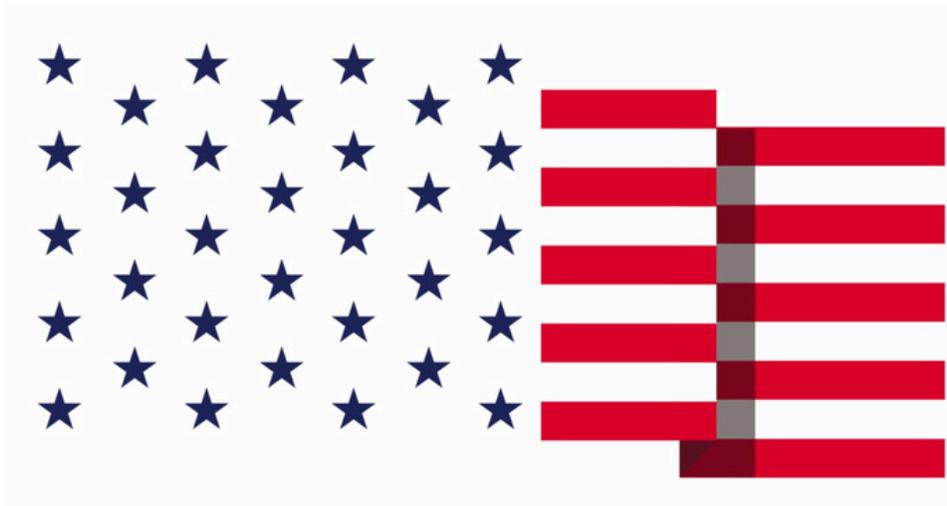


THE CLOUGH CENTER
FOR THE STUDY OF
CONSTITUTIONAL DEMOCRACY

WHAT THE
CONSTITUTION
MEANS TO *US*

An Oral History, Vol. 2



2024

BOSTON COLLEGE

THE CLOUGH CENTER
FOR THE STUDY OF
CONSTITUTIONAL DEMOCRACY



SCHILLER INSTITUTE FOR
INTEGRATED SCIENCE AND SOCIETY





What the Constitution Means to Us

Proceedings from Constitution and Citizenship Day 2023



**ENGLISH ★ INTERNATIONAL STUDIES ★ LAW ★ ENVIRONMENTAL SCIENCES
NEUROSCIENCE ★ POLITICAL SCIENCE ★ HISTORY ★ THEOLOGY**

Table of Contents

Introduction by Prof. Jonathan Laurence.....	4
"A Dramaturgical Perspective on the Constitution" by Sarah Lunnie.....	6
"Cruel and Unusual Healthcare" by Shaun Slusarski.....	8
"To Be an American" by Kylee Bernard.....	10
"The Breath of Liberty" by Maggie Cosentino.....	11
"The Symbolic Power of our Constitution" by Prof. Kay Schlozman.....	12
"Non-Citizens' Constitutional Rights: A Contradiction and an Opportunity" by Prof. Daniel Kanstroom.....	13
"The U.S. Constitution: America's First Queer Ally" by Caroline MacNeill.....	15
"America's Exceptionally Flawed Amendment Process" by Prof. Aziz Rana	17
"A Guiding Light for Artistic Freedom" by Brooke Olson	19
"A Mirror: Our Constitutional Journey" by Prof. Paulo Barrozo.....	21
"Howard Zinn and the Balance within the Constitution" by Brendan Mahoney	23
"The Preamble and a Declaration of a Dream" by Prof. Natana DeLong-Bas	25
"The Staying Power of the American Constitution" by Prof. Thibaud Marcesse	27
"Poetic Musings on America" by Angelo D'Amato	29
"behind the glass & in the ink" by Jesse Julian.....	30
"The Sword of American Democracy" by Prof. María de los Ángeles Picone.....	31
"A Constitutional Convention: The Path Forward" by Alex Work	32
"America's Guardian of Democracy" by Boyu Jin.....	34





Introduction

Prof. Jonathan Laurence

Department of Political Science | Director, Clough Center



I'd like to welcome you all to the second annual all-campus forum on "What the Constitution Means to Us." Today's event opens our public calendar for the year, and the Clough Center's role feels especially relevant right now. In a world of stalled democracies and assertive autocracies, it is sobering to consider the future of our system of governing.



When twice as many countries moved towards authoritarianism than did towards democracy in the last five years, the Open Society Foundation did a global survey of respondents sampled from 30 countries this summer, and they found that 86% of people want to live in a democratic state. But, the survey revealed profound doubts about how democracy is practiced. People believe in its potential to deliver results, but they are less convinced by its current performance.

This is especially the case concerning basics like economic security and physical safety. We are familiar with democracy's shortcomings here in the United States where confidence in public institutions and the news media have eroded. And where one of the most spectacular indicators of democratic decline is the popularity of a presidential candidate who sought to disrupt the transfer of power after the last election.

After multiple indictments, it is still too early to tell whether it is the prosecutor or the defendant who has finally met his match. Clearly, we have our work cut out for us when it comes to defending the Constitution and the rule of law. This marks the center's 15th year of activity. When it was founded, constitutional crises were seemingly reserved for other countries. Two thousand and eight was a relatively optimistic time when senators John McCain and Barack Obama contested the presidency. The financial crisis and the Euro crisis were already unfolding, but their political consequences were not yet clear. Nevertheless other signs of the coming challenges were visible.

In European countries, fifteen years ago, the far right had already passed the generational torch and begun making serious electoral gains. In the US, John McCain's choice of running mate foreshadowed a storm in national politics. And what had looked like a glitch in vote counting in Florida back in the 2000 elections turned out to be a possible inflection point in US political history.

As voters in Italy, Germany, Poland, Hungary, and the UK have demonstrated in the past 15 years, and as the officers who defended the US Capitol on January 6th can attest, we are not experiencing merely theoretical vulnerabilities to democratic constitutional orders. These developments have exposed the inability of political parties to manage conflicts that have been brewing for decades.

In the sociocultural realm, there's deep disagreement over how or whether to define and account for historical wrongs such as colonialism, slavery, and sexism. Relatedly, in economic affairs, how to soften the negative impacts of the market capitalism that has guaranteed relatively high living standards in these same democracies.





These are the challenges that confront our own constitution, a living document that we are here not to blindly revere, but rather to commemorate and reflect what it really means to us. I think of this forum as a time capsule that captures the particular zeitgeist and concerns of our moment.

Like this, last year's proceedings are published as an oral history which you can take home. And as you'll see in that booklet, there is still much to valorize in the founding document despite recent setbacks. But there are also concrete areas where we see the need for improvement. So as we prepare for elections in 2024, we remind ourselves what we have taken for granted.

Through our activities and fellowships, the Clough Center wants to leverage the strengths of our larger community to think about the conditions for creating a thriving democracy and to practice them. And it's in that spirit that we decided to start the academic year with this event. I want to thank each student and professor for preparing their thoughts for us today and a sincere thanks to all of you for being part of this.

For the second time, this event and the prize for best essay are co-sponsored by the Schiller Institute for Integrated Science and Engineering. I am very grateful to its director, Laura Steinberg, for her support and collaboration. I also want to thank the two former directors of the Clough Center, Vlad Perju and Ken Kersch, for serving on the prize committee, along with Nicholas Hayes-Mota, the Center's assistant director, as well as Jim West of the Schiller Institute. At the end of the program, we will announce the student prizes for the best entries.

One final note as a lead into the main event, and one of the reasons that I've been so excited about this afternoon. As is evident from the title of the event, the inspiration to convene this forum in this format comes from the pioneering stage play *What the Constitution Means to Me* by playwright Heidi Schreck, who was a finalist for the Pulitzer Prize and a Tony Award. It recounts the perspective of one woman's path from an American legion debater to a critical thinker and citizen through the personal turning points and tumultuous history of women's rights in her life and that of the country.

After the first part of that play ends, a high school debater joins the actors on stage, distributes paper and pencil to the audience. They then participate in a real debate then and there about whether the Constitution should be preserved or whether it should be written anew. And that breaking of the fourth wall was a remarkable implementation.

The powerful script and the whole experience rang a bell for me, but it is more than serendipitous that this event is taken here at Boston College because part of the reason that work of theater is so compelling is thanks to the incredible dramaturgy of a Boston College graduate from the class of 2008.

We are so thrilled to have with us today a special guest, Sarah Lunnie, who helped create the original production of *What the Constitution Means to Me* with playwright Heidi Shreck. As an undergraduate at BC, Sarah made a lasting impression on the creative writing program and the Theater Department. She went on to play a crucial role in bringing to life the piece of theater that has motivated and mobilized so many, including the Clough Center and the Schiller Institute at Boston College. Now, she is Senior Dramaturg at the Public Theater in New York City. I'm so delighted that Sarah agreed to offer her reflections as part of this all-campus forum. And I'd like to invite you, Sarah, to the podium. Thank you for traveling to be here.



★ ★ ★ ★

A Dramaturgical Perspective on the Constitution

Sarah Lunnie

BC '08, Dramaturg at The Public Theatre (New York)



I'm moved to be with all of you today. My name is Sarah Lunnie. I'm a member of the graduating class of 2008. I'm a dramaturg, and if you haven't heard that word before, don't worry, you're not alone. It means that I spent my time having conversations with artists about their works in progress, and I had the great privilege of working closely with Heidi Schreck as she built the play that inspired this event, *What The Constitution Means To Me*.

I'm also a relatively new mom. My husband and I welcomed our older son in May of 2020. The day we brought him home from the hospital, George Floyd was murdered by police in Minneapolis. I learned to nurse my son while watching protesters march up Flatbush Avenue out the window of our apartment in Brooklyn while neighbors banged pots and pans for emergency workers every evening. But they did so in decreasing numbers and with decreasing conviction, as the pandemic death toll climbed.



That July, twenty-six-year-old Sha-Asia Semple died in labor at Woodhull Medical Center in Bed-Stuy. She was a victim of negligence and a healthcare system in which black women are still almost three times more likely to die in childbirth than white women. Like Mr. Floyd, she died saying, "I can't breathe." This is some of what was happening when I was reborn as a mother.

That is the context in which I began to contend with the world, not only as my inheritance but also as my responsibility to explain, to account for what I passed down. Although, of course, that had always been true. I remember reading, in the little red book Boston College gave us at orientation, that vocation is the place where the world's deep need and your deep gladness meet. And I was lucky to find that here.

Scott Cummings in the Theater Department was the first person I heard say the word dramaturgy, which sounded like dark magic or a disease. But he explained that it had to do with getting to the heart of things – of plays. Bones and guts and ligaments. As a lapsed Irish Catholic, from a huge extended family of big talkers, who loves people and conversation more than anything, it seemed like either an extraordinary blessing or some kind of epic scam that this was a job that a person could have. To talk to people and help them tell their stories. But it is what I get to do.

I think stories matter a lot. Everything that exists begins with articulation. Phyllis Rose tells us in "Parallel Lives:

**WHAT THE
CONSTITUTION
MEANS TO US**



Five Victorian Marriages” that we tend to evaluate fiction based on how sensitively it represents life. In the process, some may underestimate the extent to which people view fiction as a blueprint to construct their lives. Sometimes when we feel monstrous, what we're actually experiencing is the need for a new story.

It takes courage to make something new, a work of art, a baby, a government. I think what the framers of the Constitution had in common with artists might be a lot. When you try to make something new, you have to balance tradition with the radical, the disruptive. What inherited structures will you cling to, preserve, or repurpose? What needs to be thrown away? What needs to be imagined for the first time? You may feel you don't have the experience, authority, or permission to do what you are attempting to do. People will probably tell you that you don't, and you will have to ignore them and keep going.

One gift of my job is that I get to read a lot of what Anne Lamott calls “shitty first drafts.” I know now that everything is formless before it finds its shape. Even in works of genius, maybe especially in works of genius, chaos fits itself into order through so much trying and failing and trying again. Truly, almost everything is a mess before it's any good at all. So many clichés about writing turn out to be true.

Writing is rewriting. You really do have to kill your darlings. I'll stop myself here because you probably already get the metaphor I'm trying to sell and I'm not sure that I'm buying it. Sure, we can talk about amendments as revisions. We can talk about democratic processes, protest movements, and civil disobedience as forms of feedback. But the relationship to consequence is so different. Art doesn't have to be useful. It doesn't even have to be good. The world is full of terrible art and on wheels spin, whereas those who take it upon themselves to make not art, but laws, have assumed responsibility for other people's lives. If we try to talk about “killing your darlings” in the context of the Constitution, what we're talking about in this country is slavery. Another strange simile.

When I worked as a literary manager, I used to train script readers to evaluate play submissions. The evaluations consisted of a summary and an assessment. First, attempt to describe the work. What does it set out to do? What is its structure? How does it unfold in time? Next, assess how it succeeds at delivering on the terms it has set for itself. Finally, make a judgment. Here you can reflect on your context, your theater, its audience, the world, and yourself. What does this story mean to us here, now?

If I were to evaluate the Constitution - and on the one hand, “ha!”, but on the other hand, you invited me - I'd say it is a work of real greatness and blindness. A serious attempt to construct the conditions for self-governance in the context of white supremacist patriarchy whose amendments reveal at least a partial recognition of its foundational violence, but also a fear, unwillingness, or inability up to this point to undertake a more substantial revision and fulfill the promise of its preamble. I'm being a little cute, but that is essentially what I think.

It's intimidating to stand here with all of you today, constitutional scholars, philosophers, and theologians, but it's also liberating. Another thing I've come to believe after so many years working with artists, and why I work in the theater: fixation on individual genius is pathologic, or at least a fetish, and based on a lie. It ignores collaboration. What I love most in our constitution is the faith it puts in shared labor, in productive conflict and exchange.

**WHAT THE
CONSTITUTION
MEANS TO US**



Cruel and Unusual Healthcare

Shaun Slusarski

Clough fellow, Doctoral student in the Department of Theology
Recipient of the 2023 Clough Prize for Best Submission



On Saturday, February 23, 2008, Ziggy Lemanski, an incarcerated person at Worcester County Jail, started to experience flu-like symptoms. This was a serious concern for Lemanski since his immune system was compromised by both HIV and hepatitis C infections. Sure enough, his condition quickly deteriorated. He was unable to get out of bed and often found himself coughing up blood. While he had daily contact with nurses who would bring him his HIV and hepatitis medication, they did nothing to ensure that he got the treatment he needed for this emerging illness. On Wednesday,



February 27, he submitted a sick slip to the medical unit. He reported, “I have been in bed since Saturday. I’ve been coughing up dark phlegm and [struggling with] diarrhea and feel weak and [have] the chills.” It was not until Friday, February 29th, two days after he filed the slip, that he received any medical attention. When he was finally brought to the infirmary, he was severely dehydrated, and his oxygen level was dangerously low. He died of pneumonia at age 44 on March 4, 2008. The question remains: would Lemanski have died at such a young age if he received the medical care he needed in a timely fashion?

Lemanski’s story is tragic but more common than it should be. Medical neglect is a significant concern in carceral facilities throughout the country. The abolitionist coalition #DeeperThanWater has helped shed light on the pervasive neglect in Massachusetts prisons. They have reported that Wellpath, the for-profit healthcare company contracted by the Massachusetts Department of Corrections, has left prisons in the Commonwealth significantly understaffed. At MCI-Norfolk, for example, when the medical director recently stepped down, the prison was left with only two nurse practitioners to manage care for 1,100 people. The company’s cost-saving policies have resulted in needless suffering and preventable deaths throughout the Commonwealth’s prison system.

While many may be unsurprised by this level of neglect, the irony is that incarcerated people are the only group in the United States with a constitutionally guaranteed right to healthcare. This is a result of the 1976 Supreme Court ruling in *Estelle v. Gamble*. The ruling marked an important milestone in legal interpretation of the Eighth Amendment, which famously prohibits “cruel and unusual punishment.” Previously, the amendment had largely

WHAT THE
CONSTITUTION
MEANS TO *US*



only been invoked to temper methods of capital punishment. *Estelle* marked the first time that the amendment nly been invoked to temper methods of capital punishment. *Estelle* marked the first time that the amendment was cited to challenge the administration of prisons. Before *Estelle*, the courts gave prison administrators wide latitude in how they managed their facilities, but by the 1970s, it became clear that prison conditions were objectively bad and legally intolerable. The ruling, therefore, specified that because incarcerated people rely entirely on the prison to meet their medical needs, “deliberate indifference to serious medical needs” constitutes a form of cruel and unusual punishment.

This ruling has improved conditions, yet the prevalence of medical neglect and other problems in the prison healthcare system shows that there is still work to be done. Lack of clarity around the meaning of the words “deliberate” and “serious” still provides wide latitude to prison officials in their distribution of healthcare. For one thing, it is very difficult to prove that the failure to provide adequate care in a particular case is in fact deliberate. Cases of medical malpractice, for example, do not automatically indicate a violation of the Eighth Amendment. Furthermore, prison officials are largely off the hook if they neglect medical problems not deemed to be “serious.”

While Lemanski’s story may indicate that *Estelle* did not go far enough in ensuring that incarcerated people get their medical needs met, *Estelle* and cases related to it affirm that the Constitution is a living document. What is considered “cruel and unusual” has shifted since the eighteenth century. We as a society, therefore, must reflect on what is in fact cruel and unusual today. Is it cruel and unusual to make a seriously ill incarcerated person wait days or longer to see a provider? Is it cruel and unusual to incarcerate people with debilitating mental illnesses? Are crowded living conditions cruel and unusual, especially during a global pandemic? In light of its well-documented adverse effects on mental health, is solitary confinement cruel and unusual? Furthermore, should we consider incarceration itself a form of cruel and unusual punishment?

As Nelson Mandela observed, “[N]o one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.” As such, in order to cultivate the kind of society in line with our most cherished democratic values, we need to guarantee the highest level of care and respect for everyone involved in the criminal justice system. Thank you.



WHAT THE
CONSTITUTION
MEANS TO *US*



To Be an American

Kylee Bernard

Undergraduate, English Department



Life, liberty, and the pursuit of happiness,
That is what we are supposed to be promised.
It is what those far and wide dream of.
It is what my grandparents dreamed of in 1963,
When they began the long journey from Haiti.
They have lived a life full of love and success,
Dedicating their lives to work and buying a home where they raised 4 children.

So, on paper, they have lived a life with liberty and the pursuit of happiness,
But they also lived a life full of constant fear.
Fear of walking to work because Papi might have bleach thrown at him.
Fear that the beautiful color of their skin might upset someone.

So, when I think of the Constitution, I think of uncertainty.
I think of liberty and freedom.
But I also think of subjection and prejudice,
Because the America that some of us live in is not the America that all of us live in.
I think of how police sirens have different meanings for different groups.
I think of how the 4th of July does not represent freedom for all,
But only freedom for some.
And I think of how the different parts of our identity are directly connected to how
safe the Constitution makes us feel.

So, when I think of the Constitution, I think of uncertainty and of promises broken.
Because we may be guaranteed life and the pursuit of happiness,
But things like liberty and safety are never promised.

WHAT THE
CONSTITUTION
MEANS TO *US*



The Breath of Liberty

Maggie Cosentino

Undergraduate, Carroll School of Management



A clean breath, a free breath
Devoid of expectation, commitment,
A stream of opportunity, a wave of emotion
A vessel fit for verbal truth
Untapped, undisturbed, unbothered
Waiting for my taking

What power I reign with my breath
What space for me to take
Mountains have moved with such breath
Breath that leaves diminution in its wake

Our mouths free from chains of legislation
What power we wield in this unencumbered land
Nothing can hold our truth down
Limitless potential at our demand

At the dawn of uncharted innovation
Our tongues remain a valiant sword
Cutting through the worldly lies
Sharing what others seek to ignore

My breath is my power
A god-given gift
By virtue of our fathers
I can use it to uplift

The First Amendment
It gave me my breath
Unpromised, unsoiled, unshakable
A weapon, a gift
Our founders' greatest bestowment
The means to true liberty

WHAT THE
CONSTITUTION
MEANS TO *US*

★ ★ ★ ★

The Symbolic Power of our Constitution

Prof. Kay Schlozman
Department of Political Science



I am just beginning my fiftieth year as a faculty member in the Political Science Department. I'm not going to talk about what the Constitution means to me or even necessarily to us, but what I've learned from a course I teach to sophomore Political Science majors at Boston College about what the Constitution means to them. The name of the course is Rights in Conflict, and it covers the politics of a series of controversies in which at least one side, and usually more than one side, claims rights.

Appropriately, the first book we read for the seminar covers the Bill of Rights, where it came from, how it got through Congress, what it contains, and so forth. When we start that session, which is the first substantive session of the semester, I hand out an ungraded anonymous little quiz, which you have too, so I hope you've had a chance to look at it. If not, take a look.

What I can report is that almost nobody in the course, and these are Political Science majors, gets it right. If you flip over, you'll see the actual sources of the reasonably well-known phrases that I asked about. You'll see that the only one that comes from the US Constitution is in the middle, "to secure the blessings of liberty," and often students don't know it comes from the Constitution.

The first one, "From each according to his ability, to each according to his need," is one that students know is not from the Constitution. They associate it correctly with socialist thought, and it comes from Marx. But the second and the fourth are mistaken for being from the Constitution. Both "The consent of the governed" and "Life, liberty and the pursuit of happiness" are phrases in the Declaration of Independence. The final resonant phrase, "Of the people, by the people, for the people," is derived from the end of Lincoln's Gettysburg Address.

So, what have I learned from this little exercise? Certainly, the lesson I take home is not necessarily that sophomores in Political Science don't know anything, but rather the importance of the Constitution as a symbol and the extent to which it has absorbed or been imbued with the values that underpin American democracy. And so, the fact that so many of the students thought that phrases two, three, and five, or two, four, and five come from the Constitution indicates that the Constitution is a symbol associated with overall American political culture. That it is a set of associations. What political scientists call political culture is what the people of any nation associate with the expectations they have, and the values they put on their own political process. Through this process, I have learned the extent to which the Constitution is a fundamental part of American political culture, even if we don't always know what's actually in it. Thank you.

**WHAT THE
CONSTITUTION
MEANS TO US**

★ ★ ★ ★

Non-Citizens' Constitutional Rights: A Contradiction and an Opportunity

Prof. Daniel Kanstroom
BC Law School



I spent much of my professional life as a lawyer and as a law professor advocating for the rights of non-citizens, often people who are deemed to be outsiders in the whole question of the Constitution. I often tell my students that both the challenge and often the reward of this work is that we find people at the lowest ebb of their power, their luck, and their legal status, and they face the nation-state and the government at the absolute apex of its power and its authority. So, if there's any place where constitutional structure and basic constitutional rights are needed, this is it. But, this has rendered my personal relationship to the US Constitution particularly fraught and complex. Do non-citizens have any constitutional rights? Should they? Are they part of “We the People” that is in the Constitution, or not? If they do have rights, what should those rights be?

These questions cut to the heart of some of our deepest societal, moral, and legal dilemmas, and they form the basis for my critical and contradictory answer to the deceptively simple question, what does the Constitution mean to me? One thing it does not offer is a simple text from which one can derive answers to conflicts or political-legal questions. It is, and it always has been, an interpretive work in progress, the exegesis of which compels us to confront profound dilemmas—what Ronald Dworkin analogized to a chain novel written over time by multiple authors, each of whom adds new insights while trying to retain at least some fidelity to the basic plot line.

Of course, the post-Civil War amendments, like the New Deal and Civil Rights decisions, changed a lot. So it's changed profoundly over time, but it was always designed to serve many purposes: a government blueprint, a foundational rights matrix, a membership pact, and an exclusionary document. In my field of immigration law, we have to grapple with the meaning of citizenship and a doctrinal legacy that is still to this day directly relevant to the *Dred Scott* case. Some people, even people within the United States, are still



WHAT THE
CONSTITUTION
MEANS TO *US*



treated by the Supreme Court as lacking basic constitutional rights to liberty, equal protection of the laws, and habeas corpus, et cetera.

In a major 2018 decision, Justice Alito wrote for a court majority that an undocumented asylum seeker who had been kidnapped and tortured in Sri Lanka had neither a due process right to liberty while his case was being adjudicated nor a habeas corpus right to have a judge review an adverse agency decision.

As Justice Sotomayor noted in her dissent, this paves the way towards transforming already summarized and expedited removal proceedings into arbitrary administrative adjudications. So the Constitution can often be helpless in the face of certain Supreme Court interpretations, but it forms the basis for critique of those things, too. Cases like this are part of a legacy that we can trace back to the nineteenth century. For example, after the so-called "Chinese Exclusion" case of 1882, one prominent commentator viewed its very name as an embarrassment. The Court held there that Congress was essentially unfettered in its power to create a retroactive race-based law of exclusion. The court rejected every constitutional argument brought by a person who was forbidden to return to this country after living here legally and productively for 12 years. It made clear that the laws of exclusion of non-citizens were outside of constitutional discourse entirely, a proposition that we then saw echoed by the government in Guantanamo Bay detention cases much more recently.

The Chinese Exclusion case, amazingly enough, is still sometimes cited in government briefs. It is still law. On the other hand, the Constitution has also grounded robust rights protections for non-citizens. A non-citizen is indeed, unlike Dred Scott, a person for constitutional purposes. In the end, for me as a human rights lawyer and a law professor, the Constitution is a contradiction and it's an opportunity. It's certainly not a definitive text and certainly not to be interpreted according to an originalist understanding of the framers' intent. It was, as Thurgood Marshall noted repeatedly, defective from the start, and there was surely truth in Garrison's abolitionist credo that the original Constitution was a covenant with death and an agreement with hell. You've probably heard that elsewhere, but if you haven't, look it up.

So from this, you might conclude that I think the Constitution and perhaps law itself simply echo the wisdom of La Rochefoucauld's famous observation that, "Hypocrisy is the homage that vice pays to virtue." But for many years, I used to train criminal defense lawyers by telling them, "If you think that defending the rights of criminal defendants is tough, and it is, try working without a Constitution for a while, as immigration lawyers often do, then you will see the difference. It's not nothing."

So for me, the Constitution is problematic, inadequate, anachronistic, frustrating, and easily and often misinterpreted, but it is also potentially a rich and evolving source of rights for the most marginalized among us: as Mike Pence demonstrated, a ground upon which one can stand to oppose authoritarian impulses. Marx famously called religion the opiate of the people, and in some ways the Constitution is this, too, but especially for those of us who advocate for the basic rights of the most humble, the most despised, and the most regularly rightless among us, it also evokes his less well-known preceding observation that it is "the soul of soulless conditions and the heart of a heartless world."

★ ★ ★ ★

The U.S. Constitution: America's First Queer Ally

Caroline MacNeill
Undergraduate, Department of Political Science



The ideals embedded in the Constitution extend far beyond the confines of a legal document. They are a symbol of hope—a promise of freedom—and they inspired me to pursue my political science degree as I became increasingly aware of my place in the world. As a queer woman, the past year has brought with it a renewed understanding of the Constitution's relevance in my life and my community. With the unsettling surge in anti-trans legislation and the Obergefell v. Hodges ruling—among others—called into question, the Constitution has taken on a deeply personal and perhaps concerning significance. Nonetheless, my continued education about our nation's foundational document helps uphold my optimistic vision for the advancement of queer rights. Indeed, the emphasis on prosperity through equality characterizes the Constitution and serves as a beacon of inspiration for our ongoing fight. When we strip away all the political noise, it is evident that the Constitution was made for people like me.

The Founding Fathers, as they embarked on the journey to draft the Constitution, had a profound mission in mind. They aimed to create a society where individual liberty and justice would be paramount—a society that would safeguard minority rights against oppression in any form. Their commitment to freedom of expression is evident throughout the Constitution, and it was never simply about protecting the majority; it was about creating a platform for marginalized voices to be heard. It cannot go unacknowledged, however, that the Founders omitted various populations from the full scope of their vision. Undoubtedly, the rights and freedoms entailed in the Constitution have been historically withheld from the nation's communities of color, its queer population, and any group of non-white, non-male individuals. That begs the question, then, of how to use the tools at our disposal to create a more just and equitable society with specific emphasis on these marginalized groups. While this presents a task that requires a multitude of solutions, one can begin by looking inward and reflecting on the philosophical essence of what is written in this foundational document. What comes of such discernment is a broader understanding of equality which, through the actions of individuals utilizing Constitutional principles to advance their civil rights causes, manifests itself primarily in the Fourteenth Amendment.

WHAT THE
CONSTITUTION
MEANS TO *US*



For LGBTQ+ individuals, this amendment serves as a lifeline, allowing us to openly express ourselves and advocate for our rights without fear of persecution. It embodies the idea that America is a place where diverse voices can coexist, flourish, and contribute to the nation's growth; and it was drafted well after the Founders' Constitution was completed.

The strides we have achieved by harnessing our Constitution as a dynamic, adaptive instrument, molded to the exigencies of our advancing society, ought to serve as a source of inspiration for those who persist in the struggle. This document, while not flawless and in need of significant refinement, was intentionally designed to exhibit pliancy in response to changing circumstances. In the context of LGBTQ+ rights, the journey symbolized by our Constitution's adaptability is particularly poignant. It reflects the ongoing battle for recognition, acceptance, and equality that LGBTQ+ individuals have faced throughout history. This is, at the very least, my perspective, and it continually stirs a deep sense of motivation within me to tirelessly labor toward its improvement. The fight reminds us that we are not just recipients of liberty; we are also its stewards, responsible for upholding these principles for all, irrespective of sexual orientation or gender identity. Ultimately, the struggle for LGBTQ+ rights is deeply intertwined with the American identity, allowing the Constitution to stand as an ally and provide both a legal and moral foundation for our ongoing struggle. Thank you very much.



WHAT THE
CONSTITUTION
MEANS TO *US*

★ ★ ★ ★

America's Exceptionally Flawed Amendment Process

Prof. Aziz Rana
BC Law School



The US Constitution is exceptional in the sense of being a real global outlier. It's incredibly short, 7,600 words. The global average is about 20,000 words. So, it's about a third of the typical length. It has very few actual rights provisions in the written text, and these rights provisions are overwhelmingly negative, grounded in property protections. Most constitutions around the world have a variety of other types of rights protections that are written in, such as socioeconomic and labor liberties, women's rights, reproductive rights, LGBTQ protections, environmental protections, etc. And part of the reason why our text doesn't have these is because of another thing that makes it stand out, which is it's incredibly hard to amend.

By most accounts from social scientists, it's the hardest constitution in the world to change. In other places, constitutions are typically reformed through popular movements, the press for national

referendums, and through organizing at both the federal and national levels. Those actions end up creating new constitutional texts. That's foreclosed here in the US. Another distinctive element is that it shifts most conversations about constitutional politics to the courts. Something else that makes the US Constitution quite stand alone is it has perhaps the strongest and most extreme version of judicial review that we see globally. In other words, the power of the courts, especially the Supreme Court or a constitutional court, to strike down laws as unconstitutional is unique.

In the US, we have a Supreme Court that plays this role without the alternative pathways of amendment. That's foreclosed as well. You only have nine justices. Other courts around the world tend to be significantly larger. For example, there are sixteen in Germany and thirty-four in India. They tend to have term limits, but Justices in the US serve for as long as they want.

**WHAT THE
CONSTITUTION
MEANS TO US**



Elsewhere, it tends to be between nine and 12 years. There's no ethics oversight, and then on top of this, there are limited pathways to contain what the Justices decide so that a super-majority is required, which often entails two-thirds of the justices to agree, which is common elsewhere. You don't have legislative overrides where legislatures can pass laws after judicial decisions.

And all of this is further reinforced by the fact that we have an appointment process that's notoriously malapportioned. It's organized through state-based representation that distorts actual popular opinion in terms of who ends up on the court. Indeed, that issue of state-based representation ends up distorting the entire electoral system, from the Electoral College to the Senate, and to the nature of state determinations regarding federal voting laws in places like the House of Representatives. The result, unfortunately, is that most of the decisions that come out of our political and legal process are pretty incompatible with what most people want, and what most people want doesn't actually make its way through our legal and political process. This means that American exceptionalism is not a compliment.

But, we have another problem, which is to the extent that there's a commitment to constitutional reform, it's in the grip of the cultural role that the Constitution plays. And I should say that this cultural role is complex. In most places around the world, constitutions are just rules. They're sets of decision-making apparatuses that are good, bad, and can be changed based on what people want. In the US, the Constitution is exceptional in a second way because it's more than just rules. It's bound up in a story that we tell about the country regardless of whether or not most of those values are actually written in the text. As Professor Schlozman noted, the Constitution is tied to an idea of equal liberty, a shared national destiny, and the very idea of the rule of law. So it's

very hard for Americans oftentimes to imagine the country as committed to constitutionalism—"little C" constitutionalism—and constitutional democracy without pledging allegiance to the "big C" Constitution.

In this way, it means that, for many Americans at a moment of real national division and impacts, the Constitution can feel like one of the few things that we share. It can mean that talking about reforming the Constitution significantly might open the pathway to even more significant ruptures toward authoritarian politics. And so we're stuck in a kind of in-between space where, on the one hand, the actual infrastructure of our constitutional system is a profound problem; it's inhibiting democratic politics, it's facilitating various forms of minority rule. But, on the other hand, there's a real sense that our only solution to these sets of problems is that the Constitution itself facilitates and expands. My thoughts on this impasse are that, despite the dangers, we're at a moment where we have to move seriously toward meaningful constitutional change and reform regardless of cultural commitments.

But that doesn't mean that we should do it in any way imaginable. Instead, we have to hold tight to "little C" constitutional democracy—in other words, to a political practice grounded in ethics of democracy and mutual respect. This means effectively thinking about ways to marshal a social movement built around the type of electoral legal system that fulfills our democratic ambitions. I don't see much of a pathway aside from taking these kinds of steps, and it means that, hopefully, despite the risks, when we come to celebrate anniversaries in the future, we'll be talking about a constitutional system that embodies those democratic ambitions rather than one that's primarily noteworthy for the extent to which it's a global outlier. Thank you.

★ ★ ★ ★

A Guiding Light for Artistic Freedom

Brooke Olson

Undergraduate, Carroll School of Management



Pause for a moment and envision a world depleted of expression, where thoughts and feelings remain unspoken and canvases are depleted of life and story. Throughout time, societies have needed various forms of communication to survive, including the written word, oral conversations, and visual art. Deprived of these tools, humans would not be able to share thoughts, ideas, and emotions. While different societies protect these forms of communication in various ways, the United States Constitution outlines key values of our nation and defends various civil rights. Along with guaranteeing important protections, the Constitution serves as

a guiding light for artistic freedom. It plays an indispensable role in both the preservation and expression of art. The Constitution is vital in protecting an artist's freedom of expression, as the First Amendment provides a crucial safeguard that enables artists to express themselves without the fear of persecution.

When reading the Constitution, we must remember the historical context in which it was written. The Revolutionary War had just concluded, putting the years of British suppression of the colonists' freedoms at the forefront of the Framers' thought. This experience highlighted the significance of fundamental freedoms, including religion, speech, press, peaceful assembly, and the right to petition in the establishment of a sovereign governing body. As Supreme Court Justice Hugo Black eloquently put it, "The very reason for the First Amendment is to make the people of this country free to think, speak, write, and worship as they wish, not as the government commands." This aligns with the core purpose of art, which is to stimulate thought and expression.

Art is essential to every society and has been for centuries as it has the ability to transcend language and cultural barriers. Making visual art is an incredibly useful tool to express one's thoughts, feelings, and emotions that may be challenging to convey verbally. But as we all know, many thoughts and feelings may be considered out of the box and uncomfortable for some. However, stifling an artist's expression hinders societal progress.

**WHAT THE
CONSTITUTION
MEANS TO US**



Although it is not commonly spoken about, censorship in the arts is not a new phenomenon. We have seen this happen time and time again. One of the more notable examples is the Vatican's Fig Leaf campaign during the medieval period, in which the Catholic Church called for less sensual depictions of the human body and the use of fig leaves to cover genitals in an attempt to eliminate nudity from art. The history of Michaelangelo's piece, *The David*, demonstrates this censorship perfectly. During the medieval period, the Catholic Church, concerned about nudity in artworks, advocated and achieved the practice of covering nudity with fig leaves, making fig leaves synonymous with nudity and sexuality. The piece was eventually restored in 1912, emphasizing the unethical nature of altering an artist's work without consent,

raising important concerns regarding freedom of speech and expression. We still see the rise of artistic censorship in recent years. In 1990, acclaimed photographer Robert Mapplethorpe showed his collection at the Cincinnati Contemporary Arts Center (CAC). Some works caused little to no controversy while others depicted explicit materials related to BDSM. Soon after the exhibition opened, there was public outcry calling the pieces obscene, which eventually forced the exhibition to close. The CAC was then brought to court with the charge of obscenity but won the case, citing the



First Amendment and claiming that freedom of speech allows us to share works like these. While some argue for censorship to protect vulnerable groups, such as children, from potentially harmful content, it is essential to strike a balance between preserving artistic freedom and safeguarding sensitive audiences.

As we've explored the profound relationship between the Constitution and artistic freedom, it becomes clear that this document continues to shape the lives of countless artists. The Constitution, particularly the First Amendment, stands as a guardian, allowing artists to sculpt, paint, and create without fear of censorship or persecution. Throughout history, from the Vatican's fig leaves to Robert Mapplethorpe's controversial photography, societies must walk a delicate line between protecting creative freedom and addressing requests for censorship. It is imperative to realize that the Constitution's shield extends beyond the mere protection of rights; it also provides opportunities for growth and innovation. As we look toward our future, it is crucial to recognize that the Constitution is there to protect freedoms and amplify the voices of those who might otherwise be silenced.

WHAT THE
CONSTITUTION
MEANS TO *US*

★ ★ ★ ★

A Mirror: Our Constitutional Journey

Prof. Paulo Barrozo
BC Law School



To whom is the Constitution addressed? We know that the Declaration of Independence was primarily addressed to the state of Great Britain, and importantly to the opinions of mankind on whose recognition hinged statehood for the former colonists. In our case, recognition first came from Iraq, then France, the Netherlands, Portugal, Spain, and Sweden. But to whom, after all, was the Constitution addressed? In order to sketch an answer to this question, I invite you to join me in a metaphor. Imagine that you board the bus with your family, your friends, and your neighbors. It is considerably a large bus. We know we love some of the people there, others you barely know, perhaps some you mistrust and dislike. Most of them you do not know at all but can be certain to disagree with on at least one important matter.

But there you are, and for all practical purposes, you are on board for the journey. However, the omnibus has no destination. The point is the journey. And while seats were originally assigned, conflict, competition, and cooperation among passengers and road conditions are bound to change seat assignments over time. Imagine also that the wide windshield of this bus has unique features. It is poorly transparent and dangerously so. Even in good weather, passengers are not able to see past a few yards ahead. Throughout the journey, that which lies ahead remains mostly opaque. But although its transparency is limited, the windshield has fine reflective properties. Passengers looking in the direction of the windshield cannot see much of the road, but if they are attentive



enough, they can see themselves reflected in the mirror.

Hence, the windshield is there not as much to unveil the road ahead as it is there for the passengers to behold the sharing of their journey.

The Constitution is a mirror permanently held up before us. Now, how good is this mirror? Well, the American Constitution is one of the most famous and influential legal codes ever. It was the public law while the Code Napoleonic of 1804 was a private law. Famous and influential, the Constitution is a remarkable document, as remarkable as the polity that it helped create. With any successful codification, what is remarkable about the Constitution is not that it was original; remarkable is how it was collected, synthesized, and organized in a novel way at the right time.

**WHAT THE
CONSTITUTION
MEANS TO US**



As one example of a national idea, the Constitution opted for a mixed regime with elements of democracy and oligarchy. In another example of ancient practices and laws, the Constitution accommodated slavery. It invoked their servitude, which the Thirteenth Amendment of 1868 greatly restricted but did not completely abolish. Involuntary servitude is still part of our constitutional order. Now, a mark of success of any code of law is that it is admired, studied, criticized, improved upon, and emulated around the world.

Our Constitution was so remarkable that it was in time surpassed by other constitutions in four main ways. First, the legal order that the Constitution created is no longer supported by its subjects in the same way that legal orders elsewhere are supported by their subjects. In one measurement, a Pew Research Center poll a few years back found that 17% of Americans believed that real-time governance would be good, and 22% believed that rule by an autocrat would be good. The same poll found that

only 40% of Americans report feeling committed to democracy. Second, our Constitution is less protective of those living under it than several other constitutions are. Third, our Constitution was also surpassed in the sense that the interpretive reasoning and decision-making practices that grew around it are no longer at the global cutting edge. And fourthly, the Constitution was never among us sufficiently conceptualized or theorized. As the country became ever more complex, the burdens we carry for these four areas where we fell behind became also more salient and consequential. Thus the mythologized Constitution appears to be one of the many landmarks in a global historical process that began long before it and will continue beyond it. But, it is our Constitution. As our stories intersect with it, the Constitution is deeply personal. It is my Constitution; it is your Constitution. Collectively, we have an image that reflects back when we look at it. So, there is so much thought and work to be done. The journey is ongoing, and two centuries make for a fine beginning in the ages of law. Thank you.



WHAT THE
CONSTITUTION
MEANS TO *US*

★ ★ ★ ★

Howard Zinn and the Balance within the Constitution

Brendan Mahoney
Undergraduate, Department of History



If you have ever seen the film *Good Will Hunting*, you may recall when the titular character mentions a particular book, which he terms as a “real history book.” That book is, of course, *A People’s History of the United States*, by historian Howard Zinn. The success of Zinn’s bestseller stems from both its goal of explaining history from the side of those who have been oppressed, and its reception as such. Since the book evaluates history in a chronological manner, early in the book Zinn offers insight on the making of the Constitution. Zinn proffers that it is impossible to view this document as solely political without considering the economic interests of those making the document. Therefore, Zinn claims the Constitution can be viewed as the balance of “the work of certain groups trying to maintain their privileges, while giving just enough rights and liberties to enough of the people to ensure support.”

This is a lot to unpack at first glance, but a little context of Howard Zinn’s life and teaching offers a level of perspective, at least on a philosophical level, that will help evaluate this statement.

On my research trip to New York University’s Tamiment Library this past June, I was lucky enough to look at Howard Zinn’s archives. Within those archives exist hundreds of pages of syllabi constructed by Zinn for the many classes that he taught at Boston University. The classes ranged from “Introduction to Political Theory” to “Topics in Marxism and Anarchism.” Within all these syllabi exists one key concept that is imperative when it comes to researching and teaching history: balance. There are points made in favor of certain topics, as well as counterpoints being made on those same topics, all the while maintaining truth and honesty with the topics at hand. The phrase “a critique of...” appears on almost every single syllabus within this collection, which, to me, translates to a desire for a balance of opinions on dense theoretical material that his students would be reading.

This “balance” aspect of Zinn’s professional and political philosophies comes through in the aforementioned quote but in a completely different tone than within the syllabi. In the syllabi, balance is meant to provide the people, which in this case are his students, with options and choice in terms of the

**WHAT THE
CONSTITUTION
MEANS TO US**



consumption of academic knowledge. The balance in the Constitution is one built on oppression and suppression from an upper class bent on maintaining their quality of life while simultaneously preventing revolution or any form of uprising. This balance is not so much a balance at all, as it offers preference to those who are in power and want to stay there. Although when Zinn talks about the Constitution, he is referring to it at the time of its inception, the broken balance seems to maintain itself within modern society. In the most recent evaluation from the independent non-profit organization Open Secrets in 2020, they found that over half of the members of Congress are worth over one million dollars, while the median income of citizens in the United States stood at around \$67,521.4 This imbalance is the same imbalance that Zinn suggested existed at the creation of the Constitution. These members of Congress use and abuse aspects of their jobs that are entirely legal to maintain their wealth. For example, 97 members of Congress “reported trades in companies influenced by their committees” this past Fall. This means that members of Congress who had legislative authority within committees, a privileged afforded to them through Article I of the Constitution that grants all legislative powers to a bicameral Congress, could make or choose not to make laws that influence their monetary gains. This idea harkens back to Zinn’s idea that the true balance of power which those who created the Constitution sought to maintain was one fueled by the desire for economic influence.

It is this false sense of balance, or better termed imbalance, that those in Congress seek to maintain, within their strict adherence to the Constitution. That is why scholars of history, and scholars of the Constitution, like Zinn himself, are so important, as they offer a more constructive form of balance within their work and teachings. These are teachings that advise against the imbalance that aims to maintain the power of the few, in favor of the balance advocated for in his syllabi, which represents growth towards intellectual diversity and equality for all. This is a balance that the Constitution should strive for.



WHAT THE
CONSTITUTION
MEANS TO *US*



The Preamble and a Declaration of a Dream

Prof. Natana DeLong-Bas
Department of Theology



When I was asked to reflect on what the Constitution means to me, the first thing that came to mind was the Preamble, which I had memorized before I was even in elementary school thanks to a wonderful program called *Schoolhouse Rock!* It became embedded in my psyche as the guiding light toward the American dream. Now, although I'm clearly well beyond my elementary school days, I'd like to reflect on the Preamble, seeing it not just as a piece of writing dating to 1787 to be read and understood within that context and with all of the caveats and complications that go with that, but also as the declaration of a dream, an ideal to strive toward together as a committed community.

Since I'm a theologian, exegesis is an inherent part of my disciplinary approach, as is the quest for inspiration and meaning, seeking truth through understanding. And so, what I'd like to offer today are a few thoughts to reflect on, particularly at a time when our country seems more torn than ever by polarization, essentializing, angry words and gestures, and even hatred. Looking back and forward, the Preamble contains hope and instills a solemn charge in all Americans. Sometimes resetting the paradigm requires going back to the foundations and reading with fresh eyes. The Preamble states this dream and the intent succinctly: "We the People, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty for ourselves and our posterity, do ordain and establish this Constitution of the United States of America." I want to point to four ideas that are presented in this sentence that I would invite us all to consider together as we think forward to upcoming elections and ongoing governments.



And the first is simply, "We the People." Not "I, the King" or "Dictator in Chief." Not "We, the Congress," or "Elected Officials." Certainly not corporations, CEOs, or shareholders, and most definitely not the stock market. But "We the people." And it's interesting that the author chose "the People" rather than the "all men" of the Declaration of Independence. "The People" is both vague and inclusive simultaneously; and to me, it points to a path forward in which all people of every background pledged to work together toward a common vision to the benefit of all.

Secondly, I'd like to look at the verbs: form, establish, ensure, provide, promote, and secure. They indicate a foundational moment of forming and establishing, and then shift to ongoing efforts, perhaps vague on the specifics of what exactly that looks like, but assuring constant momentum. And I think this is one of its strengths. In one of

WHAT THE
CONSTITUTION
MEANS TO *US*



my fields of study, Islamic law, attention is given to differentiating between the values that the law is supposed to uphold and the human reasoning that articulates how this is to be carried out practically in a particular time and place. And so, from my perspective, leaving these verbs active and declaring intent opens the door to reforms when and where they're needed so that we can constantly refocus on these commonly declared and held values. We seem to be living in a time when we really need to think about these core values and what needs to be revised, reformed, perhaps discarded, or added to in order to uphold them for "We the People."

Third is the values themselves: justice, domestic tranquility, common defense, general welfare, and blessings of liberty. These values are understood to be interconnected as each one is a necessary piece of the overall vision. Failure to uphold one puts the entire project at risk. These values represent the dream as the common good. All have a role to play in assuring that the values are upheld and all therefore are to be able to participate in the resulting good. And I want to note in particular the connection of domestic tranquility, common defense, and justice.

Without justice and common defense, there can be no domestic tranquility. The Preamble does not call for domestic tranquility as an absolute good, but one that can only exist in the presence of common defense from whatever threats we might be facing internally, externally, or even globally. Justice is a value that often remains relatively undefined but we can recognize it when we see it, just as we recognize injustice when we see it. This allows for polyvalence, meaning that it has more than just one specific manifestation in a time of domestic unrest, upheaval, and polarization over so many issues from racial and environmental injustice, to discrimination, deep divisions over election results, voting, redistricting, what does and doesn't belong in our educational

system, who has control over whose body, whether there should be limits on the right to bear arms, of what kind to what purposes and by who, and what direction the country should be taking moving forward.

It seems to be a time when we need to think deeply, not in soundbites, not in demagoguery, but deeply thinking about our core values and what it would look like to actually put them into practice today. What changes are needed in order to assure that the values that do not change, justice, tranquility, personal safety, and liberty, are available to "We the People?" And finally, for ourselves and our posterity, enshrining our responsibility to future generations, not just ourselves, not instant gratification, but a long-term sustainable vision that guarantees the safety and security of our most vulnerable, our children. Domestic tranquility simply does not exist in a society that experiences mass shootings on a daily basis, particularly when our schools and the precious lives that are present there, are at risk. Working toward the common good for ourselves and our posterity means respecting the interconnection of the values we claim to uphold and figuring out how to balance them against each other.

These rights are not just for us today, but must assure that the society and the planet upon which they depend can continue to provide the environment — physical, social, political, and legal — in which such living is possible. I worry that our political system has become so focused on the next election that it has lost sight of its long-term commitment to the posterity of "We the People." Whether or not we ever become a perfect society is really not the issue. The issue is that we continue to journey intentionally, that "We the People" together, committed to a common vision, ensuring that each member ourselves and our posterity is included and considered in the overall picture for peace, safety, wellbeing, and security for all of us. Thank you.

**WHAT THE
CONSTITUTION
MEANS TO US**



The Staying Power of the American Constitution

Prof. Thibaud Marcesse
Department of Political Science



When thinking about the Constitution, two things come to mind: the French constitutional journey, which is a very long and rocky one, and the upcoming presidential election next year. I took a lot of compulsory constitutional law when I was in college in France, yet I had forgotten that, since the revolution in 1789, France has had sixteen constitutions.

That is a lot compared to one in the American case. The first constitution that France wrote was the 1791 version, which was designed for a parliamentary monarchy. That constitution didn't last very long. It was then replaced by a new constitution in 1792 when France became a republic. I'm going to spare you the entire chronology. This is not the place nor it is the time. But if you look at the last and current one, the 1958 Constitution, it has been around for sixty five years. As of this year, 2023, it is actually the longest constitution to have ever been in place in France. The one that had lasted about the same number of years was the 1875 Constitution, which was abolished by Marshal Pétain in 1940.

I teach comparative politics, and this semester, I am teaching a course on political parties and political institutions for the parties and party systems. So, this led me, a couple of weeks ago, to have this conversation with my students. They asked, what are institutions? Why do they arise? Why do some institutions last longer than others? Why do some institutions die? And who is behind the death of those institutions? These are very valid questions. There's a very famous definition by the economist Douglass North, who views institutions as rules of the game, which I think is an incredibly useful and simple definition to share with students. Then, we were trying to think about what explains that some constitutions are stickier than others. When I was in

WHAT THE
CONSTITUTION
MEANS TO *US*



graduate school, one of my advisors would tell me that certain constitutions are just sticky, meaning that they're very difficult to remove and change.

The US Constitution is especially sticky, right? I'm not going to go back to my professors' remarks on why it is so sticky and why it seems that no one wants to change the US Constitution. I'm not going to tell you that I think that institutions that have been unchanged for 230 years are better than institutions that have been changed every twenty or thirty years or so.

But, I think it is quite remarkable if you look at the history of France and the US. I mean, the last constitution in 1958 was drafted in the midst as the country was on the verge of civil war. France was waging a brutal war against the Nigerian people and there was a deep moral crisis in the country with some people who believed that it was a time for Nigeria to become independent and others who really believed that it should continue to be a French colony.

One may question if the US has had a comparable crisis regarding magnitude. Think of the Civil War, for instance, and this Constitution has actually survived the Civil War. I think this is remarkable. This is a Constitution that has proved extremely adaptable and flexible, especially given its ability to survive major crises and the implementation of amendments. Yet, it remains a very, very short document. Professor Rana, you mentioned that it's only 7,600 words long. India's constitution is one of the longest in the world with 145,000 words and about a hundred amendments.

Now, this brings us to 2024. Will this Constitution be sticky enough? I don't know. I tell my students that institutions contain parchment rules, but there are men and women behind those institutions. And so far, the men and women giving life to the Constitution have stood up to defend it and protect it, right? I am a political scientist living in America, but I don't teach or research American politics. However, I do follow American politics religiously. And so, part of me is very, very pessimistic given the state of the Republican primary, but part of me also wants to believe that this Constitution might just be sticky enough to be here if things take a turn for the worse, which I do not hope.



WHAT THE
CONSTITUTION
MEANS TO *US*

★ ★ ★ ★

Poetic Musings on America

Angelo D'Amato

M.A. Candidate, Department of Literature



To quote William Carlos Williams' poem "Asphodel, That Greeny Flower," "You cannot get the news from poetry, yet men die every day for a lack of what is found there."

A musket on the mantle.
Dust on the flintlock.
Melted candlesticks mounted
along the barrel.
Silhouettes of mother, of father,
of sister, of brother, in copper frames;
dried sprigs of holly; the King James
Bible; a flag discolored by gunpowder
and British blood.
A winter wind seeps through
the loose windowpane. Whistles,
promises snow. This is the American
homestead - it will endure, yes,
endure, for millennia.



Blut und Boden

To riff on Lawrence O'Donnell's magnificent reporting in the aftermath of the Uvalde shooting, what stands out to me is that one gun stopped almost 400 agents of the government from doing their job for over an hour while 10-year olds bled out, called 911, and had their heads blown off. One gun effectively shut down the government. That seems like a remarkable triumph of the Second Amendment. Great job.

I'm going to close with some remarks from Langston Hughes, from his poem, "Kids who Die": "The old and the rich will all raise their hands against the kids who die, beating them with laws and clubs and bayonets and bullets to frighten the people. For the kids who die are like iron in the blood of the people. And the old and the rich don't want the people to taste the iron of the kids who die, don't want the people to get wise to their own power." Thank you.

**WHAT THE
CONSTITUTION
MEANS TO US**

★ ★ ★ ★

"behind the glass & in the ink."

Jesse Julian

Undergraduate, Department of Neuroscience



behind the glass sits words i squint to read
We the People, white men whisper to me i
never knew who "We" were 'sposed to be
surely i was not thought of in the ink

behind the glass i seek and struggle to reach these
words that have meant near nothing to me i
never knew who "We" were 'sposed to be i
never felt that i was in the ink.

because if i were really in the ink,
i wouldn't fear the air i have to breathe i
wouldn't watch my neighborhood on fire i
wouldn't think my house was short on time, or

if i were *really* in the ink,
i wouldn't think i'd have to have a
child by unfair force, religious
conspire,
my health held thin against metal wire —

if *i* were *really* in the *ink*,
i wouldn't need to read the fine print
i'd trust the words that sit behind the
glass i wouldn't plead for life in my own
ink.



WHAT THE
CONSTITUTION
MEANS TO *US*

★ ★ ★ ★

The Sword of American Democracy

Prof. Angie Picone
Department of History



I am a historian of Latin America. But I am not here as a professor, I'm here as an immigrant. I am originally from Argentina and I have been living in this country for ten years: nine as a Visa holder and one, exactly one, as a permanent resident. I have the privilege of not having fled my country because of war or violence or persecution. I don't fear going back except for the economy. And that means that every morning when I wake up, I make the decision to be in this country. Despite this, not once in ten years has anyone asked me what the Constitution meant to me. No one wondered what the American government meant to me or what it was like to be in a country where I do not have much of a say. But where my voice is heard, I think it contributes to a more democratic society.

So, while I know I can't participate in elections yet, the Constitution does affect my life. Argentina also has a constitution, and like the one in the US its present text is very much like the original. It has been amended only six times. The last one was in 1994, so it was in my lifetime. The last amendment in the US Constitution was in 1992, also in my lifetime. Footnote here: that's when Argentina abolished the electoral college. So, maybe there's something telling there.

I know it might be uncomfortable to compare the American Constitution to the Argentine Constitution. But, there's one very important difference in the trajectory of the history of these two documents. The sad truth is that the Argentine Constitution has been interrupted several times because of military coups. I am sure that many of you, if not everyone in this



room, might not imagine a military coup happening in the US and there are a lot of professors here that can explain why. However, I do think that the low probability of a military coup in the US does not mean that our democracy is invincible.

In recent years, I have noticed some political commentators and people imply that in the face of rising conservative radicalism in the US, the Constitution will protect us. To me, the Constitution is not just a shield. It is a sword. It is with a constitution on our side that we defend democracy, not hiding behind it. It is, in its highest aspiration, that we work together to build a more democratic society. It is, after all, a living document. Knowing its own limitations, the original constitution allowed for a reform to adapt to the demands of time. So, amending the Constitution to consolidate democracy is not desecration. It is our responsibility, and to me it's the most American thing to do. Thank you.

**WHAT THE
CONSTITUTION
MEANS TO US**

★ ★ ★ ★

A Constitutional Convention: The Path Forward

Alex Work

Fourth-year, dual Law degree and M.B.A



My ancestor’s life was defined by his brief imprisonment in Boston – Boston, United Kingdom, 1619. William Brewster and his fellow separatists had been imprisoned by the church for their rebellious beliefs. One year after their release, Brewster and his church boarded the *Mayflower* and set out to escape religious persecution and find freedom. Before reaching the New World, Brewster, the most educated aboard, wrote the Mayflower Compact, one of the first examples of self-governance in America. Via the Mayflower Compact, the Pilgrims formed a civil body to enact laws “for the general good of the Colony; unto which we promise all due submission and obedience.”

More than 400 years later, I study law in Boston, Massachusetts. I have civil rights and religious freedoms, and I study the United States’ Constitution and its implications for each of us. The Constitution “establishes Justice,” and in appellate criminal law, we look for injustice and seek to repair due process. To me, and to the Founding Fathers, the Constitution and its Amendments were designed to form a floor of minimum rights and protections. Today, Congress and our courts treat the 236-year-old document as the ceiling of our rights.

The Eighth Amendment seeks to protect each of us from cruel and unusual punishment, and by extension, offers protections to prisoners. But the understanding of “cruel and unusual” was not believed by courts to evolve for nearly two centuries (*Trop v. Dulles*, 1958). And today, for the Eighth Amendment to be implicated, one must prove prisoners underwent the “unnecessary and wanton infliction of pain” (*Gregg v. Georgia*, 1976). This means that between 1787 and today, the prohibition against cruel and unusual protection has gone from protecting citizens from excessive punishments by courts, to requiring one to prove that a state actor inflicted pain on them unnecessarily, deliberately, and unprovoked. The two standards are worlds apart, and perfectly encapsulate how the United States treats the basic rights within the Constitution as nearly exclusive, and as a ceiling on how many rights “We The People” deserve under our government.

**WHAT THE
CONSTITUTION
MEANS TO US**



Another cornerstone of the Bill of Rights, due process, is likewise being weakened. Recent habeas rulings threaten to make the entire appellate process futile. This summer, in the United States Supreme Court, Marcus Jones, convicted of being a felon in possession, exhausted his appeals (*Jones v. Henrix*, 2023). After his final appeal, a different Supreme Court case changed the interpretation of the statute he was convicted under, so that the prosecution now had to prove Jones' knowledge of disqualification, something the prosecution did not do to secure his conviction. The change has a stated retroactive effect. Yet, the Court ruled that this legally innocent man cannot appeal again, because his previous appeals did not raise the claim that the prosecution did not prove the knowledge element; a claim that did not exist until after his appeals were denied. Due process is meant to protect our right to a fair trial so that, ideally, no innocent person is convicted and imprisoned. But the Supreme Court has centuries of common law, and decades of interpreting AEDPA, and has created a labyrinth of habeas procedure a prisoner must follow. This ruling, based on an old ruling, which was based on an even older ruling, etc., finally reversed the exact purpose of the Fifth Amendment and ruled that an innocent man cannot have his day in court, and cannot escape this now-wrongful imprisonment. Perversely counterintuitive, but legally "sound."

Throughout America's life, the Constitution has been interpreted as exclusive, and has been used to weaken itself over time. "We The People" diminished the powers of the Constitution, just as "We The People" have the power and means to build upon and strengthen the cornerstone of our democracy. The Constitution itself is not oppressive, nor closed minded, nor afraid of change. The Constitution is a piece of paper we have internalized, chewed up, and spit out as a shell of what it once was.

There is a path forward. I am of William Brewster, we are of the founding fathers, we are America. We can change the Constitution right now, we have the power vested to us by the Founding Fathers. They bestowed upon us the tools to adapt over time, through amendments or a second constitutional convention. We can, and we should. We are more educated, more ethical, and more powerful than they were. We too can convene a Constitutional Convention and create a modern Constitution to give us the rights, freedoms, and prosperity we deserve. Now is time to, as Alexander Hamilton wrote, "impose on the national rulers the necessity of a spirit of accommodation to the reasonable expectations of their constituents" (Federalist Paper 81). We owe it to ourselves, for the general good.

★ ★ ★ ★

America's Guardian of Democracy

Boyu Jin

Clough Correspondent and Undergraduate, International Studies



I want to give praise to the existence and the guardianship of this effective Constitution and its importance in preserving our democracy. We often act as though the Constitution was conceived after democracy was achieved; however, I want to point out that democracy and the Constitution are symbiotic, mutually reinforcing each other because the Constitution secures an environment of freedom and expression.

More specifically, freedom of public criticism of which I deem as essential for effective democracy. And the stories we heard today are all about the American ones. But, I'm from China and I've been here since sixth grade. So, I want to talk about a Chinese story to remind us of the importance as well as the achievement of the US Constitution. In my comparative politics class in high school, I learned about why China is an authoritarian state. My teacher always told me it's due to a lack of relative political culture. From that, I thought that maybe the Chinese people or culture just don't prefer democracy.

**WHAT THE
CONSTITUTION
MEANS TO US**



However, I recently read about the history of democratic movements in China and the prevalent work of China's intellectuals who are devoted to democracy. They wanted a just society run by the people. After I discovered a whirlwind of new information, I realized that human wishes for democracy are equal. Yet, some of such wishes are protected while others are met with punitive and disastrous repression. Contrary to popular belief, democratic movements in contemporary China did not stop at Tiananmen Square in 1980. Additional democratic movements blossomed in 1942, 1957, 1966, and 1978. In fact, the Chinese Communist Party initially encouraged such outcries of rule by the people. Calls for “big democracy” and “freedom of expression” were seen in *People's Daily*, the communist party's state media. Mao Zedong was the first to actually invite the people to voice their criticisms regarding the problems and deficiencies they witness in the social estate.

However, every time intellectuals and students spoke out, they were met with repression from the party, many of which were fatal repressions. This is because these outcries made the party state fear that it might lose control. Many students do not hesitate to criticize the contradictions within the CCP and its so-called socialist principles. They're actively asking for rule by the people and for the people. But, there's no effective constitution in place in China. There is one, but there's no effective one that can keep the government accountable and protect freedom of expression. As a result, many intellectuals and journalists are labeled as counter-revolutionaries and subsequently executed.

I often wonder, what if the voices of these intellectuals were not muted, but instead heard by the Chinese people? Would the modern history of China be reformed to one of democracy and rule by the people? I hope what I have said reminds you of the importance of the founding document of the United States of America. It is not merely a product of democracy, it is a guardian. Thank you.



WHAT THE
CONSTITUTION
MEANS TO *US*

