



Constitutionalism across political systems: A comparative study of the United States Constitution and the Constitution of the People's Republic of China

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Abstract

This paper undertakes a comprehensive comparative study of two of the world's most influential constitutional documents—the Constitution of the United States (1787) and the Constitution of the People's Republic of China (1982, amended through 2018). Although both claim to embody the will of “the people,” they represent fundamentally different traditions of constitutionalism shaped by divergent historical, ideological, and political trajectories. The U.S. Constitution reflects liberal-democratic principles rooted in Enlightenment thought, emphasizing limited government, separation of powers, individual rights, judicial independence, and federalism. In contrast, the PRC Constitution institutionalizes socialist governance under the leadership of the Communist Party of China (CPC), prioritizing collective welfare, state-directed development, and democratic centralism. Historically, the U.S. Constitution emerged from struggles against monarchical authority and sought to restrain governmental power through checks and balances. The PRC Constitution grew out of revolutionary struggles, national reconstruction, and ideological consolidation under Marxism–Leninism and its subsequent Chinese adaptations. Structurally, the U.S. system divides authority among coequal branches, whereas China's system fuses authority under the CPC, with the National People's Congress as the supreme state organ in form but operating under party leadership in practice.

The rights regimes of both constitutions further illustrate their contrasting philosophies. U.S. rights are judicially enforceable and individualized, while PRC rights, though formally articulated, are conditioned on state and collective interests. The amendment procedures reinforce these differences: the U.S. process is deliberately rigid to ensure stability, whereas China's more flexible procedure accommodates evolving ideological and developmental priorities. This study argues that these constitutions embody distinct constitutional identities. The U.S. model legitimizes authority through pluralism, rule of law, and citizen autonomy; the Chinese model legitimizes authority through performance, unity, and ideological coherence. By analyzing historical foundations, institutional structures, rights frameworks, and ideological underpinnings, this article demonstrates that constitutionalism is context-dependent rather than uniform. Understanding these divergent models enhances comparative constitutional scholarship and deepens insights into global governance, political legitimacy, and state–society relations.

Keywords: Constitutionalism, Comparative Politics, United States Constitution, Constitution of the People's Republic of China, Separation of Powers, Democratic Centralism, Judicial Independence, Party-State Relations, Individual Rights, Collective Rights

Introduction

Constitutions serve as foundational legal, political, and normative frameworks through which states articulate their systems of governance, the distribution of power, and the rights accorded to citizens. Yet constitutions vary significantly across political, historical, and ideological contexts. Among the world's most studied constitutional texts are the United States Constitution (1787)^[47] and the Constitution of the People's Republic of China (1982, amended through 2018)^[15]. These documents represent two contrasting constitutional traditions: the liberal-democratic constitutionalism of the United States and the socialist-Leninist constitutionalism of China.

The U.S. Constitution—visible in its Preamble and Articles I–VII (as shown in pages 1–4 of the uploaded U.S. document) embodies principles of limited government, separation of powers, individual rights, and federalism. In contrast, the PRC Constitution's Preamble and Chapter I explicitly establish the leadership of the Communist Party of China (CPC) as the defining feature of the state, institutionalize democratic centralism, and emphasize socialist objectives, collective welfare, and national unity. This article presents an in-depth comparative analysis structured around historical foundations, institutional structures, rights regimes, amendment procedures, and

ideological underpinnings. Drawing on constitutional text, political theory, and comparative governance literature, the study illuminates how different constitutional designs encode divergent state–society relationships, models of authority, and visions of citizenship. Such a comparison not only contributes to constitutional scholarship but also provides insights for political science, legal theory, and international relations.

Historical Foundations of Both Constitutions

a. The United States Constitution: Liberal-Republican Origins

The U.S. Constitution emerged from Enlightenment philosophy, anti-monarchical sentiment, and the failures of the Articles of Confederation. The Philadelphia Convention of 1787 aimed to create a stable federal structure, protect liberty, and restrain governmental excess. The resulting document established a representative republic with divided powers, checks and balances, and a written Bill of Rights.

The Preamble—“We the People”—affirmed popular sovereignty, while Article I created a bicameral legislature with enumerated powers. The Constitution's endurance is often attributed to its brevity, adaptability, and institutional emphasis on pluralism.

b. The Constitution of the PRC: Revolutionary-Socialist Foundations

The PRC Constitution reflects the Chinese Communist Party's revolutionary legacy and the struggle for national liberation. The Preamble recounts China's historical trajectory from imperial domination to socialist reconstruction under CPC leadership (pages 2–4 of the PRC file) the U.S. Constitution's liberal origins, the PRC Constitution is grounded in Marxism–Leninism, Mao Zedong Thought, and the goals of socialist modernization. Its amendments across 1988, 1993, 1999, 2004, and 2018 reflect evolving political priorities—market reforms, technological development, and the institutionalization of Xi Jinping Thought. Article 1 explicitly declares socialism with Chinese characteristics and prohibits the disruption of the socialist system.

c. Constitutionalism in Context

The U.S. system is rooted in limiting power, whereas the PRC system centers on consolidating power for national development, social order, and ideological unity. These historical foundations shape all subsequent constitutional features, from institutional arrangements to rights doctrines.

Structural Comparison: Legislature, Executive, Judiciary

a. Legislative Structures

1. U.S. Congress: Bicameral and Independent

Article I of the U.S. Constitution establishes Congress as the central lawmaking body, composed of the House of Representatives and the Senate. Its functions include:

- Lawmaking
- Budget approval
- War declaration
- Oversight of the executive

The legislature is independent from the executive and judiciary.

2. PRC National People's Congress (NPC): Unicameral and Supreme but Party-Supervised

The PRC Constitution (Articles 57–67) defines the NPC as the highest organ of state power. However, in practice, it operates under CPC leadership. Its powers include:

- Amending the Constitution
- Supervising state institutions
- Electing the President, Premier, and other high officials
- Declaring war
- Approving national plans and budgets

The Standing Committee functions continuously and interprets laws.

While textually powerful, NPC authority is integrated within the CPC's leadership structure.

b. Executive Authority

1. U.S. President: Independent, Elected, and Constrained

Article II establishes a single executive elected independently of Congress. Presidential powers include:

- Commander-in-Chief role
- Treaty-making (with Senate approval)
- Veto authority
- Appointment of judges and officials

The president's power is balanced by Congress and the courts.

2. President and State Council of the PRC: Executive Under Party Leadership

Articles 79–89 show that:

- The PRC President is elected by the NPC.
- The State Council, led by the Premier, serves as the administrative authority.
- Executive bodies are accountable to the legislature and ultimately to CPC leadership.

Executive power is coordinated through democratic centralism, with centralized decision-making.

c. Judicial Systems

1. U.S. Judiciary: Independent and Constitutional

Article III establishes:

- A Supreme Court
- Lower federal courts
- Judicial review (established in *Marbury v. Madison*, 1803)

Judges have lifetime tenure, protecting judicial independence. Courts can strike down legislation and executive actions.

2. PRC Judiciary: Part of the State Structure Without Full Independence

Chapter III, Section 8 outlines the courts and procuratorates. Courts must:

- Uphold the leadership of the CPC
- Protect socialist legality
- Serve the people

Judicial independence is not constitutionalized; instead, courts are integrated into political–administrative structures.

Rights, Duties, and Citizenship

a. Rights in the U.S. Constitution and Bill of Rights

The Bill of Rights guarantees fundamental liberties:

- Freedom of speech, press, assembly (First Amendment)
- Due process (Fifth Amendment)
- Equal protection (via Fourteenth Amendment)
- Right to bear arms (Second Amendment)

Rights are enforceable through independent courts.

b. Rights in the PRC Constitution

Chapter II includes rights such as:

- Freedom of speech, press, assembly (Article 35)
- Freedom of religion (Article 36)
- Personal liberty and dignity (Articles 37–38)

However, Article 51 qualifies rights by requiring citizens not to harm state, societal, or collective interests. Many rights are framed as aspirational and conditioned by socialist principles.

c. Duties and Collective Obligations in PRC Law

The PRC emphasizes:

- Duty to work (Article 42)
- Duty to maintain unity (Article 52)
- Duty to defend the motherland (Articles 54–55)
- Duty to pay taxes (Article 56)

The U.S. Constitution contains few explicit duties, reflecting a rights-centric model.

d. Concept of Citizenship

- **U.S.:** Citizenship is based on birth or naturalization; rights are strongly individualized.
- **PRC:** Citizenship links individuals to collective national goals; social harmony and socialist values are emphasized (Article 24).

Constitutional Amendment Systems

a. U.S. Amendment Procedure

Article V outlines a deliberately rigid process:

- Proposal by two-thirds of Congress or two-thirds of state legislatures
- Ratification by three-fourths of states

Only 27 amendments have been adopted since 1789.

b. PRC Amendment Process

Article 64 states:

- Amendments proposed by NPC Standing Committee or one-fifth of NPC deputies
- Adoption requires a two-thirds majority

Amendments are more frequent, reflecting evolving political goals.

c. Flexibility vs. Stability

The U.S. system prioritizes stability and restraining governmental power.

The PRC system emphasizes adaptability for national development and political continuity.

Ideology and Constitutional Identity

Ideology plays a central role in shaping constitutional structures, political institutions, and the self-understanding of states. While all constitutions encode some normative vision, the contrast between American liberal constitutionalism and Chinese socialist constitutionalism is among the most pronounced in comparative political theory.

a. Ideological Foundations of the U.S. Constitution

The U.S. Constitution is rooted in:

1. **Classical Liberalism:** promoting individual autonomy, private property, and personal freedoms.
2. **Republicanism:** emphasizing civic virtue, elected representation, and constraints on power.
3. **Enlightenment Rationalism:** evident in the separation of powers, the rule of law, and constitutional constraints.

The Preamble's phrase "We the People" expresses the belief that legitimate government arises from the consent of the governed, not from a ruling ideology or vanguard party.

The system's design reflects suspicion of overly concentrated authority. Hence, institutional fragmentation—federalism, bicameralism, judicial review—functions to preserve liberty by limiting governmental reach. The Constitution does not articulate a comprehensive national ideology; rather, it provides a procedural and structural framework within which pluralism, dissent, and political competition may flourish. Its legitimacy derives from stability, the rule of law, societal consensus, and democratic participation.

b. Ideological Foundations of the PRC Constitution

The PRC Constitution is explicitly ideological. Its Preamble chronicles China's revolutionary history and enshrines the leadership of the Chinese Communist Party (CPC). The ideology is articulated through:

1. Marxism-Leninism
2. Mao Zedong Thought
3. Deng Xiaoping Theory
4. Three Represents
5. Scientific Outlook on Development
6. Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era

These ideological frameworks are intertwined with constitutional authority. Unlike the U.S. Constitution, which limits ideology's formal role, the PRC Constitution places ideology at the center of state identity and political legitimacy. Article 1 declares socialism as the basic system of the PRC, and any attempt to disrupt this system is prohibited.

c. Party-State Constitutionalism

The CPC occupies a unique constitutional position:

- It is constitutionally acknowledged as the leading force in society and the state.
- State organs—including the NPC, the State Council, and the PRC courts—operate under CPC leadership.
- Political pluralism is limited; the constitution supports unity, not competition.

This reflects the Leninist concept of a vanguard party, which guides the masses and ensures political stability and developmental goals.

d. Competing Constitutional Identities

U.S. Constitutional Identity emphasizes:

- Individual liberty
- Limited government
- Political pluralism
- Judicial enforcement of rights
- Federalism and decentralization

PRC Constitutional Identity emphasizes:

- Collective welfare
- National unity
- Party leadership
- Developmental governance
- Ideological coherence
- Social stability

Both systems claim to uphold the rule of law, but their interpretations differ

- In the U.S., law restrains government.
- In the PRC, law enables governance and development under party guidance.

Comparative Evaluation

This section synthesizes the findings of earlier sections and offers a deeper comparative assessment of how the two constitutions reflect fundamentally different political, cultural, and historical trajectories.

a. Sovereignty and the Source of Authority

U.S. System

Sovereignty derives from "the people," understood as individual rights-bearing citizens. The Constitution views

citizens as autonomous agents whose consent legitimizes government.

PRC System Sovereignty derives from “the people” collectively, but under the historical leadership of the CPC. The Constitution views citizens as participants in a socialist project aimed at collective modernization.

Thus, while both invoke “the people,” their meanings diverge

- **U.S.:** Empowerment of individuals.
- **PRC:** Unity of the masses under party direction.

b. Separation vs. Fusion of Powers

United States

- Clear separation of powers
- Institutional rivalry intentionally designed
- Judicial independence
- Federalism distributes authority across states

China

- Centralized governance
- Party supervision over state institutions
- “Democratic centralism” prioritizes unity and efficiency
- A unitary state with constitutionally recognized autonomous regions

This reflects contrasting philosophies: preventing tyranny (U.S.) vs. ensuring unity and rapid development (PRC).

c. Rights Regimes

1. Justiciability

- U.S. rights are judicially enforceable.
- PRC rights are conditionally guaranteed and limited by collective interests.

2. Priorities

- **U.S.:** Freedom of speech, due process, equality before the law.
- **PRC:** Subsistence rights, development, social stability, national unity.

3. Constraints

- U.S. rights may be limited only when narrowly tailored for public interest.
- PRC rights may be restricted by state, societal, and collective interests (Article 51)^[15].

d. Nature of Constitutional Constraints

U.S. System

The Constitution constrains government actors through judicial review, federalism, and checks and balances.

PRC System

The Constitution guides state behavior but is not a tool for ordinary judicial enforcement. Political oversight, not judicial review, enforces constitutional norms.

This distinction highlights the divergent roles constitutions play:

- **U.S.:** Law above politics.
- **PRC:** Law as an instrument of politics and development.

e. Democratic Participation

U.S. Model

- Competitive elections

- Multiparty system
- Strong civil society
- Freedom of expression shaping public discourse

PRC Model

- Unified political system under CPC
- Consultative democracy through the Chinese People’s Political Consultative Conference (CPPCC)
- Elections exist but within a single-party structure
- Stability and consensus prioritized over electoral competition

Both systems seek legitimacy but through different means

- The U.S. via choice and competition
- China via performance, development, and ideological cohesion

Conclusion

The United States Constitution and the Constitution of the People’s Republic of China represent two distinct visions of constitutionalism shaped by their historical trajectories, political ideologies, and sociocultural contexts. The U.S. model of liberal democracy prioritizes limited government, individual rights, and institutional fragmentation to prevent the concentration of power. Meanwhile, the PRC Constitution emphasizes collective welfare, national unity, and the leadership of the Communist Party as prerequisites for achieving social stability and modernization. The U.S. Constitution derives legitimacy from its durability, judicial enforceability, and citizen participation in a pluralistic political system. The PRC Constitution derives legitimacy from its developmental achievements, ideological coherence, and its central role in articulating national goals. Both systems claim to represent “the people,” but their interpretations diverge significantly: the American model sees the people as individuals with rights against the state, whereas the Chinese model sees the people as a unified collective represented by the Party. Ultimately, comparing these two systems reveals that constitutionalism is not monolithic; it is deeply contextual and shaped by each society’s history, political culture, and governance needs. Understanding these differences enriches global discourse on constitutional design, political legitimacy, and state–society relations.

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