

Justifying the bill of rights

[Politics](#), [Democracy](#)



Justifying the Bill of Rights Professor Maria Toy, J. D. LEG107 The amendments to the United States Constitution play an important role in the history, politics and law of our country. When the Bill of Rights was originally proposed to the First Federal Congress in 1789 by James Madison, the intent was for the amendments to be integrated into the original text of the Constitution. As we now know, Madison's idea did not prevail and Congress decided the first ten amendments and the subsequent seventeen be appended (BYU Journal of Public Law [Volume 25], January 1, 2011). The amendments are an integral part of the Constitution, the framework of the incomparable American justice system that has great impact on the legal system and political climate of the United States. Each of the amendments was written either to overrule a Supreme Court decision, to force societal change, or to revise details of the existing Constitution. The Constitution is an evolving document that some believe is "a living constitution that was written so it could adapt to a changing nation" (Huey-Burns, 2010).

Additionally, many of the modern day issues we face such as same-sex marriage, healthcare and insurance policy, and immigration reform, have deep constitutional roots. Amendments are crucial because they give us a mechanism to update and reflect changes in time and public opinion. The process of amending the Constitution fulfills a crucial part of the checks and balance system of our government. In essence, if something is deemed unconstitutional, the legislative branch or the public has a way of making it constitutional. This helps to prevent any other branch of our government from "running away" with authority. Our founding fathers had the goal of creating a strong, fair, and lasting government for the new America. This

country was born from a desire to escape the monarchy of England, with its arbitrary rules, concentration of power in a few, and ability to pass laws and actions that were not necessarily agreed to by the people that they were affecting. It is this desire that made the checks and balances system so important. The Continental Congress did not want another King or Queen. They wanted a fair, representative system in which the American people had the ultimate say in electing leaders and voting on laws. The amendment process is not easy and obviously has not happened often in history. The constitutional framers must have been confident in the rules that they created to ensure that a potential amendment would not be taken lightly. Temporary political trends or popular whims are not enough to create a change to our constitution; a major, lasting change must be needed and agreed upon by all. This way, our governing document can keep up with the times while still remaining strong. Several amendments in the Bill of Rights provide protection to defendants, and in my opinion the Sixth Amendment provides the most. “ The Sixth Amendment is the repository of some of the oldest rights protected by the Constitution which guarantees no less than eight rights to criminal defendants which are: the right to a speedy trial; the right to a public trial; the right to an impartial jury; the right to a trial in the judicial district in which the crime was committed; the right to be informed of the nature and cause of the accusation; the right to confront witnesses; and the right to have assistance of counsel for one’s defense” (George Mason Law Review, 2011). If not for the Sixth Amendment, persons accused of crimes could be treated inhumanely in a number of ways. For example, without having the right to a speedy trial, defendants could spend an

indefinite period of time imprisoned before receiving a trial. Unqualified or inept representation in court, as well as a biased or unfair jury could also be undesirable results if not for this amendment. Having laws in place protecting defendants allows our nation to maintain a fair criminal justice system. This system is a critical part of a functioning democratic government. On the other hand, the Fourth Amendment provides protection for victims in several critical ways. The Fourth Amendment protects people from having the government improperly take property, papers, or people without a valid warrant based on probable cause. This amendment is more commonly known as protection against unlawful search and seizure. Authorities are prevented from arbitrarily seizing property without having a valid investigative reasoning. In theory, without this amendment, authorities would have free reign to search and take whatever they see fit and effectively victimize potentially innocent civilians. Cases could be “fixed”, innocent citizens could be falsely accused with fabricated evidence, and prosecutions could be forced through the system by any means if this amendment did not exist. The Constitution has an effect on my daily life in numerous ways. Arguably the most familiar constitutional “right” among Americans is the freedom of speech dictated in the First Amendment, which allows us to live in a democratic society and “express ideas freely without fear of government reprisal” (Liu, et al, 2010). In oppressive regimes throughout history without such rights, citizens would face a severity of punishments for speaking out for what they believe — or against existing government. The Constitution allows us the ability to disagree with governmental policies and express support for other countries, in addition to

the similar but different freedom to assemble peaceably. The protection we have from free speech is essential in government decision making, as we “depend on free and vigorous debate” (Liu, et al, 2010). Also under the First Amendment, we are able to freely practice religion, address the government, and enjoy the freedom of the press. These rights go hand in hand with freedom of speech. The Constitution’s meaning has evolved over time throughout history; modern day freedom of speech and press now means such things as the freedom to write opinionated blogs, the freedom to express ourselves on social media such as Twitter and Facebook, and the ability to speak in a public television or radio broadcast without fear of government interference or punishment. While the founding fathers could not anticipate the change in future forms of communication and speech, the Constitution allows us the ability to express our opinions openly regardless of the communication medium or method. This is especially significant now that society has the means to distribute information and communication to a huge audience in real time via such methods mentioned above. While freedom of speech is a monumental and frequently exercised right, the 18th and 21st Amendments also play a part in my everyday life. Alcohol availability has been a widely debated issue throughout American history. While the 18th Amendment approved in 1919 banned the sale, manufacturing, or transportation of alcohol, the 21st Amendment was passed in 1933 that repealed it (Patrick, 2001). Though my and others' perspectives on this issue might have been different had the original amendment not been repealed, it is safe to say a majority of Americans appreciate and regularly enjoy consumption of alcohol. In terms of day-to-

day life, when unwinding after work, enjoying a vacation, throwing a party, or having a dinner out, I frequently join this majority. I agree with the decision made in 1933 to re-approve the sale of alcohol. Lastly, the 19th and 26th Amendments affect my family and our voting rights. The 19th Amendment states that gender cannot be a criteria used for voting, while the 26th Amendment ensures that anyone 18 years of age or older may vote. Combined, these two amendments mean that my daughter can vote. These amendments made major changes to the American voter landscape. Originally, voting was a privilege reserved for white males only. Wisely, our nation determined that this right should be enjoyed by all legal adult citizens. Due to these updates to our constitution, my daughter and I are able to have lengthy discussions about our views, how will we vote in the upcoming election, and the importance of her right (and responsibility). In the past, of course, she would have been on the outside looking in — having no role in the election of our government leaders and determination of laws. Without the Constitutional Amendments that give women the right to vote, as well as 18 year olds the right to vote, we would lack in the ability to gain new perspective regarding today's youth and women, and how they view our political landscape. The Constitution plays an integral part of our everyday lives, a part that we may not even realize. Without the rights given to us by our founding fathers, we would not have the luxuries we have in today's world. Being able to write our views on politics, abortion, healthcare, or just our opinion of the latest happenings in pop culture while "tweeting" and "facebooking" is a simple right we might often take for granted. Stopping at the grocery store on the way home from work for a six-pack, or encouraging

my daughter to think for herself and make her own decisions when voting in the upcoming election, are all things we are afforded in the United States because of our Constitution and the rights within. In conclusion, the amendments are an important part of the U. S. Constitution and have a profound effect on the legal system. Amendments both protect the defendants as well as the victims. While defendants are able to have counsel provided and given a fair unbiased trial, victims are able to rest easy knowing their personal items are not able to be seized without proper protocol. The Constitution has a weighty effect on many things we do in our daily lives. From the shows that we watch, the things we are able to say freely, the alcohol we buy for a birthday party, or the way our young daughters and women are able to vote, we are constantly utilizing the rights given us. References Huey-Burns, C. (2010, December). Reintroduce Yourself to the Constitution. U. S. News and World Report. 147(11), 60. Patrick, J. (2001). Amendments to the Constitution. Oxford University Press