

## Updating the Constitution: Necessity or Not?

Anika Butala

Whereas the Constitution of the United States was foundational to American governance, it increasingly proves wanting in a number of contemporary legal, political, and technological challenges. What follows is a discussion of the resilience of the Constitution, the efficiency of the amendments procedure, and the need for structural reform towards democratic sustainability. Through an analysis of legal precedent, comparative constitutional law, and contemporary political developments, this piece argues that while the Constitution has historically proven adaptable, specific inefficiencies and inaccuracies necessitate updates to maintain its legitimacy and functionality.

The Constitution of the United States, despite being ratified in 1788, still remains the supreme law of the land. Though enduring, the question of whether its provisions remain suited to modern governance is increasingly debated by contemporary legal scholars, policy makers, and citizens alike. This will basically focus on two major areas of concern: inaccuracy of the constitution to reflect reality today, and inefficiency in emerging challenges. This article does that through discussions of historical constitutional amendments, judiciary interpretations, and potential reforms that could be applied. It will also raise whether the amendments procedure itself is part of the obstacles to the much-needed legal development, or it stands as a protecting mechanism against unduly rapid parliamentary decisions.

The framers of the Constitution created it as a living document, open to interpretation through judicial review. The Supreme Court's role in adapting constitutional principles has allowed the document to remain relevant despite changes in the society. However, the doctrine of originalism versus living constitutionalism shows how there are still debates about the constitutional adaptability of the document. Though some would argue that the core principles of the document remain sound, others believe rigid adherence to original intent inhibits progress. Advances in technology and communication, on one side, challenge the constitutional provisions of privacy, free speech, and surveillance. The political gridlocks and polarization signal inefficiencies of governance structure like the Electoral College and Senate representation. The expanded executive power is concerned again for the checks and balances within the branch of government. The issues above listed demand a reassessment of whether the Constitution has been able to effectively govern the rapidly changing nation.

While the amendment process under Article V has enabled salient reforms to be made, such as the abolition of slavery with the 13th Amendment and women's suffrage with the 19th Amendment, the total number of amendments-just 27-indicates how Changes in the Constitution have been both difficult and significant. Despite general agreement on a wide range of issues-from reforming campaign finance to protecting voting rights-changing the Constitution remains very difficult.

It follows that the near impossibility of substantive amendments with two-thirds congressional approval and three-fourths state ratification means little change to the Constitution occurs in a polarized political climate. Attempts to pass popular reforms, such as the Equal Rights Amendment, show the procedural challenges toward amending the Constitution. Comparatively, other democratic countries give us perspectives of more flexible amendment

procedures for periodic updating of the constitution. Countries like Canada and Germany have made adjustments to their founding documents without sacrificing stability, offering models for potential U.S. reform.

The Electoral College, intended to balance representation, has now become distorted in democratic outcomes, giving more voice to less populous states. In modern times, this system has led to several instances where a candidate wins the presidency despite losing the popular vote. Direct popular vote mechanism and ranked-choice voting are potential alternatives that could enhance democratic legitimacy and ensure more accurate representation of the electorate's will.

Lifetime tenure for Supreme Court justices creates concerns of judicial stagnation and ideological entrenchment. With increased political polarization, long-serving justices can shape legal interpretations for decades, often outlasting the social and political contexts that appointed them. Proposals for term limits or mandatory retirement ages might foster judicial independence while ensuring periodic renewal and congruence with contemporary societal values.

The Senate, in its current form, disproportionately represents the smaller states and creates legislative inefficiency, which underrepresents the populous regions. Due to the fact that each state is given two senators regardless of the population, the smaller population states have a disproportionate influence over national policy. Proportional representation or adjustment to Senate apportionment would cure democratic imbalances and provide more equitable representation.

The framers could not have foreseen how digital surveillance, artificial intelligence, and cybersecurity threats would affect civil liberties. The right to privacy, being a concept inferred rather than explicitly stated in the Constitution, faces unprecedented challenges in the digital age. Updated constitutional provisions or explicit digital rights amendments could better protect individual freedoms, ensuring that emerging technologies do not erode fundamental civil liberties.

Frequent changes to the constitution could undermine stability and continuity in legal interpretation. The difficulty of the amendment process is a check against impulsive or politically motivated changes. Stability, according to the proponents, is essential for long-term democratic governance, preventing sudden shifts in foundational principles.

Some legal scholars believe that Supreme Court interpretation can remedy constitutional inadequacies rather than formal amendment. Precedent-setting cases, such as *Brown v. Board of Education*, illustrate how judicial review can effectively update constitutional application. In any case, relying exclusively on the judiciary to develop constitutional principles can result in inconsistent interpretations and political fights over judicial appointments.

Constitutional amendments require large bipartisan majorities, which are rare in the contemporary polarized political environment. In sum, attempts to revise the Constitution will doubtless encounter political resistance from those who benefit from the status quo; even broadly popular reforms often fail to achieve sufficient political momentum and, with frequent results, crucially important unresolved issues of governance remain unaddressed.

While the Constitution of the United States is a remarkable and enduring document, there are inefficiencies and inaccuracies in its application that require thoughtful consideration of updates. The stringent amendment process has nonetheless been important throughout history in keeping up with society's advances. Yet, since formal amendments are politically and procedurally difficult to achieve, judicial interpretation and legislative reforms could supplement efforts toward updating constitutional governance. It would be a balanced approach that included structural amendments, judicial reinterpretations, and legislative actions to keep the Constitution relevant. Strengthening the protection of voting rights, modernizing the electoral process, and placing term limits on federal judges are achievable reforms that can be effected without dismantling the Constitution's fundamental framework.

Constitutional evolution has to be considered with great care and pragmatism if American democracy is to remain robust. The United States can preserve the integrity of the legal system in the country by acknowledging the need for reform within the foundational principles of governance and ensuring that such a system also remains effective and responsive to challenges thrown up by contemporary conditions.

## Work Cited

National Constitution Center. "Constitutional Amendments." Last modified May 11, 2020. <https://constitutioncenter.org/interactive-constitution/amendments>.

The Library of Congress. "The U.S. Constitution: A History." Last modified September 17, 2019. <https://www.loc.gov/teachers/classroommaterials/presentationsandactivities/presentations/constitution/>.

The United States Senate. "Constitution of the United States: A Transcription." Accessed January 31, 2025. [https://www.senate.gov/civics/constitution\\_item/constitution.htm](https://www.senate.gov/civics/constitution_item/constitution.htm).

American Civil Liberties Union (ACLU). "How the Constitution Protects You." Accessed January 31, 2025. <https://www.aclu.org/other/how-constitution-protects-you>.

The National Archives. "The Constitution of the United States: A Transcription." Last modified July 4, 2021. <https://www.archives.gov/founding-docs/constitution-transcript>.

The Washington Post. "Why the Constitution Needs to Be Updated." Last modified August 14, 2020. <https://www.washingtonpost.com/opinions/why-the-constitution-needs-to-be-updated/2020/08/14/>.

Cato Institute. "The Case for a Modern Constitution." Last modified December 6, 2019. <https://www.cato.org/publications/commentary/case-modern-constitution>.