



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
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Chattanooga, Tennessee 37402

**CELEBRATING THE CONSTITUTION IN THE MIDST OF COVID-19:
THE FRAMERS PAVED THE WAY**

Congress has mandated that the date of the signing of the Constitution, September 17, 1787, be commemorated. Prior to COVID-19, schools, colleges, and communities would have public gatherings to celebrate Constitution Day. Similar celebrations are impossible this year, because COVID-19 has forced so many of our public institutions to operate under severe constraints. However, despite these difficult times, we should not entirely forego the celebration of Constitution Day, as we have much to celebrate about the Constitution and our democracy.

Thomas Jefferson often wrote about the importance of an informed citizenry to the proper functioning of our democracy. He wrote that self-government, as envisioned in the Constitution, would not be possible unless the people were sufficiently educated to exercise proper oversight of the government. Learning about the Constitution is essential to becoming equipped to exercise that oversight.

The wisdom of the Framers of the Constitution paves the way as we work through the adjustments our society has had to make in the wake of COVID-19. The President, the governors of the various states, Congress and state legislatures, and other federal and state government officials have claimed emergency powers to close businesses, churches, and schools; issue stay-at-home orders; limit travel; mandate the wearing of facemasks; close government offices; and cease government services to limit the spread of the disease and to protect the public. Many of these emergency orders have led concerned citizens to mount challenges on grounds that the government entity overstepped or abused its authority. For the most part, these challenges have been peacefully resolved through the dispute-resolution system envisioned by the Framers—that is, the federal judiciary. And when a court decides such a dispute, both the governments and the people follow the court's decision, even when the decision goes against them. One of the true strengths of our democracy is the public's confidence in the American judiciary.

Along with the pandemic, the country is experiencing other crises—a great economic crisis, social unrest in many cities, and natural disasters. But the design of the Constitution paves the way to peaceful resolution. Let's examine some of the ways the Constitution and the courts provide a framework through which to address issues of pressing concern to citizens.

First Amendment:

Free exercise of religion. Congregants and religious organizations have brought cases based on forced closures or limitations on the number of attendees.

Freedom of speech. Citizens have brought cases over the right to public speech and to address legislatures regarding emergency orders and police brutality.

Freedom of the press. Members of the press have claimed the right to stay in areas of unrest after authorities have declared riots or disorders.

Freedom to peaceably assemble and to petition the government for redress of grievances. Citizens have exercised the right to assemble on streets and in other public places. They have brought petitions on such issues as facemask mandates, gun rights, and police brutality, and further exercised their petition rights by demanding resignations of public officials.

Second Amendment: The right to keep and bear arms. Courts have heard cases over orders to close gun stores.

Fifth Amendment: The right to due process of law by the federal government. Citizens have challenged some of the restrictions imposed by the federal government, such as those limiting travel across state and national borders, as violating the Due Process Clause.

Sixth and Seventh Amendments: The right to speedy and public trial in criminal cases, and the right to a jury trial in civil cases. The virus forced the federal judiciary to severely limit its operations and postpone trials for some criminal defendants and civil litigants. These two Amendments, however, provide rights that must ultimately be honored and a framework through which to seek relief.

Eighth Amendment: The right not to have excessive bail. One of the complaints of those protesting police brutality and the criminal justice system is that people are unnecessarily being held in jail solely because of their inability to post bond.

Fourteenth Amendment: The right to due process and equal protection from state governments. This amendment plays a large role in many of the disputes with state and local governments from restrictions on churches, facemask mandates, claims of disparate treatment by the criminal law system, to business closures.

We are living in difficult times. Despite that—or even because of it—we should celebrate how, no matter the circumstances, the Constitution gives us self-government and provides a pathway to resolving disputes, whether between citizens or between citizens and our governments. So, on this Constitution Day, let us celebrate the democracy established in the Constitution and the enduring pathways its Framers paved for us.

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