

The Constitution guarantees Americans accused of a crime due process of law, or a fair trial. Most trials take place before a judge and jury in courtrooms like the one pictured here.



In response, Lopez took the school district to court, claiming his constitutional right to due process of law had been violated. **Due process**, guaranteed by the Fifth and Fourteenth amendments to the Constitution, requires that those accused of a crime be given a fair hearing and the chance to defend themselves. But this right had never been applied in schools.

The Ohio courts decided in favor of Lopez and eight other students who joined in the case. But the school district appealed the decision to the U.S. Supreme Court. This case, now called *Goss v. Lopez*, would help to define the rights of students—and therefore *your* rights—under the Constitution.

■ 4.2 Elements of the Constitution

The Constitution provides the basic framework for American government. It also guarantees the rights and freedoms that we, as Americans, sometimes take for granted. Cases like *Goss v. Lopez* help to clarify those rights. They also underscore the role played by the Constitution in our democratic system.

The Constitution is a three-part document, consisting of the Preamble, the articles, and the amendments. Although it may seem complicated, the Constitution is actually a relatively brief and

straightforward document. It consists of just over 7,000 words, making it shorter than the sports section in most newspapers. Adopted as the “law of the land” in 1788, it is the oldest written constitution still in use anywhere in the world.

For more than two centuries, we have relied on the Constitution as the basis for our political system. It serves as both a practical outline for government and a symbol of our national way of life. Learning about the Constitution not only helps us understand the rights and freedoms we enjoy as Americans, but also gives us tools to defend those freedoms.

The Preamble Sets the Purpose

The opening paragraph, the Preamble, is a single, long sentence that defines the broad purposes of the **republican government** created by the Constitution. It begins with the phrase “We the people,” signifying that power and authority in our system of government come from the people, not the states.

The Preamble goes on to set various goals for the nation under the Constitution. These goals are expressed in a series of key phrases.

Form a more perfect union. The framers of the Constitution wanted to ensure cooperation among the states, and between the states and the national government.

Establish justice. The framers hoped to create a system of government based on fair laws that apply equally to all people.

Ensure domestic tranquility. The framers wanted government to ensure peace and order.

Provide for the common defense. The framers wanted the government to protect the nation against foreign enemies.

Promote the general welfare. The framers hoped the government would ensure the well-being of the citizens.

Secure the blessings of liberty to ourselves and our posterity. The framers hoped to guarantee freedom for Americans, then and in the future.

The Articles Establish Our National Government

The main body of the Constitution consists of seven articles. These seven articles are further divided into sections and clauses. The first three articles establish the three branches of government—legislative, executive, and judicial—and define their powers. These articles lay out the basic structure of the national government.

The four remaining articles of the Constitution cover various subjects, including relations among the states, the supremacy of national law, and the amendment process.

Article I Establishes the Legislative Branch

The first article sets up Congress as the lawmaking body in government. It describes the two chambers of Congress, the Senate and the House of Representatives, as well as the election, terms, and qualifications of their members. It also sets guidelines for rules and procedures in each chamber. This is the longest article in the Constitution, reflecting the founders' belief in the importance of the legislature in a representative democracy.

Section 8 of Article I lays out some of the main powers granted to Congress. These powers are both enumerated and implied. **Enumerated powers** are those that are specifically listed in the Constitution, such as the power to collect taxes, coin money, and declare war.

Implied powers are those that the legislature can claim as part of its lawmaking responsibility. This claim to implied power stems from Clause 18 of Section 8, which says that Congress can “make all laws which shall be necessary and proper” for carrying out its duties. This **Necessary and Proper Clause** is also known as the **Elastic Clause**, since it can be “stretched” to cover a variety of issues and circumstances.

Section 9 of Article I lists powers denied to Congress. Among these denied powers are the suspension of **habeas corpus** and the granting of titles of nobility.

The Structure of the Constitution

The Constitution has a three-part structure. The Preamble is the introduction to the document. The articles make up the body. The amendments are additions and changes made over time.

Preamble

Purpose of government

Articles

- I: Legislative branch
- II: Executive branch
- III: Judicial branch
- IV: Relations among the states
- V: Amendment process
- VI: Payment of debts; Supremacy Clause; oaths of office
- VII: Ratification

Amendments

Formal changes to the Constitution

Habeas corpus is the right of accused persons to be brought before a judge to hear the charges against them. The ban on titles of nobility reflects the principle that “all men are created equal,” as expressed in the Declaration of Independence.

Article II Establishes the Executive Branch

The executive branch is led by the president and vice president. As it does for members of Congress, the Constitution describes the election, terms of office, and qualifications of these executive officers. It also defines the powers of the president, which include the power to command the armed forces, to make treaties, and to appoint other executive officials.

Article III Establishes the Judicial Branch

Article III creates the Supreme Court, the highest court in the land, while leaving Congress to create the lower courts. It defines the **jurisdiction** of the federal courts, specifying the types of cases that can be tried. It also guarantees the right to trial by jury in criminal cases and defines the crime of treason.

Article IV Concerns Relations Among the States

Article IV has four sections, which make the following key points:

Full faith and credit. Each state must honor the laws and court decisions of other states.

Treatment of citizens. No state may discriminate against the residents of another state. It must treat them as it treats its own residents. States must return suspected criminals to the states in which they are wanted.

New states and territories. Only Congress can authorize the creation of new states. It also has power over territories and other jurisdictions of the United States.

Protection of states. The national government guarantees each state a republican form of government. It also promises to protect states from outside attack and, if requested, to help states put down internal rebellions.

Article V Describes the Amendment Process

The framers understood that it might be necessary to make changes to the Constitution from time to time. Article V spells out the ways such amendments can be proposed and ratified.

Article VI Makes the Constitution the Supreme Law of the Land

Article VI covers several topics. It states that the national government agrees to repay all of the debts that were incurred under the Articles of Confederation. This was critical to ensure support for the new government.

Powers of the Three Branches of Government

The Constitution establishes a government of three branches, with separate powers for each branch. By dividing power, the framers hoped to ensure that no single branch would become too powerful.



Legislative

- Makes the laws
- Appropriates funds for laws and programs
- Approves treaties and executive appointments
- Establishes federal courts



Executive

- Enforces the laws
- Acts as commander in chief of military
- Negotiates treaties
- Appoints federal judges and other top officials

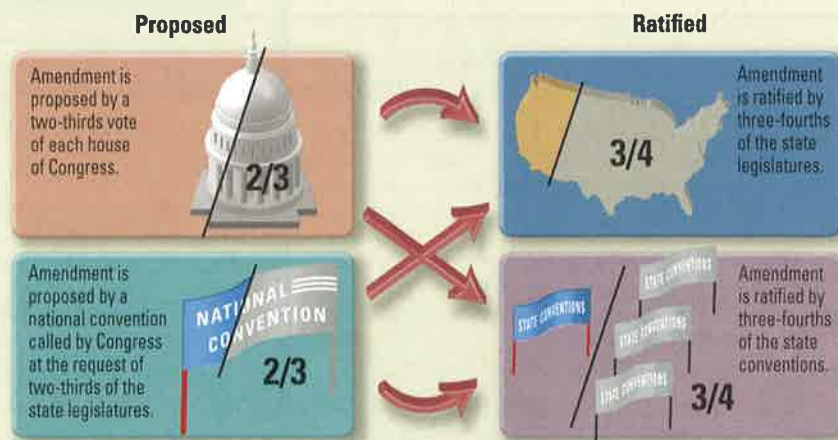


Judicial

- Interprets the laws
- Reviews lower-court decisions
- Judges whether laws and executive actions are constitutional
- Rules on cases between states

Amending the Constitution

The Constitution spells out four methods of approving amendments. All amendments except one have been proposed by Congress and ratified by the state legislatures. The one exception was the Twenty-first Amendment, which repealed the Eighteenth Amendment and ended the national ban on alcohol, known as prohibition.



It also states that the Constitution is the “supreme Law of the Land.” This section, known as the **Supremacy Clause**, means that federal law supersedes all state and local laws. When the laws conflict, federal law reigns supreme.

In addition, it stipulates that all federal and state officials must take an oath swearing their allegiance to the Constitution. Also, no religious standard can be imposed on any official as a qualification for holding office.

Article VII Explains the Ratification Process

Article VII stipulates that the Constitution would not take effect until ratified by at least nine states. Although the Constitution was signed by the framers on September 17, 1787, ratification did not occur until the following year.

4.3 Amending the Constitution

The framers never meant for the Constitution to provide a complete and detailed blueprint for government. As Alexander Hamilton noted in 1788, “Constitutions should consist only of general provisions: The reason is, that they must necessarily be permanent, and that they cannot calculate for the possible changes of things.”

In general, the framers made broad statements and left it to political leaders to work out many of the specific details of governing. They also built in an

amendment process, in Article V, that would allow for formal changes to the Constitution. They hoped that this flexibility would allow the Constitution and the government to endure.

The Amendment Process Is Not Easy

Although the framers understood that amendments might be necessary, they did not want such changes to be taken lightly. For that reason, they made the amendment process difficult. More than 11,000 amendments have been introduced in Congress over the years, but only 33 have been sent on to the states for ratification, and of these, only 27 have been ratified.

Article V lays out a two-step amendment process. Amendments can be proposed and ratified in four ways, as shown in this diagram. However, one method has been used almost exclusively over the years.

In this typical method, an amendment is first proposed by a two-thirds vote in both houses of Congress. The proposed amendment is then sent to the states, where it must be ratified by the legislatures of at least three-fourths of the states.

Only one amendment, the Twenty-first, which ended prohibition, was ratified in a different way. It was approved not by state legislatures, but by special conventions in three-fourths of the states.

The president has no formal role in the amendment process. The chief executive can support or oppose a proposed amendment, but has no power to approve or block its passage. That power lies exclusively with Congress and the states.