

Bulletproofing a Constitution

a Thomas Paine Institute essay

Throughout the world, consistent with the United Nation's "Universal Declaration of Human Rights," governments champion rights in their constitutions.

Even dictatorships champion rights. Russia's constitution states, "Man, his rights and freedoms, are the supreme value." North Korea proudly announces that "All citizens have equal rights in all spheres of government, political, economic, social and cultural activity." The People's Republic of China proclaims, "All citizens shall enjoy freedom of speech, the press, assembly, association, procession and demonstration." ¹

However, such pronouncements pay no more than lip service to rights, and actually, this is true of all nations, albeit to a lesser extent. Every nation champions rights; every nation violates rights. Even the United States of America, historically the greatest champion of freedom, is guilty of that contradiction.

In the face of this reality, how can the new beginning envisioned by the Thomas Paine Institute, in which individual rights are sacred, avoid the same plight? Our answer in this essay is: by "bulletproofing" the constitution against it. How? By incorporating a two-stage process during the constitution's framing, the end result of which will be the clear protection of individual rights in all spheres of life. The two stages follow.

STAGE ONE: CLEAR ARTICULATION OF CORE CONCEPTS AND PRINCIPLES OF FREEDOM

Stage one is preparation. The aim of this stage is to ensure that a constitution which is to enshrine freedom clearly sets forth the essential meaning of core political principles and concepts without which freedom could not exist, let alone flourish.

It is vitally important to understand why this initial stage is necessary. To set forth "the essential meaning of core political principles and concepts," means that the constitution's framers must do more than simply name them. Left without explanation, they are empty words and nothing more. The framers must explain *why* they are core, that is, why they are indispensably necessary for freedom and flourishing.

To illustrate this vital point, we excerpt the following from TPI's Declaration of Freedom. It pertains to the *Non-Initiation of Force Principle*.

We hold certain fundamental truths to be observable and inducible facts of reality:

—that all individuals are born equal in their possession of reason, the distinguishing faculty that elevates them above all other creatures,

—that individual human life—the ultimate value and standard of the good—in order to survive and to flourish, requires the free exercise of this faculty. For, unlike other creatures, humans have no automatic knowledge of how to survive. Humans must use reason to survive,

—that the initiation of physical coercion must be abolished from all human affairs because it abrogates the free exercise of reason and thereby human life.

Another core principle of freedom is the *Sole Function of Government Principle*, which limits government to the sole function of protecting its citizens from initiated force. For this principle, the framers must make clear the essential meaning and legitimacy of the concept of *force* in the context of government. A legitimate government uses force only in *retaliation* against those who have already initiated that evil or threatened to do so. The right of self-defense by private individuals is also retaliatory, but in a country of laws, the citizens, while retaining that right in principle, effectively grant the government a monopoly on the use of retaliatory force. Individuals retain the right to take action in self-defense situations when the police are not present or not available.

In addition to the concepts of *initiated and retaliatory force*, the framers in stage one must make clear the essential meaning of such core concepts as *freedom, rights, and capitalism*. *Freedom*, like *force*, is a complex, context-dependent concept. *Political freedom* means freedom from initiated coercion or the threat thereof. More widely, *freedom* means a state of existence in which a reverence for individual rights prevails.

Regarding the concept of *rights*, the framers must define a *right* as a moral sanction for *individual* action in a social context.² That is, only individuals possess rights, not groups. So-called “group rights” unavoidably end up sacrificing the individual to the group. In fact, correctly understood, a *right* protects the individual from the group, especially that largest of all groups, the government.

To further clarify rights, the framers must identify their source. It is not government, nor “God,” nor social group. Rather, the proper source of rights, the *only* source, is dictated by human nature, specifically by what humans need to survive and thrive. Humans must have the freedom to exercise their faculty of reason because ultimately, reason is their only means of survival.

No core concept of freedom stands more in need of clarification today than the concept of capitalism. “Capitalism is a social system based on the recognition of individual rights, including property rights, in which all property is privately owned.”³ TPI’s Declaration of Freedom, in the opening paragraphs of Part 3, provides a clear, concise statement of the meaning of pure capitalism. See <https://thomaspaineinstitute.com/socioeconomic-system-of-pure-capitalism/>, paragraphs 1 and 2.

To recap, in stage one, bulletproofing a constitution requires identifying core principles and concepts of freedom, along with clear vital distinctions pertaining to them. Given the revolutionary nature of this material, in all its parts,⁴ it is only logical that it should be captured in a document with a title such as the Declaration of Freedom. And further, that it should be made the preamble of the constitution. Thus, the first page of the constitution looks like this:

Preamble
The Declaration of Freedom

This concludes stage one, the preparation stage of bulletproofing.

STAGE TWO: PRESERVING THE CORE CONCEPTS AND PRINCIPLES OF FREEDOM

The first stage, though vitally important, is not enough by itself to bulletproof a constitution. As indicated, it is preparation. Having thoroughly prepared, the constitution's framers must next think of the future, a future in which, because humans are volitional beings, some of them will choose to ignore, bypass, and corrupt principles and concepts that advance human life. Instead, they will seek to pursue value through deception or the initiation of force against others, rather than voluntarily trading value for value through the free exercise of reason.

In the face of this reality, after stage one clarifies the essence of core principles and concepts of freedom, the framers must ensure that they are preserved and protected in perpetuity. How are they to accomplish that?

The answer involves two courses of action. The first involves the simple act of avoidance. The framers must assiduously avoid, throughout the constitution's body, collectivist terms such as "public interest," "public good," and "general welfare." America's original constitution was rife with such open-to-interpretation expressions, language that has no place in a freedom constitution. Ultimately, this crucial mistake, paved the way for the abandonment of an American economy that was largely laissez-faire, to one that today is largely government controlled.⁵

But avoiding collectivist language is the easy part. Far more difficult is the second course of action: the framers must now preserve the preamble in perpetuity with an impregnable shield, or as near to impregnable as possible. How is such a shield possible? By implementing three mandates strategically located immediately after the preamble, at the start of the constitution proper in Article One. These mandates are the three necessary facets of the required shield.

ARTICLE ONE

Section 1. The Inseparable Mandate. All parts of the above preamble in perpetuity will stand as an integral, inseparable, and legally relevant part of this constitution.

Section 2. The Primacy Mandate. All articles, clauses, amendments, and revisions of this constitution in perpetuity, will be subservient to and consistent with the preamble.

Section 3. The Universal Mandate. All Thomas Paine Institute (or Federation)⁶ nations in perpetuity are legally bound to incorporate these three mandates in their constitutions.

These three mandates of perpetuity make clear that the preamble is not simply an introduction to the constitution, as any preamble is, but that its wide-ranging philosophic content is integral to the constitution and inseparable from it.

The Primacy Mandate, in particular, makes it clear that the preamble has a stature of paramount importance in the constitution. In effect, it is the standard against which all other parts of the constitution, without exception, are to be evaluated as to validity, worth, and necessity.

SUMMARY OF THE BULLETPROOFING PROCESS

Bulletproofing a freedom constitution begins with preparation. Core concepts such as *freedom, force, rights* and *capitalism* must be clearly defined, and the same must happen with such core principles of freedom as the *Non-Initiation of Force* and the *Sole Function of Government*.

When is preparation complete? Preparation is complete when a Declaration of Freedom exists, with the name of TPI's new nation proudly introduced in the second paragraph of Part One, and repeated at every other point in the Declaration where [Name], gets replaced by the nation's *actual* name.

How do the framers know they have identified the core concepts and principles for their specific free society? They know by the criterion of *Indispensability*, that is, by identifying the concepts and principles without which a free society cannot even be imagined, let alone be successfully actualized. *Freedom, Force, Rights*, and *Capitalism* by their very nature, are such concepts. The *Non-Initiation of Force* and the *Sole Function of Government*, by their very nature, are such principles.

Conceivably, other concepts and principles might be dictated by unique features of a new nation. But we submit that the concepts and principles set forth in this essay will be needed as a minimum for *any* nation.

Finally, bulletproofing a freedom constitution is completed when the framers define three perpetuity mandates in Article One of the Constitution, immediately following the Preamble.

At this point, the framers of a new nation's constitution can confidently declare: "we have clearly defined and explained the core concepts and principles of our free society, and we have protected them in perpetuity."

The Thomas Paine Institute's Declaration of Freedom is posted in its entirety at <https://thomaspaineinstitute.com/declaration-of-freedom/>. We offer it as a prototype of what any Declaration of Freedom should look like at the end of the preparation stage of bulletproofing.⁷

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Endnotes

1 Russian Federation Constitution: Article 2, North Korea Constitution: Article 11, People's Republic of China Constitution, Article 35.

2 See Ayn Rand's 1963 essay "Man's Rights" that appeared in her books, *The Virtue of Selfishness* (1964), *Capitalism the Unknown Ideal* (1967), and elsewhere.

3 See Ayn Rand's 1963 essay, "The Nature of Government" in her books, *The Virtue of Selfishness* (1964), and *Capitalism the Unknown Ideal* (1967), and elsewhere.

4 "Revolutionary nature" is an apt characterization. The authors' indebtedness to Ayn Rand and her revolutionary philosophy of Objectivism is clearly evident throughout this essay.

5 See TPI's founding essay "To Begin The World Over Again" <https://thomaspaineinstitute.com/wp-content/uploads/2024/09/To-Begin-The-World-Over-Pamphlet-9-25-2024.pdf> pp 9-13 for a short history of the decline.

6. Regarding the use of the word "Federation," see the TPI essay on catalytic effect, <https://thomaspaineinstitute.com/wp-content/uploads/2024/12/The-Catalytic-Power-of-Beginning-Over-Again.pdf>

7. TPI hereby grants permission to adopt or adapt this Declaration of Freedom, in whole or in part, with attribution to TPI, and with notification to TPI that it has happened.