

The Second American Revolution:

The Emancipation Amendments

The Bill of Rights seemed to be written in broad language that excluded no one, but in fact, it left out whole groups of people. Women were second-class citizens—essentially the property of their husbands—unable to vote, and Native Americans were entirely outside the constitutional system. And of course, it was well understood that there was a “race exception” to the Constitution. For the first 78 years after it was ratified, the U.S. Constitution provided slaves no access to the rule of law; they could not go to court, make contracts or own property. They could be whipped, branded, imprisoned without trial and hanged.

By the end of the Civil War in 1865, more than 180,000 African Americans had served in the Union army as soldiers. They had played a significant role in winning the war, a role that made it unthinkable that slavery would be restored in the South after the war’s end.

In 1865, Congress proposed the Thirteenth Amendment, abolishing slavery and “involuntary servitude.” It also stated: “Congress shall have power to enforce this article by appropriate legislation.” This was the first time an amendment contained language enlarging the powers of the federal government at the expense of the states.

Backtracking. . .

Four million former slaves were now free. But Andrew Johnson, who became president after Lincoln was assassinated, allowed the Southern states that rejoined the Union to reimpose slavery on African Americans in all but name. Several states passed “Black Codes” which gave “masters” the right to whip “servants” for “insulting gestures” and seditious speeches, and to use brute force to keep them as a work force on their plantations. Poll taxes had also been enacted in 11 Southern states after the Civil War as a measure to prevent African Americans from voting.

These moves finally gave the Radical Republicans in Congress the ammunition they needed to challenge Johnson. They passed a Civil Rights Act giving citizenship and the equal benefit of the laws to all persons born in the United States, over a presidential veto.

14th, 15th, 19th & 24th Amendments

So, within a decade of the beginning of the Civil War, African American males had won the right to vote, to serve on juries and to hold office. They also registered to vote and organized their own political groups, and helped ratify the **Fourteenth Amendment** to the U.S. Constitution, which laid the foundation for protecting the fundamental civil rights of citizenship. It declared that **states could not deny any person the equal protection of the laws or deprive persons of life, liberty or property without due process of law.**

The Fourteenth Amendment eventually would be used by the courts to apply most of the provisions of the Bill of Rights to the states (but that did not happen until the 1960s). In 1870, Congress proposed the **Fifteenth Amendment**, which extended the vote to African American males, saying that the right to vote would not be denied or abridged “on account of race, color, or previous condition of servitude.” Finally, in 1920, Congress proposed the **19th Amendment**, which specifically extended suffrage to women.

It wasn’t until 1964 that Congress proposed the **Twenty-Fourth Amendment**, which barred poll taxes in federal elections. In 1966, the U.S. Supreme Court declared state poll tax requirements for voting in state elections unconstitutional in *Harper v. Virginia Board of Elections*.

“Certain Rights Rights Rights”

The rights that the Constitution’s framers wanted to protect from government abuse were referred to in the Declaration of Independence as “unalienable rights,” also called “natural rights.”

Individual rights are the oldest and most traditional of American values. The entire Bill of Rights was created to protect rights the original citizens believed were naturally theirs, including:

Freedom of Religion

The right to exercise one’s own religion, or no religion, free from any government influence or compulsion.

Freedom of Speech, Press, Petition or Assembly

Even unpopular expression is protected from government suppression or censorship.

Privacy

The right to be free of unwarranted and unwanted government intrusion into one’s personal and private affairs, papers, possessions, and body.

Due Process of Law

The right to be treated fairly by the government whenever the loss of liberty or property is at stake.

Equality before the Law

The right to be treated equally before the law, regardless of social status or race.

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Thank you to the Efrogmson Family Fund and the Lumina Foundation for their support of Constitution Day. Educational outreach made possible by the generosity of Albert G. and Sara I. Reuben and the Reuben Family Foundation.



BILL of RIGHTS RIGHTS MATTER



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Our Constitution's Protection of the People's Rights

The American system of government is founded on two counterbalancing principles: first, that the majority of the people governs (through democratically elected representatives); and second, that the power even of a democratic majority must be limited to ensure individual rights. Majority power is limited by the Constitution's Bill of Rights, which consist of the original 10 amendments plus the three post-Civil War amendments (the 13th, 14th, and 15th Amendments) and the 19th Amendment, giving women the right to vote.

1

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to assemble, and petition the government for a redress of grievances.

Though the early colonies were founded by people who fled religious persecution, when they arrived on our shores, they did not extend freedom of worship to others. By the time the Constitution was adopted, people had come to believe that religious liberty could only be preserved if the government had nothing to do with promoting religion, and felt it was so important it was placed at the top of the First Amendment.

The second part of the First Amendment guarantees the freedom to speak, exchange and publish ideas, to gather together and to criticize the government.

These rights grew out of a centuries-long struggle in England against censorship of the press. By the end of the 17th century, it was possible to publish without having the government approve everything, but an author or publisher could still be tortured and even executed for "seditious libel" (being critical of the king, church, or other government officials).

The American Revolution was made possible through the exercise of those freedoms of expression and assembly later enshrined in the First Amendment.

2

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

During the colonial period, each colony had its own militia in which citizens were required to serve. They had to provide their own guns and ammunition. Many of the state militias fought in the American Revolution. Afterwards, independent state militias were seen as a way of protecting liberty if the new federal government became power hungry and used its national army against the states and the people. The Supreme Court decision, *D.C. v. Heller*, has been read by some to mean that for the first time, the 2nd Amendment protects an individual's right to keep and bear arms.

3

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

In the tense years before the American Revolution, one out of every four residents of Boston was a British soldier. Local people were forced to provide them with beds and food. The Declaration of Independence names this as one of the grievances justifying the break with England.

4

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Imagine life before the Revolution. British officials or soldiers carrying documents called "writs of assistance" could barge into any private home whenever they liked, looking for smuggled goods, political troublemakers or pamphlets critical of the government. Colonial anger over this invasion of privacy was a major grievance in the Declaration of Independence. The Fourth Amendment states that "persons, houses, papers, and effects" can be searched only if there is a specific reason—backed by evidence ("probable cause")—for suspecting a particular person of criminal activity.

5

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Lays down rules for how a person is to be treated if charged with a crime. Behind it lies a long struggle against a practice of torture, which was used to force confessions of guilt until the 18th century. It says people cannot be "compelled" to confess to a crime or testify against themselves. They can't be arrested on little or no evidence and repeatedly tried by the government for the same offense. Fair procedures ("due process of law") must be followed before a person can be found guilty and punished.

6

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Say it's the middle of the night and you are at home. Suddenly, a group of men burst into your house and drag you from your bed. You are thrown in jail for months—you don't really know how long. Eventually, you are hauled into a court where, behind closed doors, a judge finds you guilty—and you are not entirely sure of what. This is the kind of arbitrary "justice" many colonial Americans experienced at the hands of British officials. The additional "due process of law" procedures laid down in this amendment—including the right to a speedy criminal trial, to examine witnesses and be helped by an attorney—were supposed to ensure that the new national government would not act in the same way.

7

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Being deprived of trial by jury was a colonial grievance that was featured in the Declaration of Independence and was barred by Article 3 of the Constitution. Americans felt that holding trials in public before juries made up of fellow citizens was an important safeguard of liberty.

8

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Gruesome forms of physical torture were used to punish people and to force confessions until the early eighteenth century, when these methods began to be regarded as barbaric. This amendment was added to make sure that these methods would never be used again. It also was meant to prevent the government from keeping people in prison indefinitely by making bail or fines impossibly high.

9

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Framers who opposed adding a bill of rights to the Constitution said that one document could not possibly summarize all the rights possessed by the people. By including this amendment, James Madison spoke to those concerns, stating that people have more rights than those listed.

10

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

This final amendment was meant to guard against the new national government getting too much power that it overwhelms the authority of the states and personal liberty. It means that all powers not given to the federal government are reserved to the states or people.

14

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

An important "Reconstruction Amendment," this provides a broad definition of citizenship, superceding the Supreme Court's decision in *Dred Scott v. Sanford* that excluded African Americans. All states are required to provide equal protection to all persons. This was used in the mid-20th century to dismantle legal segregation, and its due process clause has been the basis of much important case law regarding privacy rights.