

# The USA Constitution

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# HISTORICAL BACKGROUND

- ▣ America , is almost completely a land of immigrants except few red Indians , all other people came from different countries of Europe like England, Germany, Ireland, France, Italy, Portugal , Holland and latter on people from Asia, Africa and Australia.
- ▣ That's why America , is known as 'NATION OF NATIONS.'

- ▣ It was the King of England who authorized the establishment of colonies in America and during the middle of 18<sup>th</sup> century there were 13 British colonies near the coast of Atlantic Ocean

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- ▣ From September 5, 1774, to March 1, 1781, the Continental Congress functioned as the provisional government of the United States. Delegates to the First (1774) and then the Second (1775–1781) Continental Congress were chosen largely through the action of committees of correspondence in various colonies rather than through the colonial or later state legislatures.

- ▣ In no formal sense was it a gathering representative of existing colonial governments; it represented the dissatisfied elements of the people, such persons as were sufficiently interested to act, despite the strenuous opposition of the loyalists and the obstruction or disfavor of colonial governors.

- ▣ The process of selecting the delegates for the First and Second Continental Congresses underscores the revolutionary role of the people of the colonies in establishing a central governing body.

- ▣ Endowed by the people collectively, the Continental Congress alone possessed those attributes of external sovereignty which entitled it to be called a state in the international sense, while the separate states, exercising a limited or internal sovereignty, may rightly be considered a creation of the Continental Congress, which preceded them and brought them into being.



▣ The USA Constitution adopted on September 17, 1787. This constitution came into force in 1789.

▣ This is worlds first federal system.

- ▣ In 1789 ,13 states adopted this constitution.
- ▣ Now there are 50 states.
- ▣ Oldest Modern Federal States.
- ▣ USA is the first country who add rights in written.

# *Sources of the American constitution*

- 1) Written Constitution of 1787
- 2) Judicial Decisions
- 3) Laws of Congress
- 4) Convention
- 5) Formal Amendments

# *Federal Features of USA*

## ▣ Written constitution

American constitution is a written constitution framed in 1787 and enforced in 1789. It consists of seven articles; three of them related to structure and powers of

Legislative (Article 1), Executive (Article 2) and Judiciary (Article 3) and the other four dedicated to position of states (Article 4), modes of amendments (Article 5), supremacy of national power (Article 6) and ratification (Article 7).

- ▣ It also holds that constitution is the supreme law of the land. Article one is the longest and cannot be amended. Like other constitutions, it also consists of preamble; a single sentence that introduces and defines purpose of the document.



## RIGID CONSTITUTION

It is one of the most rigid constitutions in the world which means that for amending it, a special and difficult procedure has to be followed. It consists of 2 steps;

## **Proposal for Amendment:**

Either two-third (67%) of both the houses (Senate and House of Representatives) shall propose for amendment to constitution or on the application of legislatures of two-third (67%) states shall call a convention for proposing amendment.

## **Ratification of Proposal:**

The amendment shall be ratified by the legislatures of three fourth (75 %) of all states or by the convention of three fourth of states. It is because of this rigidity that American constitution has been amended only 27 times in over 200 years.

## ▣ POPULAR SOVEREIGNTY

In U.S, the people rule i.e. they have delegated their powers to the government and the government owes its authority to the will of the people. The principle of popular sovereignty is stated in the Preamble of constitution as “*we the people.....do ordain and establish this constitution for United States of America.*”

## ▣ BICAMERAL LEGISLATURE

The constitution of USA provides for bicameral legislature i.e. two houses in the centre.

According to Article 1, “All legislative powers are vested in Congress.” Congress consists of two houses i.e. Lower House or House of Representatives and the Upper House or Senate.

## ▣ HOUSE OF REPRESENTATIVES

The House of Representatives has 435 members who are elected by the people through adult franchise method for a period of two years on population basis i.e. state with larger population gets more seats in this house like California has 53 members.

## ▣ SENATE

The members of Senate are elected by the state legislatures. Each state has two senators meaning that each state has two votes in senate. These senators are elected for a period of six years on parity basis. The total number of senators is 100 as the total states are 50.

## ▣ Separation of Powers:

The doctrine of separation of powers divides power between the three pillars/institutions of government to prevent interference of one institution in the affairs of another. The powers are divided among Congress, President and the Judiciary.



*Congress* has the power to make laws which outline general policies and set certain standards. *President* can enforce, execute and administer law. He is assisted by his cabinet but is **solely** responsible for all actions of Executive branch.

- ▣ *Judicial Powers* are exercised by the Supreme Court which interprets laws and decided cases and controversies in conformity with the law and by the methods prescribed by law.

## ▣ **Checks & Balances:**

- ▣ The system of Checks and Balances laid down by the separation of powers prevents misuse of powers. The powers are provided in such a way that it provides a check upon other institutions.

- ▣ President can veto a bill passed by the Congress. The congress can pass legislation over president's veto by two third majority.
- ▣ All this creates a system which makes compromises necessary which is a sign of healthy democracy. It prevents the rise of dictators as well.

- ▣ President has the power to appoint judges of the Supreme Court subject to approval of the Senate.
- ▣ The constitution has vested the powers of “*Judicial Review*” in Supreme Court. Supreme Court can approve, reject or review any action taken by the President or laws made by the Congress as it did in *Marbury vVs Madison* Case.

- ▣ **Federal System:**
- ▣ The U.S constitution provides for a federal system of government which means that powers are divided among centre/federal government and the states.

- ▣ According to Article 1, the federal government has jurisdiction over 18 matters and residuary powers are vested in states. States are autonomous bodies and centre cannot meddle in their affairs. In case of conflict, Supreme Court decides or settles the dispute.

- ▣ **Presidential System:**

- ▣ The constitution provides for a presidential form of government. Article 2 provides the powers, election and their matters related to president. President is elected for a term of 4 years and is not answerable to Congress but cannot dissolve Congress. He has a cabinet to assist him in running his executive powers.



- ▣ **Republicanism:**

- ▣ The constitution calls for a republican system with President as elected head of the state. The constitution derives its authority from the people and is supreme law of the land. Neither centre nor states can override it.

- ▣ **Bill of Rights:**

- ▣ The first ten amendments to the constitution are called “Bill of Rights”. The BOR provides for the rights of a person’s property, liberty, freedom of speech, press, religion and assembly.

- ▣ **Dual Citizenship:**

- ▣ The constitution provides for dual citizenship i.e citizen of United States and the state where one is domiciled. Britain and INDIA provides for single citizenship.

## ▣ **Presidential System**

- ▣ The constitution provides for the presidential type of government in the U.S.A. All powers are vested in the President. He is elected for a fixed period of 4 years and cannot be removed before the expiry of his tenure.

- ▣ Though the constitution provides indirect election of the President but in practice his election has become direct. The President is not politically responsible to the Congress. He has nothing to do with the Congress. The members of his Cabinet are neither members of the Congress nor answerable to it.

## ▣ **Supremacy of the Constitution**

- ▣ Supremacy of the constitution means the supreme law of the land. Neither the centre nor the states can override it. A law or an executive order repugnant to the constitution can be declared unconstitutional and invalid by; the Supreme Courts.

## ▣ Separation of Powers

- ▣ The U.S constitution is based on the doctrine or "Separation of Powers. Although the three wings of administration, viz the executive the legislative and the judiciary-are inter-dependent 'and cannot be separate entirely in the interests of good government yet an attempt has been made in the American constitution to separate them as much as possible. The Congress is the legislative organ.

- ▣ The President is the executive who is elected directly by the people and has nothing to do with the Congress. He enjoys a fixed tenure of 4 years and is not a member of the Congress and cannot be removed by the vote of no confidence before the expiry of his term of office.



- ▣ President does not participate in debates, nor can he dissolve the Congress. Both are independent of each other. The Supreme Court heads the Federal judiciary and enjoys freedom in its work.

The United States Constitution was groundbreaking in numerous ways, establishing a new government, the likes of which the world had never seen. Indeed, the very features which made it unique have also contributed to its longevity

- ▣ These features also define the framework of American government and politics, establishing the United States of America, its national government and outlining the relationships between that government, the people and the states.

# *Rights of American citizens*

- ▣ The Bill of Rights was added to the Constitution in the form of amendments. The chief purpose of the amendments was to protect the rights of individuals from the government's interference. They guarantee rights such as religious freedom, freedom of the press, and trial by jury to all American citizens.

- ▣ **First Amendment:** Freedom of religion, freedom of speech and the press, the right to assemble, the right to petition government.
- ▣ **Second Amendment:** The right to form a militia and to keep and bear arms.
- ▣ **Third Amendment:** The right not to have soldiers in one's home.

- ▣ **Fourth Amendment:** Protection against unreasonable search and seizure.
- ▣ **Fifth Amendment:** No one can be tried for a serious crime unless indicted (accused) by a grand jury. No one can be forced to testify against herself or himself. No one can be punished without due process of law. People must be paid for property taken for public use.

- ▣ **Sixth Amendment:** People have a right to a speedy trial, to legal counsel, and to confront their accusers.
- ▣ **Seventh Amendment:** People have the right to a jury trial in civil suits exceeding \$20



- ▣ **Eighth Amendment:** Protection against excessive bail (money to release a person from jail), stiff fines, and cruel and unusual punishment.
- ▣ **Ninth Amendment:** Because there are so many basic human rights, not all of them could be listed in the Constitution. This amendment means that the rights that are enumerated cannot infringe upon rights that are not listed in the Constitution.

- ▣ **Tenth Amendment:** Powers not given to the federal government by the Constitution belong to the states or the people