

# PRINCIPLES OF THE CONSTITUTION: INVENTING “WE THE PEOPLE”

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The start of our country was not a Big Bang moment of creation but more of a long evolution of testing out the idea that people could rule themselves. This singular aspiration grew into the foundation of the republic we live in today. We should not forget that the United States began as an experiment and continues as one today—it does not exist by a stagnate, stale set of rules but as a dynamic, energetic social laboratory of rights and responsibilities. Democracy, a form of self-government, developed through a series of starts and stops over a long period of time. The Constitution’s framers were highly influenced by the ancient Greek and Roman civilizations, but they were also children of the Enlightenment—a period that challenged (and sometimes upended) traditional power structures of monarchies and aristocracies. Moreover, the experiences and experiments in colonial governments profoundly influenced the Constitution’s drafting—as did the failures of the Articles of Confederation.

In the time between the writing of the Declaration of Independence in 1776 and the drafting of the U.S. Constitution in 1787, the American people were governed at the national level by the Articles of Confederation and at the state level by state constitutions. With the U.S. Constitution, the founding generation established a new national government that was more powerful than the one that existed under the Articles of Confederation, but also one of limited powers, and was founded on key principles that we still struggle to realize today.

The U.S. Constitution is the shortest written constitution in the world. It has been amended only 27 times. However, this concise document also contains profound ideas that guide and bind us as Americans.

## FOUNDING PRINCIPLES

The Constitution was written in a time of great change in America. It was an attempt to bring together the needs and ideals of (very) different groups of people - and outline the fundamental principles which would help shape a young nation. Therefore, a discussion of the U.S. Constitution needs to begin with a few of the Constitution’s core principles: popular sovereignty, natural rights, equality, and liberty.

**Popular sovereignty:** The Constitution establishes a government based on the consent of the governed. The sovereign power is held not by a king or an aristocracy but by the American people. Popular sovereignty is the idea that the people are sovereign, meaning that they possess the ultimate authority. They are the creators of the power of the government and, in turn, vest the government with the authority to act on behalf of the United States.

**Natural rights:** The idea, popularized during the Enlightenment, is that people have the right to life, liberty, and the pursuit of happiness. These rights were considered “natural” and could not be taken away by a government without “due process of law.”

**Equality:** Equality in a constitutional democracy means equal justice under the law. No one is above or beyond the reach of the law, and no one is entitled to unfair advantages or subjected to unequal penalties based on the law.<sup>1</sup>

**Liberty:** The rights of all citizens to be free and act according to one’s own will.<sup>2</sup>

### WHEN EXPLORING THE FOUNDING ERA, CONSIDER THE FOLLOWING ESSENTIAL QUESTIONS:

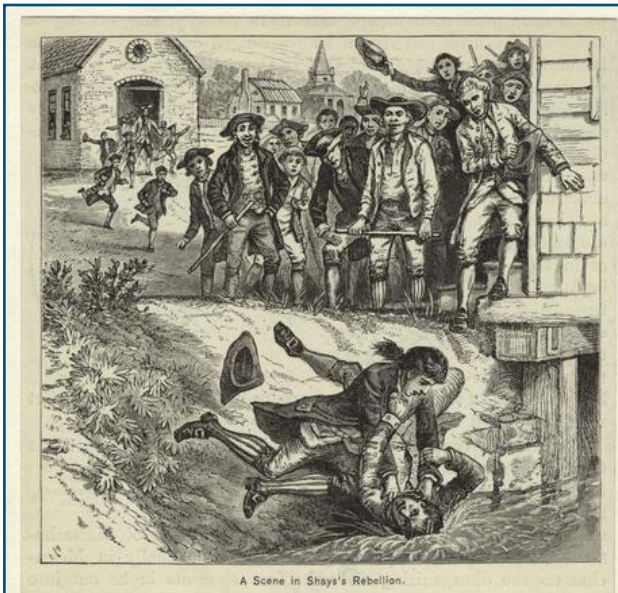
- › Why did the founding generation decide to write a new constitution?
- › What did the founding generation learn from the state constitutions that led to the drafting of the U.S. Constitution?
- › What was Shays’ Rebellion? How did it influence the founding generation?
- › What key principles underlie the U.S. Constitution?
- › What sort of system of government did the founding generation establish?
- › What key principles were missing from the 1787 Constitution?

### LOOKING FOR MORE?

Check out the Road to the Convention curriculum from the National Constitution Center at [constitutioncenter.org/education/constitution-101-curriculum/3-road-to-the-convention](https://www.constitutioncenter.org/education/constitution-101-curriculum/3-road-to-the-convention).

<sup>1</sup>“Equality,” Annenberg Classroom, accessed July 19, 2023. [https://www.annenbergclassroom.org/glossary\\_term/equality/](https://www.annenbergclassroom.org/glossary_term/equality/).

<sup>2</sup>“Liberty,” Cornell Law School, accessed July 28, 2023. <https://www.law.cornell.edu/wex/liberty>.



A scene from Shays' Rebellion, published in 1882. The Miriam and Ira D. Wallach Division of Art, Prints and Photographs: Picture Collection, The New York Public Library (b17613346)

## POPULAR SOVEREIGNTY AND NATURAL RIGHTS

**“[T]he more important aspect of the Preamble is that it focuses on popular sovereignty. It is the people, rather than the government of the states or the nation, that are the actors.”<sup>3</sup>**

—Michael Rappaport, Legal Scholar

At the time of the founding, “We the People” in many ways meant “We, the white male landowners,” but the principle of popular sovereignty tells us that the ultimate power and authority rest not with the government itself but with the people. When we examine the Preamble, we can see the framers did not obscure this core principle. Instead, they led with a profound statement to the world that this government would be based on popular sovereignty, powerfully declaring “We, the People,” agree to this document and consist of whom it will govern. The line that follows—“in order to form a more perfect union”—sets up the idea of natural rights and social contract theory by saying we give these rights over to a government. But in exchange for what? And what are the people expected to get? Not a perfect union but a more perfect one that shows a little humility.

The rest of the Preamble continues to spell out what the Constitution will do through the rule of law. It will “establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity . . .” It ends by reiterating that We, the People, create—“do ordain and establish”—this Constitution.

For the Constitution to go into effect, it needed to be approved by the people through the ratification process. Article VII of the Constitution established the process for ratification by simply stating that the “Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.” On June 21, 1788, New Hampshire became the ninth state to ratify, and the Confederation Congress established March 4, 1789 as the date to begin operating a new government under the Constitution.

At its core, popular sovereignty is rooted in social contract theory. Based on the work of John Locke and other Enlightenment thinkers, the social contract is an agreement between the people and their governments. Governments have the responsibility to protect individual natural rights in return for the obligations of responsible citizenship. People give the government the power to govern and some rights (not unalienable natural rights) in return for safety and security (rule of law). People give the government the power to rule, but governments need to create a fair, legitimate system that promotes safety and happiness. Ultimately, the government is accountable to the people. If the government does not protect the people’s natural rights or creates an unfair or unjust structure, the people need to demand change.

### ESSENTIAL QUESTIONS TO CONSIDER WHEN TEACHING ABOUT EQUALITY AND THE FOURTEENTH AMENDMENT INCLUDE:

- > What key principles were added or enhanced during Reconstruction?
- > How did the Fourteenth Amendment transform the Constitution?
- > How does the Fourteenth Amendment promote equality and protect freedom?
- > How has the Fourteenth Amendment been applied by the Supreme Court over time?
- > How did American Indians interact with the French and other groups who moved about and forcefully settled the Atlantic World?

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<sup>3</sup>Mike Rappaport, “Gouverneur Morris on the Preamble to the Constitution,” Law & Liberty, updated March 13, 2019, accessed July 19, 2023. <https://lawliberty.org/gouverneur-morris-on-the-preamble-to-the-constitution/>.



Photograph of a segregated bus station in Durham, North Carolina, 1940. Library of Congress (2017747598).

## EQUALITY

It is a basic principle of republican governments that they must be fair—that all humans are entitled to be treated with fairness in the form of equal protection under the law. Equality in a constitutional democracy means equal justice under the law. No one is above or beyond the reach of the law, and no one is entitled to unfair advantages or subjected to unequal penalties based on the law.<sup>4</sup>

When the Fourteenth Amendment was added in 1868, the Constitution made significant progress toward the Declaration of Independence’s promise of freedom and equality. Section 1 of that amendment states:

**“ All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.**

## LIBERTY

Liberty is the idea that we are allowed to think, work, live, and learn, free from arbitrary rule and without arbitrary and unreasonable restraint. We see this term “liberty” appear constantly in the pre-Revolutionary colonies, amplified in the Declaration of Independence, and then codified in the Constitution through the opening of “We the People” and the Fourteenth Amendment. We examine liberty as the idea of freedom from a government that is both unfair and unequal in its application of the law. These ideas of liberty and equality are bound together, and when embodied in laws, they can together protect the individual and ensure balance across society.

### ESSENTIAL QUESTIONS TO CONSIDER WHEN TEACHING ABOUT LIBERTY:

- > How does a society maximize individual liberty while still protecting the safety and rights of others?
- > What are the ways that our society protects liberty? What are some ways that our society restricts liberty?
- > How are liberty and equality connected?

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## CONCLUSION

As we examine these founding principles, we must allow our students to ask and answer for themselves how these principles apply today. In the most turbulent of times in America, we seek to find answers to who we are, state loudly for the world to hear what we believe in, and set a course toward who we want to be. Each generation must ask questions and redefine these values for themselves.

To teach the history of the United States, it is imperative to help students examine how the story of the “We the People” has been written and rewritten over time by those who were left out of the original narrative. They need to consider how those who were left out used the document’s stated principles to find their voice and agency, how many of their fights for freedoms were denied, and how their actions helped build a more perfect union.

<sup>4</sup>“Equality,” Annenberg Classroom, accessed July 19, 2023. [https://www.annenbergclassroom.org/glossary\\_term/equality/](https://www.annenbergclassroom.org/glossary_term/equality/).





Howard Chandler Christy's 1940 painting depicting the signing of the U.S. Constitution in 1787. Architect of the Capitol.

We began with the build-up to a revolution, then an experiment in self-government, and then the transformative period of Reconstruction. But that is not where the story ends. With any agreement, there is always work to be done to keep the system functioning well. As citizens and residents of the United States, our role in this arrangement is to be active, engaged, and knowledgeable of our history and our principles. When you think about social contract theory, the critical insight is that all legitimate forms of government are based on the consent of the people: the people give away certain powers to the government, but the people can always take that power back. So, if the government fails to uphold its end of the contract, the people have the right to alter or abolish it. That's what the American people themselves did in the American Revolution.

A core principle of the U.S. Constitution is a citizenry who knows and acts as the guardian of our democracy. To do that effectively, we must examine our agreements with our government at every level—in our schools, in our communities, and with our representatives both locally and nationally. Therefore, teachers must help their students examine their membership agreements with a lens on the danger of the tyranny of the majority, the meaning of consent, and the issue of how to enforce a social contract with their teachers, their families, or even in their clubs. What are your rights and responsibilities for each community with which you engage, and how are these different, depending on the ruling structure and the purposes of the agreement? Principles guide our beliefs and give us guideposts—or rather, goalposts. It is our job to keep score.

**The strength of the Constitution lies entirely in the determination of each citizen to defend it. Only if every single citizen feels duty bound to do his share in this defense are the constitutional rights secure.**

—Albert Einstein