Medioevo e nell'età moderna questo termine divenne sinonimo di "legge" e nei secoli XVII e XVIII cominciò ad assumere il significato di "legge fondamentale", cioè l'insieme di norme che fondano l'ordinamento giuridico di uno Stato.

Possiamo inoltre distinguere tra le numerose definizioni di costituzione, quella **avalutativa** e quella **valutativa**. Per la prima, la Costituzione rappresenta l'ordinamento giuridico nel suo insieme e quindi ogni ordinamento statale ha una sua costituzione; per la seconda invece, la costituzione deve rispondere a requisiti liberali e democratici, alla separazione dei poteri e alla garanzia dei diritti civili dei cittadini.

Per molto tempo queste due concezioni hanno convissuto e solo a partire dalle rivoluzioni americana e francese del XVIII secolo, il termine "Costituzione" divenne sinonimo di "Costituzione liberale" o "liberal-democratica". Si può concludere che il termine **costituzione** e **costituzionalismo** non devono essere identificati in quanto con "costituzione" nell'età moderna si definirono le "norme fondamentali" dell'ordinamento statale, mentre il termine "Costituzionalismo" rappresenta il movimento volto alla conquista di documenti costituzionali basati sui principi liberali o liberal-democratici.

L'esperienza storica costituzionale inglese è la fonte d'ispirazione per la cultura giuridica e politica del liberalismo. Gli inglesi non hanno

Ordinamento Costituzionale Armate Memorie Italian Ebook

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