

The United States Constitution

A. Popular Sovereignty

1. In the United States, all political power belongs to the people, who are sovereign. The Constitution guarantees to the states a republican form of government, i.e., a representative government.

Popular Sovereignty: that the people are the only source of any and all governmental power, that government must be conducted with the consent of the governed.

2. Government can govern only with the consent of the governed.
3. Sovereign people created the Constitution and the government, both federal and state.

B. Limited Government

1. Government may do only those things that the people have given it the power to do.

Limited Government: that government is limited in what it may do, and each individual has certain rights that government cannot take away. The Bill of Rights is an example of the principle of limited government, restricting what the national government can and cannot do.

2. The government and its officers are always subject to the law.

Constitutionalism: that those who govern are bound by the fundamental law.

Rule of Law: Concept that government and its officers are always subject to — never above — the law.

3. Constitution is a statement of limited government.

Explicit prohibitions of power to government: See Article I, 9 and 10; the 1st through the 10th Amendments; and the 13th, 14th, 15th, 19th, 24th, and 26th Amendments.

C. Separation of Powers

Separation of Powers: that the executive, legislative, and judicial powers are divided among three independent and co-equal branches of government which can cooperate with each other as well as oppose each other.

1. The Constitution distributes the powers of the National Government among Congress (legislative branch), the President (executive branch), and the courts (judicial branch).
2. The Framers of the Constitution created a separation of powers in order to limit the powers of the government and to prevent tyranny — too much power in the hands of one person or a few people.

D. Checks and Balances

1. Each branch of government was subject to a number of constitutional restraints by the other branches. This is the concept of "checks and balances."

Checks and Balances: System of overlapping the powers of the legislative, executive, and judicial branches, to permit each branch to check the actions of the others.

2. Although there have been instances of spectacular clashes between branches, usually the branches of government restrain themselves as they attempt to achieve their goals.
3. The system of checks and balances in the Constitution means that change usually comes slowly, if at all.
4. Examples of the exercise of checks and balances include a presidential veto, the congressional veto override, the Senate's confirmation of presidential nominees.

E. Judicial Review

1. Through the landmark case of *Marbury v. Madison* (1803), the judicial branch possesses the power of judicial review, i.e., the power to check the actions of the other branches in order to determine the constitutionality of their actions.

Unconstitutional: Contrary to constitutional provisions and so invalid. Illegal, null and void, of no force and effect.

F. Federalism

Federalism: The division of political power between a central government and several regional governments over the same geographic area.

1. Federalism is a compromise between a strict central government and a loose confederation, such as that provided for in the Articles of Confederation.

G. Formal Amendment Process

Framers knew of need to build for all time. Constitution provides for its own amendment.

Amendment: A change in, or addition to, a constitution or law. Formal amendment refers to changes or additions that become part of the written Constitution. Amendments to the Constitution have as much legality as the original Constitution.

The most commonly used method of amending the Constitution is for Congress to propose and the state legislatures to ratify.