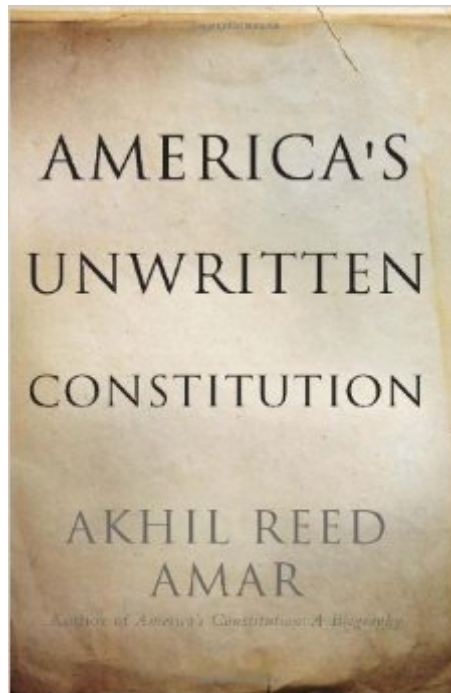


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# America's Unwritten Constitution: The Precedents And Principles We Live By



## Synopsis

Despite its venerated place atop American law and politics, our written Constitution does not enumerate all of the rules and rights, principles and procedures that actually govern modern America. The document makes no explicit mention of cherished concepts like the separation of powers and the rule of law. On some issues, the plain meaning of the text misleads. For example, the text seems to say that the vice president presides over his own impeachment trial<sup>151</sup>;but surely this cannot be right. As esteemed legal scholar Akhil Reed Amar explains in *America's Unwritten Constitution*, the solution to many constitutional puzzles lies not solely within the written document, but beyond it<sup>151</sup>;in the vast trove of values, precedents, and practices that complement and complete the terse text. In this sequel to *America's Constitution: A Biography*, Amar takes readers on a tour of our nation's unwritten Constitution, showing how America's foundational document cannot be understood in textual isolation. Proper constitutional interpretation depends on a variety of factors, such as the precedents set by early presidents and Congresses; common practices of modern American citizens; venerable judicial decisions; and particularly privileged sources of inspiration and guidance, including the Federalist papers, William Blackstone's *Commentaries on the Laws of England*, the Northwest Ordinance of 1787, Lincoln's Gettysburg Address, and Martin Luther King, Jr.'s "I Have a Dream" speech. These diverse supplements are indispensable instruments for making sense of the written Constitution. When used correctly, these extra-textual aids support and enrich the written document without supplanting it. An authoritative work by one of America's preeminent legal scholars, *America's Unwritten Constitution* presents a bold new vision of the American constitutional system, showing how the complementary relationship between the Constitution's written and unwritten components is one of America's greatest and most enduring strengths.

## Book Information

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## Customer Reviews

I just received this book - two weeks before it is officially released. I'm not entirely sure how that is possible, but congratulations to for its efficiency. As a Yale Law student, the temptation to buy this book was overwhelming. And it hasn't disappointed: as one would expect from Akhil Amar, the writing is lucid; the arguments are powerful (even when one might not entirely agree with them); and the level of scholarly detail astounding. I have no doubt that this book will take its place in the canon of Constitutional scholarship, and every law student, attorney, and judge should put this at the top of their reading list. Amar is known for holding a few positions outside the mainstream, and this book is no exception. Like in *America's Constitution: A Biography*, readers will occasionally find, particularly near the end of a chapter, some claims that may lead them to raise an eyebrow. But even these deserve a careful read, and from time to time, the reader will be convinced. Even when they are not, hearing Amar's intelligent arguments will remind them of the necessity of not blindly following the mainstream and making one's mind up for oneself, based on all the evidence and logic. Some arguments in this book are of enormous importance. Amar's call to remember the Common Law and revolutionary experience that colors the words used in the concise text of the Constitution serves as an important reminder to modern judges to avoid the temptation to construe language in a vacuum; like all forms of communication, it is vital to recall that the meaning of language is a product of social and historical context.

In his follow up to *America's Constitution: A Biography*, Professor Amar explores the vague parts of the Constitution and how it has worked in our history. As we know from our history, the Constitution itself is a framework for the government to work in. Much of what constitutes our working system of government was devised after the ratification of the Constitution and is at times like Professor Amar states, unwritten. He also used this book as the foundation text for a course on the Coursera MOOC platform in which he gave lectures on each chapter. The course and the book worked well together in presenting a view of America's legal system which we often do not understand. The book is a very good book although it is a bit of a dry read at times. Legal students will fare very well with the book as will graduate students or students studying legal history. I definitely would not assign this to first or second year undergraduates as a standalone work. For a

course on the Constitution it would be useful when used in conjunction with its twin. The concepts of the unwritten Constitution can be difficult to perceive, but they definitely exist. This is where students will have some difficulty in developing an understanding. Politically, the book seems to work its way down the middle. Amar makes no major against the grain stances against the Supreme Court and its rulings such as Citizenâ™s United, etc. He does address exclusionary evidence and how some majority opinions seem to have been correct, but used the wrong precedents in establishing the legality of them. He offers no wild-eyed sermons on modern political thought, but instead works within the confines of the established legal system and thought. I found that to be refreshing.

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