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Self-Evident: Why the Declaration of Independence is America's True Constitution



Chelsea H. Blake

I. INTRODUCTION

The U.S. Constitution stands as an unparalleled masterpiece in the annals of political history. Its ratification ushered in an era of constitutionalism around the world, inspiring France and Poland to adopt similar constitutions within twenty years,¹ and leading to the drafting of nearly 935 constitutions in more than 200 countries.² In the United States, the Constitution acts as a “sacred symbol”³ that embodies America’s identity as the “emblem of the nation itself.”⁴ It signifies not just *what* we are, but *who* we are as a country. People place the Constitution on a pedestal, worshipping it with religious zeal. In a country with no officially established language, ethnicity, or religion, the U.S. Constitution serves as a unifying symbol that defines our national identity, a “fetishized totem”⁵ where constitutional law itself is America’s civil religion and covenant.⁶

There is just one problem: the U.S. Constitution is *not* the foundational document that it has been held out to be. It did *not* establish the fundamental principles and ideals that have guided this country from its inception. Even if it represents who we are as a country, it is *not* a symbol of who we wish to be. In other words, we are fetishizing the wrong document.

¹ Kim Lane Scheppele, *Perspectives on the Constitution: Constitutions Around the World*, NAT’L CONST. CTR. <https://constitutioncenter.org/education/classroom-resource-library/classroom/perspectives-on-the-constitution-constitutions-around-the-world> (last accessed Oct. 29, 2023).

² TOM GINSBURG, JAMES MELTON & ZACHARY ELKINS, *THE ENDURANCE OF NATIONAL CONSTITUTIONS* 6 (2010) (discussing the constitutional history of every independent nation between 1789–2005).

³ ERWIN CHERMERINSKY, *THE CASE AGAINST THE SUPREME COURT* 9 (2014).

⁴ *Id.*

⁵ Max Lerner, *Constitution and Court as Symbols*, 46 *YALE L.J.* 1290, 1294 (1936).

⁶ SANFORD LEVINSON, *CONSTITUTIONAL FAITH* 11 (1988).

The very same men who ratified the Constitution signed a Declaration of Independence thirteen years prior, formally establishing a new country, free from colonial rule. This declaration was both inspirational and aspirational; it listed grievances against the King of England while charting a path forward based on freedom, democracy, and most importantly, equality among the country's new citizens.⁷ The Declaration is a seminal document in the history of the United States that marks the formal announcement of the thirteen American colonies' separation from Great Britain. It stands as a symbol of freedom, not only in the United States but also around the world.⁸

Much like the U.S. Constitution, the Declaration of Independence is highly regarded, but it is frequently overshadowed in constitutional discourse. Nevertheless, there is substantial evidence supporting the Declaration's status as *the* foundational document of the United States, even more so than the Constitution.⁹ Important figures throughout history have recognized the profound importance of the Declaration, even drawing parallels with religious text: "As Jesus is to the Bible, so is the Declaration to the Constitution[.]"¹⁰

The Declaration of Independence is America's true constitution; it embodies the nation's foundational structure and fundamental principles and lays out the values-based identity of American culture.¹¹ The U.S. Constitution is merely a practical extension of the Declaration, ratified largely to provide implementation details that facilitate the Government's ability to carry out the principles articulated in the Declaration. Part I of this essay will dive into the meaning of "constitution" to provide a framework for identifying which foundational document best embodies a true constitution, focusing on governance structure and the protection of fundamental rights. Working from that definition, Part II will explore the governance roots of the Declaration of Independence in its creation of America. Part III will showcase the ways in which the Declaration of Independence operates as America's values statement, as it is most often cited to be. Through this exploration, this paper will conclude that the Declaration of Independence, rather than the Constitution, is the true guidepost for American governance.

⁷ Dave Roos, *The Declaration of Independence Was Also a List of Grievances*, HISTORY, June 20, 2023, <https://www.history.com/news/declaration-of-independence-grievances>.

⁸ DAVID ARMITAGE, *THE DECLARATION OF INDEPENDENCE: A GLOBAL HISTORY* 3 (2007).

⁹ GARRY WILLS, *LINCOLN AT GETTYSBURG: THE WORDS THAT REMADE AMERICA* 130 (1992).

¹⁰ *Id.* at 108. (quoting American transcendentalist author Theodore Parker).

¹¹ *See, e.g., Bell v. Maryland*, 378 U.S. 226, 286 (1964) (Goldberg, J., concurring) ("[t]he Declaration of Independence states the American creed").

II. A “CONSTITUTION” IS BOTH A GOVERNING DOCUMENT AND A TOOL TO FORGE NATIONAL IDENTITY.

Simply put, a constitution creates a social contract to which a country’s people should adhere. Edward S. Corwin aptly described a constitution as both an instrument and a symbol.¹² At a minimum, a constitution establishes the structural foundation of a country’s government. Equally important are the limitations a constitution imposes on the exercise of governing authority; these limitations protect individual rights and outline fundamental values and principles to which a country can anchor its national identity.¹³ In interpreting these values, a constitution takes on a symbolic character, reflecting how a people view themselves. Political author Max Lerner suggests that constitutions exist “in men’s imagination and men’s emotions quite apart from their actual use in ordering men’s affairs.”¹⁴ A constitution, therefore, serves as an instrument that articulates essential values, establishes a structure designed to protect these values,¹⁵ and acts as a source of aspiration and admiration to which people can attach themselves. In his book *Living Originalism*, Jack Balkin summarizes these overlapping functions and distinguishes them as the attributes of a successful constitution: basic law (a framework of governance), higher law (a source of standards and values), and “our law” (the attributes that allow a country’s people to take ownership of a constitution and take pride in it being their law).¹⁶

The dictionary definitions of the word “constitution” are illustrative. According to Merriam-Webster, a constitution is 1) “the basic principles and laws of a nation, state, or social group that determine the powers and duties of the government and guarantee certain rights to the people in it;” and 2) “the nature of something.”¹⁷ The U.S. Constitution primarily aligns with the dictionary’s first definition but is often described in terms of the second and portrayed as an emblem of the nation itself.¹⁸ This duality stems from the broader societal perception of the U.S. Constitution by scholars and citizens alike. Beyond its literal role in establishing legal frameworks, the Constitution is seen by many as encapsulating the essence and identity of the United States: a nation built on democracy, liberty, and justice. In this way, the U.S. Constitution is thought of and spoken about in terms of embodying

¹² Lerner, *supra* note 5, at 1294.

¹³ Chemerinsky, *supra* note 3, at 6–8.

¹⁴ Lerner, *supra* note 5, at 1293–94.

¹⁵ Chemerinsky, *supra* note 3, at 9.

¹⁶ JACK M. BALKIN, *LIVING ORIGINALISM* 59–73 (2011).

¹⁷ *Constitution*, MERRIAM-WEBSTER (2023).

¹⁸ Chemerinsky, *supra* note 3.

“the nature of” the country, functioning simultaneously as a legal code and a symbolic cornerstone of the nation’s ethos.

However, blending these two definitions can be misleading. This perspective fails to acknowledge that the U.S. Constitution does not *actually* stand for our country’s values, but rather serves as a kind of employee handbook for governance with little aspirational language included; while it does outline the powers and duties of the government, it does not define the nature of the country. Thus, the Constitution does not fulfill the broader, essential role of a true constitution. In fact, when commentators conflate the governing terms of the U.S. Constitution with a statement of America’s national identity, they inadvertently undermine that very identity and misinterpret what it means to be an American—a shared commitment to fostering freedom, equality, and opportunity for all.

A comprehensive constitution should simultaneously provide the foundations of law and express the values, aspirations, and identity of a nation and its people, uniting governance with a moral and ethical compass that guides its people. As such, the U.S. Constitution cannot and should not be considered the true constitution of the United States.

III. THE DECLARATION OF INDEPENDENCE CREATED AMERICA.

*“We, therefore, the Representatives of the United States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States.”*¹⁹

The Declaration of Independence not only ignited the spirit of the new country but also provided a vision for what a successful government—one not run by tyrants—should look and feel like. It empowered American citizens to “assume . . . [the] equal station to which the Laws of Nature and of Nature’s God entitle them . . .”²⁰ emphasizing the inherent equality and rights bestowed by natural and divine laws. The Declaration also proclaimed the sovereignty of the states, granting them “full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do.”²¹ This assertion of self-governance and independence marks a clear departure from British tyranny, encapsulating the American ideals of equality, individual rights, and self-determination, and laying the foundation for a nation based on

¹⁹ THE DECLARATION OF INDEPENDENCE ¶ 32 (U.S. 1776).

²⁰ *Id.* ¶ 1.

²¹ *Id.* ¶ 32.

democratic principles. The Declaration put forth a theory of government that emphasized the importance of the social contract: “To secure these [unalienable] rights, Governments are instituted among Men, deriving their just powers from the consent of the governed”²² By articulating this principle, the Declaration laid the groundwork for a democratic government that would be held accountable to its citizens.

Supreme Court Justice Joseph Story recognized the Declaration, rather than the Constitution, as the seminal document that created America, stating that “from the moment of the Declaration of Independence . . . the united colonies must be considered as being a nation *de facto*”²³ The Declaration established the basis for what would eventually become the United States of America, a nation built upon principles of freedom, self-governance, and individual rights. This document laid the foundation necessary for the drafting of the Constitution, affirming the people’s right to “alter or abolish” their governmental structure if it failed to uphold the nation’s founding principles.²⁴ This critical feature demonstrates how the Declaration—not the Constitution—serves as a constant north star to which we look to help guide our country.

Throughout our history, citizens have, more than once, exercised the right granted by the Declaration to change their governmental structure. The creation of the Articles of Confederation was the first exercise of this power; it established a structural framework for a new government in which states largely coordinated their efforts independently.²⁵ When the weaknesses of the Articles necessitated reform, citizens drafted a new document—our current Constitution. When the new Constitution’s weaknesses required reform, citizens added the Bill of Rights and 17 subsequent amendments. Several of these amendments have refined the very structure of the American government, embodying principles of freedom and self-governance, as envisioned in the Declaration of Independence. Key among these is the Tenth Amendment, which clarified the balance of power between the states and the federal government, ensuring a federal system where states retain considerable autonomy; the Seventeenth Amendment which shifted the election of Senators from state legislatures to the people, deepening democratic participation and accountability; and the Twenty-second Amendment which introduced presidential term limits, preventing any single person from holding prolonged power. As famed constitutional law scholar

²² *Id.* ¶ 2.

²³ JOSEPH STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES 152 (4th ed.1873).

²⁴ THE DECLARATION OF INDEPENDENCE ¶ 2 (U.S. 1776).

²⁵ ARTICLES OF CONFEDERATION of 1781, art. II.

Erwin Chemerinsky notes, a defining characteristic of the American Constitution is that it is very difficult to alter.²⁶ And yet, it *has* been altered, just as the Declaration intended.

Together, these amendments operationalize the Declaration's principles, facilitating the modification of governmental structures when they no longer serve their intended purpose, thereby upholding a government that is of the people, by the people, for the people. The structures written in the Articles of Confederation, the U.S. Constitution, and subsequent reforms were simply the means to achieve the ends outlined in the Declaration of Independence. As reform efforts take shape in our modern time, they are not rooted in Article V of the Constitution (which merely lays out the process for amending the document), but rather in the Declaration that provides the very justification for living generations to reform, grow, and evolve the structure of the country. And if the chief characteristic of a constitution is that it cannot be altered as Chemerinsky notes,²⁷ then look no further than the Declaration itself, which has never been altered but has instead served as the guidepost for alterations and reforms to the structure of our government for two hundred and forty-eight years.

IV. THE DECLARATION OF INDEPENDENCE IS AMERICA'S VALUE STATEMENT.

Far from just establishing America's new governing structure, the Declaration of Independence is, and always has been, America's value statement, encapsulating the core principles and aspirations that have shaped the nation since its inception. The Declaration provides the vision and philosophical foundation for a country that seeks to prioritize individual rights, self-governance, and the pursuit of happiness. This visionary document inspired Thomas Jefferson in the drafting of the U.S. Constitution, which expanded on the Declaration's outputs and aimed to create a "*more* perfect Union."²⁸ In this way, the Constitution was crafted as a practical guide to achieve the principles laid out in the Declaration. The values emanating from the Declaration informed much of the creation and reformation of our country, from the drafting and adoption of the Bill of Rights—which numerous statesmen advocated for throughout the ratification process—to the adoption of other amendments thereafter.

The most important value enshrined in the Declaration is that of equality, a principle that has been at the heart of countless social movements

²⁶ Chemerinsky, *supra* note 3, at 7–8.

²⁷ *See id.*

²⁸ U.S. CONST. pmb1.

throughout history. From the abolitionist movement to the fight for women's suffrage and civil rights, activists have invoked the Declaration's promise of equality as a rallying cry, demanding that America live up to its founding principles and strive for a more just and inclusive society.

Frederick Douglass and other abolitionists relied upon the Declaration as the moral foundation for their arguments against slavery.²⁹ Douglass emphasized the incongruity between the principles of the Declaration and the practice of slavery, characterizing slavery as “a palpable contradiction of the spirit and practices of the American people.”³⁰ In his famous speech “*What to the Slave is the Fourth of July?*” Douglass further positioned the Declaration as the benchmark against which American decency should be assessed, calling it the “ring-bolt to the chain of [the] nation's destiny.”³¹ He passionately called out the hypocrisy between the Declaration's principles and the institution of slavery and questioned the authority of the Constitution on this issue outright, because while it excluded the word “slave,” it tacitly accepted slavery as a practice.³² He argued that the Declaration of Independence, with its clear principles of equality and liberty, should be regarded as the true ethical foundation of the United States, urging the nation to live up to its declared ideals.³³

Douglass continually invoked the Declaration as a powerful reminder of America's unfulfilled promise of freedom and equality for all. His eloquent speeches and writings were instrumental in shaping the abolitionist movement, inspiring countless others to join the fight against the moral outrage of slavery.

Among those who joined the fight was William Lloyd Garrison, a prominent figure in the abolitionist movement who appealed to the Declaration's values during a speech in Boston in 1831. Garrison fervently called for the immediate enfranchisement of the slave population by “[a]ssenting to the ‘self-evident truth’ maintained in the [Declaration] ‘that all men are created equal’”³⁴ Garrison's abolitionist organization, the “American Anti-Slavery Society” grounded its own principles in those outlined in the Declaration of Independence. In 1833, they released their

²⁹ Lee J. Strang, *Originalism, the Declaration of Independence, and the Constitution: A Unique Role in Constitutional Interpretation?*, 111 DICK. L. REV. 413, 418–21 (2006).

³⁰ Frederick Douglass, *To Horace Greeley, April 15, 1846*, in *SELECTED SPEECHES AND WRITINGS* 27, 30 (Philip S. Foner ed., 2000).

³¹ Frederick Douglass, *Oration, Delivered in Corinthian Hall, Rochester*, <https://www.gilderlehrman.org/collection/glc06829> (last accessed Oct. 29, 2023).

³² *Id.*

³³ *Id.*

³⁴ William Lloyd Garrison. *To The Public*, in *THE WORDS OF GARRISON 70–73* (Francis Jackson Garrison & Wendell Phillips Garrison eds., 1905).

“*Declaration of Sentiments*,” in which they quoted the Declaration and expressed their mission to abolish slavery by aligning abolition with the values embodied by the Declaration of Independence, such as equality, liberty, and freedom.³⁵ Another abolitionist, James Forten, used language from the Declaration to fight a bill that would limit the rights of African Americans in Pennsylvania. In his “*Letters from a Man of Colour*,” written in 1813, Forten argued for equal rights rooted in the Declaration’s principles. He began the first of his five letters with the resolute statement, “We hold this truth to be self-evident, that God created all men equal,” setting the tone for his plea for equality.³⁶ By invoking the Declaration of Independence, all these pioneering abolitionists underscored the urgent need for America to reconcile its founding principles with the reality of its current actions. This strategy lent moral weight to the abolition cause and demonstrated the ongoing centrality of the Declaration as a touchstone for social progress and reform.

Abraham Lincoln’s arguments against slavery were also deeply rooted in the ethos of the Declaration of Independence—so much so that his words were even described as “making a cult” of the document.³⁷ Lincoln viewed the Declaration as both an ideal and a legally binding document that embodied the nation’s core values. He saw it as a “pledge ‘to all people of all colors everywhere.’”³⁸ In his opposition to slavery, Lincoln found inspiration from his idol, Henry Clay, who condemned the practice as contrary to the principles of the Declaration.³⁹ Lincoln himself used these values in numerous speeches while campaigning for the presidency in the late 1850s. In Chicago, he appealed to “patriotic and liberty-loving men” who were united by the principles of the Declaration, urging listeners to stand firmly on those ideals, “which declare all men equal.”⁴⁰ In Galesburg, Lincoln denounced the practice of slavery, calling it an evil and basing his appeal for racial equality on the right of all people to “life, liberty and the pursuit of happiness.”⁴¹

³⁵ American Anti-Slavery Society, *Declaration of Sentiments*, in SELECTIONS FROM THE WRITINGS OF W. L. GARRISON 66–71 (Wallcut eds., 1852).

³⁶ James Forten, *Letters from a man of colour, on a late bill before the Senate of Pennsylvania, from the Gilder Lehrman Institute of American*, <https://www.gilderlehrman.org/collection/glc06046> (last accessed Oct. 29, 2023).

³⁷ Wills, *supra* note 9, at 110.

³⁸ *Id.* at 105.

³⁹ See Abraham Lincoln & Stephen A. Douglas, *Ottawa: Lincoln’s Reply and Galesburg: Lincoln’s Reply*, in THE COMPLETE LINCOLN-DOUGLAS DEBATES OF 1858 130, 311 (Paul M. Angle ed., 1958).

⁴⁰ Abraham Lincoln, *Speech at Chicago*, in THE WRITINGS OF ABRAHAM LINCOLN 449–451 (Steven B. Smith ed., 2012).

⁴¹ Lincoln & Douglas, *supra* note 39, at 311.

In 1863, on a battlefield in Pennsylvania, Lincoln began his most famous speech—the Gettysburg Address—by referring to the signing of the Declaration of Independence “four score and seven years ago,” as the birth of our “new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.”⁴² Lincoln’s immortal words in the Gettysburg Address were deeply rooted in the values and principles laid out in the Declaration, which he saw as the keystone of the nation, “unchallengeable” by those who opposed his beliefs.⁴³ Lincoln’s steadfast commitment to the principles of the Declaration of Independence not only shaped his political career but also helped define his presidency. In his First Inaugural Address, Lincoln recognized that the Constitution was not the country’s true founding document: “The Union is much older than the Constitution.”⁴⁴ By invoking the Declaration’s values throughout his political career and rejecting the Constitution as the centerpiece of American law and policy, Lincoln sought to rally the nation behind a vision of unity, equality, and justice that ultimately contributed to the abolition of slavery.

Analogously, women’s suffrage and civil rights activists also invoked the Declaration of Independence during this era, using it in their fights for equal rights and highlighting its powerful message of equality and potential to inspire change. Elizabeth Cady Stanton, a prominent suffragist, and others modeled the Suffragettes’ own “*Declaration of Sentiments*” after the Declaration,⁴⁵ drawing a parallel between the struggle for women’s rights and the fight for independence from tyranny.⁴⁶ Similarly, Susan B. Anthony, in her 1873 speech, “*Is It a Crime for a U.S. Citizen to Vote?*,” quoted the Declaration and expanded its reach to include women in its famous equality maxim, challenging the status quo and demanding equal rights for *all* citizens: “[F]or, how can ‘the consent of the governed’ be given, if the right to vote be denied?”⁴⁷

In the Civil Rights context, Martin Luther King, Jr.’s iconic “*I Have a Dream*” speech—delivered 100 years after the Gettysburg address—harkened back to the Declaration’s principles and the “true meaning of

⁴² Abraham Lincoln, *Gettysburg Address* (Nov. 19, 1863), <https://www.loc.gov/resource/rbpe.24404500/?st=text>, (last accessed February 20, 2024).

⁴³ Wills, *supra* note 9, at 99–100.

⁴⁴ Abraham Lincoln, *First Inaugural Address*, in *THE WRITINGS OF ABRAHAM LINCOLN* 650 (Steve B. Smith ed. 2012).

⁴⁵ Elizabeth Cady Stanton, *Declaration of Sentiments*, NAT’L PARK SERV., Feb. 2, 2023, <https://www.nps.gov/wori/learn/historyculture/declaration-of-sentiments.html>.

⁴⁶ ELLEN CAROL DUBOIS, *SUFFRAGE: WOMEN’S LONG BATTLE FOR THE VOTE* 8–9 (2020).

⁴⁷ Susan B. Anthony, *Is It a Crime for a U.S. Citizen to Vote?*, in *THE SELECTED PAPERS OF ELIZABETH CADY STANTON AND SUSAN B. ANTHONY: AGAINST AN ARISTOCRACY OF SEX, 1866 TO 1873*, 554–583 (Ann D. Gordon ed. 2000).

[America's] creed: "We hold these truths to be self-evident, that all men are created equal."⁴⁸ By invoking the aspirations of the founding document, Dr. King was able to highlight the shortcomings of America and call for a renewed commitment to achieving true equality for all.

The work of these women's rights and civil rights activists ultimately led to the passage of the 19th Amendment and the Civil Rights Act which, respectively, granted women the right to vote and outlawed discrimination based on race, color, religion, sex, or national origin. Passed nearly half a century apart, both of these landmark pieces of legislation are direct offshoots of the principles set forth in the Declaration of Independence, illustrating its enduring influence and relevance in the ongoing struggle for equal rights and social justice.

Modern constitutional debates continue to reference the Declaration of Independence as a guide for interpreting the Constitution and the values of our country. The Declaration, as a statement of the founding principles of the United States, sets forth the ideas of individual liberty, self-government, and the pursuit of happiness. These concepts continue to play a central role in shaping current debates on civil rights, social justice, and the role of government. Furthermore, the Declaration's emphasis on the inherent equality of all people has directly influenced the interpretation of the Constitution's legal guarantee of equality, as outlined in the 14th Amendment. This amendment has become a cornerstone of American jurisprudence and has been used in landmark cases to protect individual rights and liberties, such as *Loving v. Virginia*, which struck down laws prohibiting interracial marriage;⁴⁹ *Lawrence v. Texas*, which invalidated sodomy laws;⁵⁰ and *Obergefell v. Hodges*, which recognized the fundamental right to marry for same-sex couples.⁵¹ The outcomes of these cases, rooted in the principles of equality set forth in the Declaration of Independence, highlight the document's enduring role in guiding the evolution of constitutional rights and freedoms.

The Declaration's espousing of ideals, however, is not the only means by which the document performs foundational governing functions. Its principles are also used to clarify the original meaning of the Constitution's text, further solidifying its role as our nation's founding creed. This interpretive value has helped the Supreme Court decide a variety of cases dealing with issues related to fundamental rights and criminal law, among others. For instance, in *Arizona State Legislature v. Arizona Independent*

⁴⁸ KING, MARTIN LUTHER, I HAVE A DREAM (1991).

⁴⁹ *Loving v. Virginia*, 388 U.S. 1 (1967).

⁵⁰ *Lawrence v. Texas*, 539 U.S. 558 (2003).

⁵¹ *Obergefell v. Hodges*, 576 U.S. 644 (2015).

Redistricting Commission, the Court referenced the Declaration when it upheld the right of voters to vest authority to draw election districts to an independent redistricting commission: “[o]ur Declaration of Independence, ¶2, drew from Locke in stating: ‘Governments are instituted among Men, deriving their just powers from the consent of the governed.’”⁵² By referencing the Declaration, the Court emphasized that government power comes from the people and that this power supports the right of voters to determine voting district boundaries. In *Stern v. Marshall*, the Court cited the Declaration to dismiss a final judgment by a bankruptcy court because it lacked independence from the political branches. In its endorsement of an independent judiciary, the Court in *Stern* pointed to the Declaration’s complaint that King George “made judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.”⁵³

These cases showcase how the Declaration of Independence is a guiding light for interpreting the Constitution and addressing a wide range of legal issues. These practices are consistent with Lincoln’s belief in the “continual approximation to the Declaration,” as a benchmark for *all* other aspects of American governance, including the Constitution.⁵⁴ As American jurisprudence evolves, the foundational principles of the Declaration of Independence can and should be invoked to address and rectify the limitations of the Constitution, much like President Lincoln demonstrated in his rhetorical approach years ago.⁵⁵

V. CONCLUSION

The significance of the U.S. Constitution is undeniable. It provides a legal framework that has been, and continues to be, the governing foundation of this country. However, its importance may be overstated by courts and scholars alike. Our national identity, and the core values on which it is based, is our true baseline for governance; it stems not from the rules of the Constitution, but rather from the document that precedes it—the document that created this country. A constitution is built upon two essential elements: the framework for governing a nation and a set of values that underpin its identity. The Declaration of Independence embodies these concepts, highlighting three core principles: “1) every individual possesses inherent, inalienable rights; 2) all people are equal with regard to these rights; and 3) the purpose of a government is to safeguard each person’s enjoyment of these

⁵² *Ariz. State Leg. v. Ariz. Indep. Redist. Cmm’n*, 576 U.S. 787 (2015).

⁵³ *Stern v. Marshall*, 564 U.S. 462 (2011).

⁵⁴ Wills, *supra* note 9, at 110.

⁵⁵ *Id.* at 146–147.

inalienable rights.”⁵⁶ It is the Declaration of Independence that articulated the ideas and principles that underlie a fair and just government: prioritizing individual rights over the threat of tyranny. The Constitution serves merely as an extension of the Declaration, outlining exactly how this type of government would function. The Constitution is a dynamic document, evolving not only through formal amendments but also through shifts in interpretation of its existing provisions, reflecting the changing values and needs of society.

The Declaration of Independence is America’s true constitution, representing the nation’s foundational principles and ideas that have shaped, and continue to shape, its identity and aspirations. Throughout America’s entire history, when faced with deep moral challenges and crises of constitutional faith, reliance on the vision and structure set forth in the Declaration of Independence has been the saving grace for our Republic. The Declaration has always inspired social change and movements for freedom, equality, and democracy. As our country continues to grow and evolve, the Declaration of Independence must serve as a guide for all Americans as it represents “‘the American idea’ by which all later history ha[s] to be judged.”⁵⁷

In his Second Inaugural Speech in 2013, President Obama associated the principles of the Declaration with what it means to be an American: “What makes us exceptional—what makes us American—is our allegiance to an idea articulated in a declaration made more than two centuries ago: ‘We hold these truths to be self-evident . . .’”⁵⁸ As we look forward to the challenges ahead—such as the existential threat of climate change,⁵⁹ a frontal assault on the rule of law,⁶⁰ questions about policing and public safety,⁶¹ racism, transphobia, and the relationship between capitalism and labor—and into an era that increasingly relies on history and tradition to regulate

⁵⁶ *Id.* at 107.

⁵⁷ *Id.*

⁵⁸ President Barack Obama, U.S., Second Inaugural Address (Jan. 21, 2013), in 159 CONG. REC. S185–S186 (daily ed. Jan. 22, 2013), <https://obamawhitehouse.archives.gov/the-press-office/2013/01/21/inaugural-address-president-barack-obama>.

⁵⁹ Kelly Macnamara, *Life on Earth Under ‘Existential Threat’: Climate Scientists*, PHYS.ORG, Oct. 28, 2023, <https://phys.org/news/2023-10-life-earth-existential-threat-climate.html>.

⁶⁰ Mark A. Cohen, *The All-Out Assault On The Rule of Law*, FORBES, Feb. 20, 2017, <https://www.forbes.com/sites/markcohen1/2017/02/20/the-all-out-assault-on-the-rule-of-law/?sh=2c5fbc2877af>.

⁶¹ See e.g., Li Zhou, *How a Mississippi case of police brutality emphasizes the need for more accountability*, VOX, Aug. 4, 2023, <https://www.vox.com/politics/2023/8/4/23820288/six-former-mississippi-police-offers-plead-guilty-assault>.

individual rights,⁶² a reorientation toward the Declaration of Independence as the guiding principle of America's constitution may be the key to saving our country from itself—the truest definition of “constitution.”⁶³

⁶² See e.g., *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022); *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022).

⁶³ Chemerinsky, *supra* note 3, at 8. (“A constitution represents an attempt by society to limit itself in order to protect the values it most cherishes.”).