



POL.USC1 The US Constitution: Principles and the Amendment Process

EDEXCEL 9PL0 · Calculators not allowed · about 70 minutes

Total Marks

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Name: _____ Date: ____ / ____ / ____

Answer ALL questions. Short-answer questions may be brief but must be precise. For levels-marked questions (the 12-mark source question and the 30-mark essay) write a developed response with evidence, clear reasoning and a concluding judgement.

- 1** Define what is meant by a 'codified constitution' in the context of the United States Constitution as a single written document.

(Total for Question 1 is 1 mark)

- 2** State two methods by which an amendment to the US Constitution can be proposed under Article V (name both proposal routes).

(Total for Question 2 is 2 marks)

- 3** State the Article V requirement for ratification of a proposed amendment to the US Constitution.

(Total for Question 3 is 2 marks)

- 4** Explain what is meant by the US Constitution being 'entrenched' and give one consequence of entrenchment for constitutional change.

(Total for Question 4 is 3 marks)

- 5** Explain the principle of separation of powers in the US Constitution and name the three branches involved.

(Total for Question 5 is 3 marks)

- 6** Explain, with an example, how checks and balances operate between the President and Congress under the US Constitution.

(Total for Question 6 is 4 marks)

- 7** Explain how the Bill of Rights contributes to the idea of limited government under the US Constitution.

(Total for Question 7 is 4 marks)

- 8** Explain three reasons scholars give for why only 27 amendments have been successfully added to the US Constitution by 2026.

(Total for Question 8 is 6 marks)

- 9** Using the two short extracts below about constitutional interpretation in the USA, analyse how each extract supports a different view of whether the Constitution is a 'living' document or must be interpreted only by originalist principles. Extract A: 'The Constitution is a framework created in 1787, containing broad phrases whose meaning must be adapted to changing social and technological conditions; judges should read provisions in light of contemporary realities.' Extract B: 'The Constitution's meaning was fixed at the time of its framing; judges must interpret the text according to original public meaning, leaving changes to the democratic amendment process rather than judicial innovation.' Using these extracts and your knowledge of the US constitutional debate, analyse the strengths of each position.

(Total for Question 9 is 12 marks)

- 10** Explain the core claim of originalist or strict constructionist interpretation of the US Constitution and give one example of a prominent originalist thinker or judge.

(Total for Question 10 is 6 marks)

- 11** Evaluate the extent to which the US Constitution has proved too difficult to amend. In your answer, assess the design of Article V, the role of politics and federalism, and the impact of judicial interpretation as an alternative to formal amendment. Reach a reasoned judgement.

(Total for Question 11 is 30 marks)

Mark scheme · POL.USC1 The US Constitution: Principles and the Amendment Process

Question 1

- **B1** A concise definition: a single, written, authoritative text that sets out fundamental rules and institutions of government
cao
- **Answer: A codified constitution is a single, written and authoritative document that sets out the fundamental rules, structures and powers of government, as with the US Constitution.**

Question 2

- **B1** Proposal by two-thirds of both Houses of Congress (House of Representatives and Senate) cao
- **B1** Proposal by a national constitutional convention called for by two-thirds of state legislatures
- **Answer: Two methods: proposal by a two-thirds vote of both Houses of Congress; or proposal by a national constitutional convention called when two-thirds of state legislatures apply.**

Question 3

- **B1** Ratification by three-quarters of state legislatures (or three-quarters of state ratifying conventions) cao
- **B1** Three-quarters currently equals 38 of the 50 states cao
- **Answer: Ratification requires approval by three-quarters of the states, currently 38 of the 50, either by state legislatures or by state ratifying conventions.**

Question 4

- **B1** Defines entrenchment, e.g. rights and rules are protected from ordinary law by requiring special procedures to change them
- **B1** Identifies a consequence, e.g. amendments require a supermajority making change difficult
- **B1** Explains the consequence, e.g. protecting minority rights but slowing policy adaptation
- **Answer: Entrenchment means the Constitution and certain rights require special procedures, not ordinary legislation, to be altered. A consequence is that amendments need supermajorities in Congress and among states, which protects minority rights but makes adapting the document to new conditions slow and difficult.**

Question 5

- **B1** States separation of powers distributes government functions across branches to prevent concentration of power
- **B1** Names the three branches: legislative, executive, judicial cao
- **B1** Briefly explains the intended effect, e.g. checks abuse and protect liberty
- **Answer: Separation of powers divides government functions between three branches, the legislative (Congress), the executive (President) and the judicial (federal courts), to prevent any one branch concentrating power and thereby protect liberty.**

Question 6

- **B1** Identifies a check, e.g. presidential veto of legislation
- **B1** Identifies a counter-check, e.g. congressional override by two-thirds of both Houses
- **B1** Explains the mutual constraint, e.g. veto encourages negotiation; override limits presidential power
- **B1** Gives an example or effect, e.g. recent vetoes and attempted overrides show practical operation
- **Answer: An example: the President can veto bills passed by Congress, checking legislative action; Congress can respond by overriding a veto with a two-thirds vote in both Houses, checking the President. This reciprocal arrangement forces negotiation and prevents either branch imposing policy unilaterally.**

Question 7

- **B1** Identifies that the Bill of Rights (first ten amendments, 1791) lists specific individual rights
- **B1** Explains that enumerated rights limit governmental powers by forbidding certain actions
- **B1** Provides an example, e.g. First Amendment protects free speech from government restriction
- **B1** Links to limited government principle, e.g. rights protect citizens and constrain state authority
- **Answer: The Bill of Rights, the first ten amendments ratified in 1791, enumerates individual rights such as free speech**

Question 8

- **B1** Identifies a reason: the high procedural thresholds for proposal and ratification
- **B1** Identifies a reason: political polarisation and interstate differences make reaching supermajorities difficult
- **B1** Identifies a reason: the existence of alternative routes such as statutory law or constitutional interpretation reduces perceived need for formal amendment
- **B1** Explains development of first reason, e.g. two-thirds in Congress and three-quarters of states set a high bar
- **B1** Explains development of second reason, e.g. regional interests and federalism mean some states block changes
- **B1** Explains development of third reason, e.g. Congress, the courts and presidential action can achieve many policy changes without altering the text
- **Answer: Reasons include: the high procedural thresholds in Article V, such as two-thirds of Congress and ratification by three-quarters of states, which make success rare; political polarisation and diverse state interests that prevent building supermajorities; and the availability of alternative mechanisms, such as statutory change, executive action, or Supreme Court interpretation, which reduce political will to pursue difficult formal amendments.**

Question 9

- **Level 0** (0): No relevant material.
- **Level 1** (1-3): Basic or descriptive points about one or both extracts with limited analysis and little supporting knowledge.
- **Level 2** (4-6): Clear analysis of one position and some analysis of the other, using accurate constitutional examples or reasoning; links to strengths are present but not fully developed.
- **Level 3** (7-9): Detailed analysis of both positions, using well-selected examples and constitutional reasoning to show why each position has persuasive force.
- **Level 4** (10-12): Sophisticated, balanced analysis that evaluates the comparative strengths of both positions and reaches a supported judgement about their relative persuasiveness in practice.
- **Indicative content:**
 - Extract A supports the living constitution view: it allows constitutional provisions to be applied to novel situations such as digital privacy or modern military technology, giving courts flexibility to protect rights in changing circumstances.
 - Strength of Extract A: judicial adaptability can protect minority rights against majoritarian inertia, for example applying Due Process or Equal Protection clauses to new forms of discrimination not envisaged in 1787.
 - Strength of Extract A: broad phrasing like 'due process' or 'cruel and unusual punishment' invites interpretation, and a living approach can maintain the document's relevance without requiring difficult formal amendments.
 - Limit of Extract A: critics argue it risks judicial overreach, substituting judges' policy preferences for democratic decisions and undermining separation of powers.
 - Extract B supports originalism: it stresses democratic legitimacy by tying change to the Article V amendment process, arguing judges should not create new rights or policies beyond textually grounded meaning.
 - Strength of Extract B: originalism constrains judicial discretion, offering predictable rules and respecting the role of elected branches and states in constitutional change.
 - Strength of Extract B: originalist methods can check activist jurisprudence and help maintain stability in legal interpretation.
 - Limit of Extract B: strict originalism can produce rigid outcomes that seem unjust or obsolete, for example if 18th century understandings do not easily address 21st century problems like surveillance or bioethics.
 - Comparative evaluation: a balanced answer notes living constitutionalism offers adaptability and rights protection, while originalism offers democratic legitimacy and constraint; the better approach may depend on the constitutional question, political context and institutional design.
 - Supported judgement examples: cite cases or debates (e.g. privacy rights development through judicial interpretation) to show how each approach has practical consequences and trade-offs.

Question 10

- **B1** States core claim: text should be read according to its original public meaning or framers intent
- **B1** Explains why proponents favour this, e.g. democratic legitimacy and constraint on judges
- **B1** Names a prominent originalist thinker/judge, e.g. Justice Antonin Scalia
- **B1** Gives a brief development/example of that thinker's argument or influence
- **B1** Identifies a limitation or criticism of originalism
- **B1** Explains how this limitation may affect modern constitutional issues
- **Answer: Originalism holds the Constitution should be interpreted according to its original public meaning or the framers intent, arguing this respects democratic legitimacy and restrains judicial law-making. A prominent originalist was Justice Antonin Scalia, who argued for textual and historical methods. Critics say originalism can be rigid or indeterminate about historical meaning, complicating responses to modern issues like digital privacy.**

Question 11

- **Level 0** (0): No relevant material.
- **Level 1** (1-7): Basic, generalised knowledge of Article V and the amendment process with little or no analysis or evaluation. Limited or no examples.
- **Level 2** (8-15): Clear knowledge of Article V, federal factors and alternative mechanisms, with some developed analysis and supporting examples. Evaluation is present but likely one-sided or not fully developed.
- **Level 3** (16-23): Detailed, accurate knowledge applied to a sustained analysis that weighs reasons why amendment is difficult against counterarguments. Uses specific examples and considers the roles of politics, federalism and the courts; reaches a reasoned judgement.
- **Level 4** (24-30): Sophisticated and balanced evaluation drawing on wide-ranging, accurate evidence and reasoning. Directly engages with the claim that the Constitution is too difficult to amend, evaluates institutional design, political behaviour and judicial alternatives, and reaches a clear, well-justified judgement.
- **Indicative content:**
 - Arguments that it is too difficult: Article V sets very high thresholds, two-thirds of both Houses or convention proposal plus three-quarters of states for ratification, which produces a strong status quo bias and explains only 27 amendments by 2026.
 - Political explanations: polarization, divided government and partisan tribalism make cross-aisle supermajorities unlikely; powerful interest groups and state diversity can block national consensus.
 - Federalism effects: diverse regional interests and the need for 38 state ratifications mean that changes affecting only some regions face blocking by others, amplifying the difficulty of national amendment.
 - Institutional alternatives reduce pressure for amendment: Congress can pass laws, executive action can effect policy, and the Supreme Court can reinterpret the text, producing de facto constitutional change without Article V; this weakens incentives to pursue formal amendment.
 - Counter-arguments that it is appropriately difficult: entrenchment protects minority rights and prevents transient majorities from making sweeping changes; stability and predictability are valuable constitutional goods.
 - Counter-argument, democratic legitimacy: difficult amendment may frustrate democratic change and transfer power to courts or administrative bodies, raising concerns about legitimacy if policy is set by unelected judges rather than by amended text.
 - Examples to support each side: successful amendments such as the Bill of Rights (1791) and Reconstruction Amendments (13th to 15th, post-1865) show amendment can succeed in major moments; 20th century proposals often failed due to politics (e.g. Equal Rights Amendment stalled despite congressional passage).
 - Evaluation of the courts: judicial interpretation can adapt the Constitution but may be seen as substituting judicial policy-making for democratic amendment; the balance between adaptability and democratic process is central to the judgement.
 - A strong conclusion weighs the trade-offs: while Article V makes amendment difficult in ordinary times, this design protects foundational principles and minority rights; however, modern polarization and the availability of non-amendment routes mean vital constitutional change often occurs outside Article V, which can be judged problematic for democratic legitimacy.
 - Credit a clear, supported final judgement that takes account of institutional design, political reality and normative values about stability versus democratic change.