

WE THE PEOPLE

The Citizen and the Constitution

Directed by the Center for Civic Education

National Finals Hearing Questions 2024–2025

Unit 1: What Are the Philosophical and Historical Foundations of the American Political System?

- 1. In what ways did the Renaissance change the way people thought about individual rights and their role in society, and how do these changes still influence today's conversations about personal freedom?**
 - How did the Renaissance's emphasis on understanding the natural world lead to a greater focus on government and societal institutions?
 - What parallels exist between the Renaissance era's groundwork for integrating scientific principles into political thought and today's debates about the role of science in shaping public policy?
- 2. How did Enlightenment thinkers like Voltaire inspire the American Founders' beliefs about freedom of thought and expression, and how did these ideas shape American politics?**
 - What contributions did the founding of Rhode Island and the trial of Anne Hutchinson make to the development of the American principles of freedom of thought and expression?
 - To what extent did public discourse during the Stamp Act protests highlight the growing importance of freedom of expression in the colonies?
- 3. In the debates during the Philadelphia Convention, Benjamin Franklin asserted, "There are two passions which have a powerful influence on the affairs of men. These are ambition and avarice; the love of power, and the love of money."* Why did some Framers view ambition and greed as threats to government, and how did these concerns shape the Constitution?**
 - How did the Framers use ideas from philosophers like Montesquieu to divide power and limit the effects of ambition and greed?
 - In what ways do the Framers' concerns about concentrated power and wealth remain relevant in today's debates about governmental and corporate accountability?

* James Madison, "Madison Debates: June 2," in *Notes on the Debates in the Federal Convention*, June 2, 1787 (The Avalon Project, Yale Law School), https://avalon.law.yale.edu/18th_century/debates_602.asp.



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Unit 2: How Did the Framers Create the Constitution?

1. A critic of the Articles of Confederation remarked, “The present federal constitution was formed amidst the confusions of war, and in the infancy of our political knowledge.”* To what extent do you agree with this assessment of the political understanding of Americans in 1787?

- What role did colonial governance play in shaping the American republic?
- How do the leadership and unity challenges of the Confederation period compare to those faced by the United States today?

* “Harrington: To the Freemen of the United States,” May 30, 1787, Center for the Study of the American Constitution, University of Wisconsin–Madison,

https://csac.history.wisc.edu/wp-content/uploads/sites/281/2024/04/DC1-01-02-04_Harrington-To-the-Freemen-of-the-U.S._30May87.pdf.

2. Historian Cecelia Kenyon has referred to the Anti-Federalists as “men of little faith.”* Do you agree or disagree with this characterization? Why?

- What were the main arguments presented by Federalists to address the Anti-Federalists’ concerns regarding the Constitution?
- How do the Anti-Federalists’ fears about governmental power and individual rights continue to influence modern discussions around constitutional interpretation and civil liberties?

* Cecelia M. Kenyon, “Men of Little Faith: The Anti-Federalists on the Nature of Representative Government,” *The William and Mary Quarterly* 12, no. 1 (1955), 3–43, <https://faculty.uml.edu/sgallagher/Anti-Federalists.pdf>.

3. At the Philadelphia Convention, John Rutledge of South Carolina said, “If the Convention thinks that N. C. S. C. & Georgia will ever agree to the plan, unless their right to import slaves be untouched, the expectation is vain.”* What were the main issues about slavery debated at the convention, and how did these debates reflect the national discourse on slavery in the late 18th century?

- Was it feasible for the founding delegates to create a Constitution that eliminated slavery? Explain your reasoning.
- How do the discussions surrounding slavery at the convention continue to shape contemporary debates about racial equality, reparations, and the legacy of slavery in the United States?

* James Madison, “Madison Debates: August 22,” *Notes on the Debates in the Federal Convention*, August 22, 1787 (The Avalon Project, Yale Law School), https://avalon.law.yale.edu/18th_century/debates_822.asp.



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Unit 3: How Has the Constitution Been Changed to Further the Ideals Contained in the Declaration of Independence?

1. Associate Justice Clarence Thomas, in his concurring opinion in *Dobbs v. Jackson Women’s Health Organization*, stated, “‘Substantive due process’ is an oxymoron that ‘lack[s] any basis in the Constitution.’”^{*} What is the concept of substantive due process, and how has it influenced the way courts evaluate the constitutionality of laws and government actions?

- How does substantive due process differ from procedural due process?
- Should judges continue to use substantive due process in their decision making? Why or why not?

^{*} Associate Justice Clarence Thomas, *Dobbs v. Jackson Women’s Health Organization*, 597 U. S. ____ (2022), https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf.

2. The Constitution has been amended several times to expand voting rights. Today, most citizens 18 and older are allowed to vote. How well does the right to vote connect citizens to their government?

- What challenges or obstacles prevent citizens from exercising their right to vote, and what strategies or changes could be implemented to help eliminate these barriers?
- In your opinion, are there any groups or individuals who currently cannot vote but should be given the opportunity to do so? Explain your answer.

3. In 2019, two representatives in Washington introduced a bill in the state legislature to create a new state called Liberty formed from six counties in eastern Washington. Was this proposal constitutional, and what principles govern the process of creating a new state?

- How do the arguments about secession during the Civil War apply to modern proposals like the one in Washington?
- In your opinion, should Congress allow states or parts of states to secede? Why or why not?

^{*} State of Washington, House Bill 1509 (2019), <https://lawfilesexternal.wa.gov/biennium/2019-20/Pdf/Bills/House%20Bills/1509.pdf?q=20240728143454>.



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Unit 4: How Have the Values and Principles Embodied in the Constitution Shaped American Institutions and Practices?

1. **“The federal government is scarcely in charge of anything except foreign affairs; the state governments really run American society.”*** To what extent did the Framers of the Constitution intend for the federal and state governments to share power? How has this balance of power evolved over American history?
 - How were the powers granted to the federal government delineated in the Constitution compared to those given to state governments?
 - In contemporary American society, do state governments continue to play a dominant role, and what factors contribute to their influence or diminished power compared to the federal government?

* Alexis de Tocqueville, *Democracy in America*, vol. 1., ed. Eduardo Nolla, trans. James T. Schleifer (Liberty Fund, 2012), <https://oll.libertyfund.org/titles/democracy-in-america-english-edition-vol-1>, 403, footnote 1.

2. **“[Political factions] are likely, in the course of time and things, to become potent engines by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of government.”*** Have George Washington’s fears about factions become a reality in American politics today? Why or why not?
 - What constitutional and institutional checks are in place to limit the influence of political factions, and how effective are these checks in practice?
 - Have these checks proven sufficient in preventing factions from undermining the will of the people? Explain your answer.

* *Washington’s Farewell Address to the People of the United States*, September 19, 1796 (United States Senate Historical Office, 2017), https://www.senate.gov/artandhistory/history/resources/pdf/Washingtons_Farewell_Address.pdf.

3. **“We are not final because we are infallible, but we are infallible only because we are final.”*** Do you think Associate Justice Robert Jackson’s statement aligns more with the intentions of the Framers or the concerns raised by the Anti-Federalists regarding judicial power? Why?
 - Historically, has the Supreme Court acted as the final arbiter on controversial issues? Provide examples.
 - To what extent should the Court consider public opinion in its decisions, and how does this align with the promotion of republican values?

* *Brown v. Allen*, 344 U.S. 443 (1953), <https://supreme.justia.com/cases/federal/us/344/443/>.



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Unit 5: What Rights Does the Bill of Rights Protect?

1. “The modern exclusionary rule draws no strength from the deeply rooted American ideal of innocence-protection. Instead, the rule perversely benefits the guilty as such.”* Do you agree or disagree with Akhil Reed Amar’s position on the exclusionary rule? Why?

- How does the exclusionary rule function within the American legal system, and in your view, does it protect justice or undermine it?
- What alternative methods could the courts use to address violations of the Fourth Amendment, and what are the potential benefits and drawbacks of those approaches?

* Akhil Reed Amar, “America’s Lived Constitution,” *The Yale Law Journal* 120 (2011): 1757, https://www.yalelawjournal.org/pdf/976_2zxk72cx.pdf.

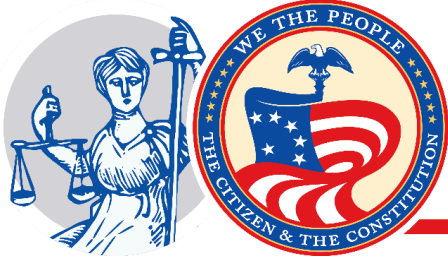
2. In *City of Grants Pass v. Johnson*,* the United States Supreme Court held that the cruel and unusual punishments clause does not prohibit governments from restricting camping in public places by persons experiencing homelessness. Do you agree with this interpretation of the Eighth Amendment? Why or why not?

- What are the key differences between the majority and dissenting opinions in *City of Grants Pass v. Johnson* regarding the cruel and unusual punishments clause?
- Should the interpretation of the Eighth Amendment evolve to reflect changes in society? Why or why not?

* *City of Grants Pass v. Johnson*, 603 U.S. ___ (2024), <https://supreme.justia.com/cases/federal/us/603/23-175/>.

3. To what extent should governments limit free speech on public property, and how does this balance with other constitutional values?

- How does the Supreme Court’s forum-analysis framework approach the conflict between free speech and other constitutional interests, and does it effectively achieve a fair balance?
- In what ways has expressive activity on public property influenced American history, and how has the significance of access to these spaces evolved in the digital age?



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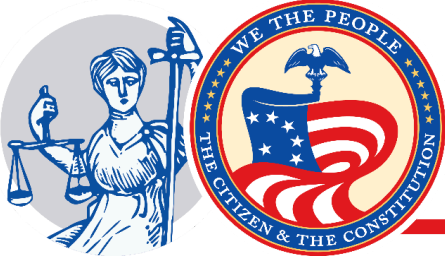
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Unit 6: What Challenges Might Face American Constitutional Democracy in the Twenty-first Century?

1. James Davison Hunter argues, “If there is little or no common political ground [in the United States] today, it is because there are few if any common assumptions about the nature of a good society that underwrite a shared political life.”* To what extent do Americans share assumptions about a “good society,” and how does the lack—or presence—of these shared values influence political polarization in American democracy?
 - How does political polarization impact the ability of American institutions to function effectively and address pressing societal challenges?
 - What lessons from historical strategies to reduce polarization can be applied to contemporary efforts to foster unity in a diverse and divided society?

* James Davison Hunter, *Democracy and Solidarity* (Yale University Press, 2024), xiv.

2. The bicentennial celebration of the Marquis de Lafayette’s Farewell Tour, which began on August 16, 2024, marks a significant historical moment. How did Lafayette’s views on federalism, the balance of power, and individual rights align with or challenge the principles of American constitutional democracy in 1824?
 - How did Lafayette’s experiences with American democracy influence his advocacy for democratic ideals in France and other nations?
 - What lessons does Lafayette’s 1824 Farewell Tour offer about the enduring principles of liberty, equality, and justice in American democracy, and how do these ideals shape current debates on rights and inclusion?
3. In his 1853 speech, “The Claims of Our Common Cause,” Frederick Douglass declared, “By birth, we are American citizens; by the principles of the Declaration of Independence, we are American citizens; within the meaning of the United States Constitution, we are American citizens; by the facts of history, and the admissions of American statesmen, we are American citizens; by the hardships and trials endured; by the courage and fidelity displayed by our ancestors in defending the liberties and in achieving the independence of our land, we are American citizens.”* How did the U.S. Constitution originally define the federal government’s role in determining citizenship, and how was this interpreted before the Civil War?
 - How did the 14th Amendment’s citizenship clause redefine American citizenship, and how have courts shaped its interpretation, especially regarding birthright citizenship?



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- What rights and responsibilities come with American citizenship, and how have debates over these rights evolved in relation to voting, immigration, and civic participation?

* Frederick Douglass, “Claims of our Common Cause: Address of the Colored Convention held in Rochester, July 6–8, 1853, to the People of the United States,” Frederick Douglass Project: Claims of Our Common Cause (University of Rochester, 2018), <https://rbscp.lib.rochester.edu/4368>.