

Protecting Rights-SAMPLE ANSWERS

Introduction

The Framers of the U.S. Constitution approached crafting the document with great care and caution. They recognized that the weak government established under the Articles of Confederation was failing the nation and its people. However, the fear of returning to a tyrannical government and an experience similar to the one they had as colonists under British rule was fresh on their minds. This left the Framers with a difficult double-edged sword. **How could they create a more powerful government that could protect the people, but at the same time, limit that government's authority to ensure power remained with the people?**

Defining Rights

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| Civil Liberties: | Personal freedoms that the government cannot interfere with. Example: 1st amendment |
| Civil Rights: | Government actions taken to protect equality of rights Examples: 13th-15th amendments; Civil Rights Act of 1964 |

Protections in the Constitution

Strengthening the national government was necessary. But while doing this, the Framers also included important foundational principles to ensure the government stayed as limited as possible, power stayed with the people, and individual rights were protected. First, they relied on the theories of Montesquieu and Locke and **separated power** into three branches. In addition to the separation of powers, they provided each branch with **checks and balances** to stabilize the feared potential of ambitious men. They also established a system of **federalism** that divided power between the national government and the states. Regional governments maintained sovereignty in matters that most impacted their citizens, while the national government would ensure that all rights were guaranteed.

Safeguards, or protections, of individuals rights can ultimately be found in the U.S. Constitution, the Bill of Rights, and other subsequent amendments. The Bill of Rights, added in 1791 as a ratification compromise with Anti-Federalists, more clearly spells out specific rights and protections. However, three rights were important enough to the Framers to include in the language of the U.S. Constitution itself.

Article I, Section 9 of the U.S. Constitution explicitly protects three key individual rights. The first is contained in this statement: "*The privilege of the Writ of Habeas Corpus shall not be*

suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

Habeas corpus is an important individual right. This statement means that any government authority **has to prove to a court why it is holding someone**. If the government cannot show why a person is being held in jail, that person must be released. The second and third safeguards are in this statement: "*No Bill of Attainder or ex post facto Law shall be passed.*" **A bill of attainder is written to punish only one person or group of people. An ex post facto law makes an act a crime after it has been committed.**

Why was it important to the Framers to include each of these protections in the U.S. Constitution? What could happen if they were NOT protected rights?

| Writ of Habeas Corpus | No Bills of Attainder | No Ex Post Facto Law |
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| Habeas corpus ensures that the government must abide by the rule of law. It helps ensure a fair and impartial judicial system in which someone can not lose their life or liberty for no reason. Due process must be followed. Without habeas corpus, the government could just round up perceived enemies and put them in jail. | The British turned American colonies were very diverse. Many people came to the colonies to escape persecution in England. No bills of attainder ensure that the diversity can continue and all groups remain protected. Without this included in the Constitution, Congress could pass laws specifically targeting a religious group or a racial group for no reason. | Outlawing ex post facto laws again ensures protections to individuals and ensures due process and a fair legal system. It allows citizens to know the rules and laws as written. Without this included in the Constitution, people could be unfairly sent to prison for an action that wasn't a crime when they engaged in it. |