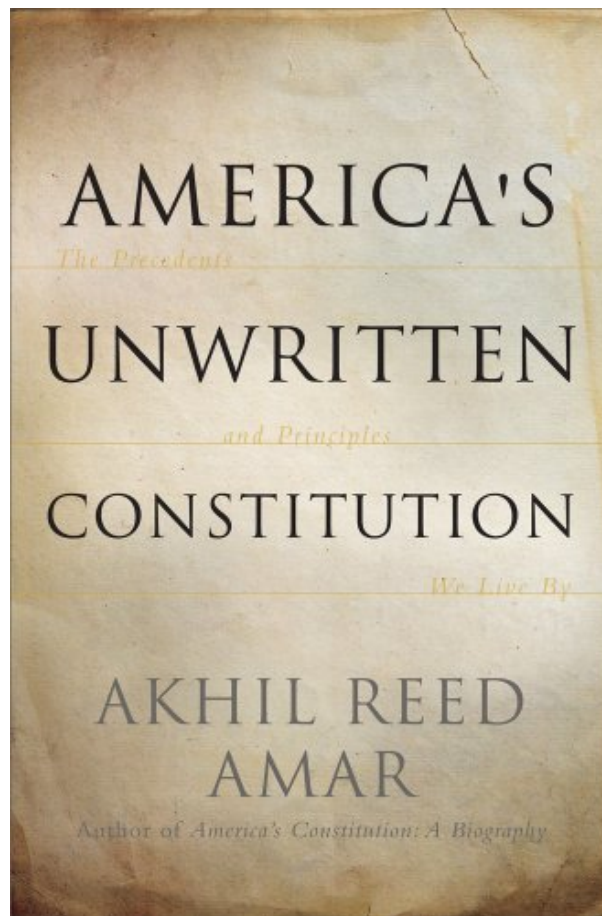
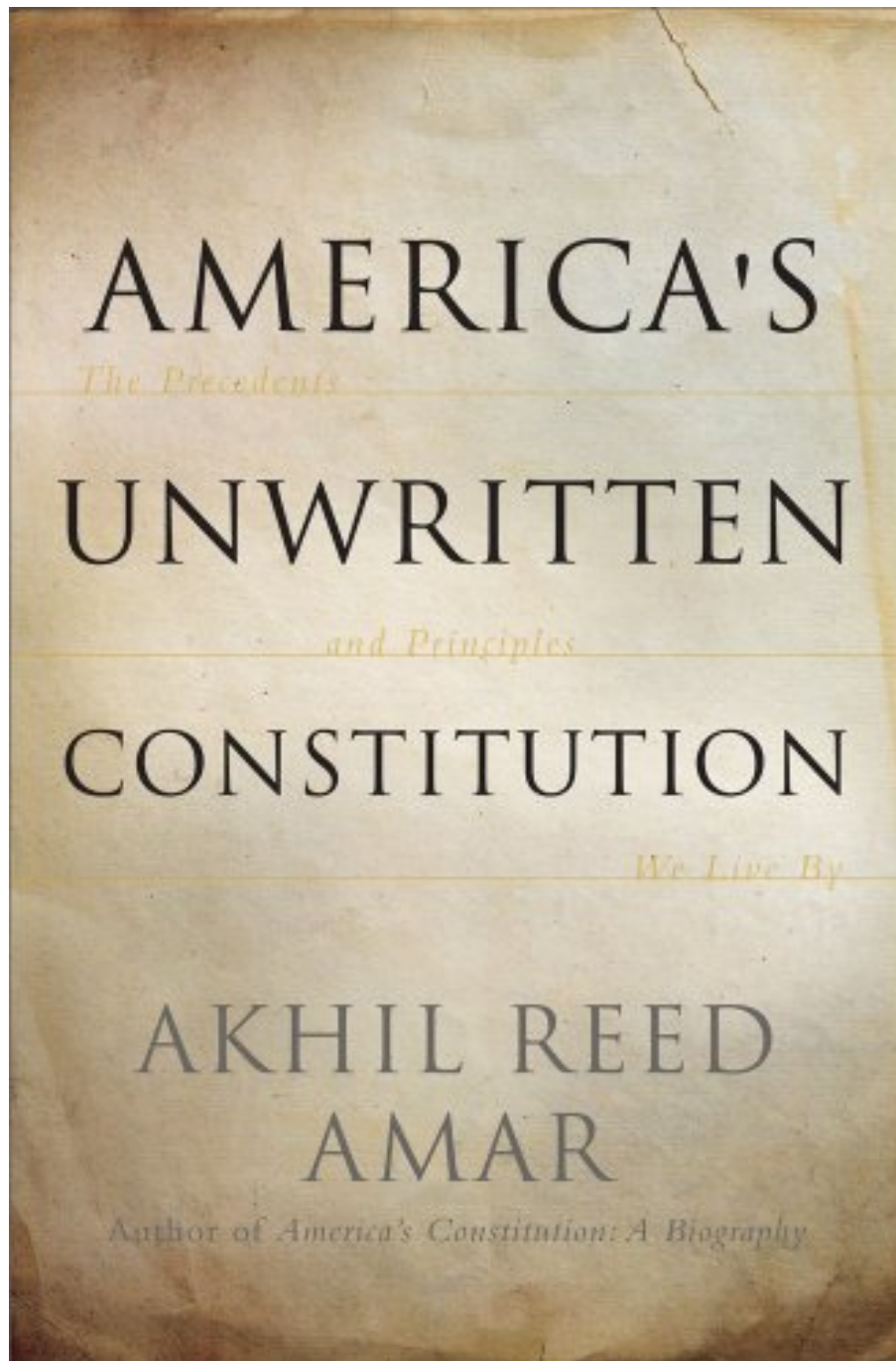


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Review

Washington Post

“In America’s Unwritten Constitution, Akhil Reed Amar aims high and has produced a masterful, readable book that constitutes one of the best, most creative treatments of the U.S. Constitution in decades.... [The book] is filled with thought-provoking material and fun vignettes, suitable for a wide audience.... Amar’s approach is refreshing.... Amar makes a creative case that America’s written Constitution and its unwritten Constitution, since the beginning of the nation, have fit snugly together to form a single, more perfect union.”

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and best, book, America's Unwritten Constitution, that the issue is not an 'either-or' question.... As a lawyer and constitutional rights activist, I cannot imagine how anybody who cares about the law, and justice, which are not always the same thing, could fail to place this important book at the very top of the must-read list. It's a gem."

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Despite its venerated place atop American law and politics, our written Constitution does not enumerate all of the rules and rights, principles and procedures that actually govern modern America. The document makes no explicit mention of cherished concepts like the separation of powers and the rule of law. On some issues, the plain meaning of the text misleads. For example, the text seems to say that the vice president presides over his own impeachment trial—but surely this cannot be right. As esteemed legal scholar Akhil Reed Amar explains in *America's Unwritten Constitution*, the solution to many constitutional puzzles lies not solely within the written document, but beyond it—in the vast trove of values, precedents, and practices that complement and complete the terse text.

In this sequel to *America's Constitution: A Biography*, Amar takes readers on a tour of our nation's unwritten Constitution, showing how America's foundational document cannot be understood in textual isolation. Proper constitutional interpretation depends on a variety of factors, such as the precedents set by early presidents and Congresses; common practices of modern American citizens; venerable judicial decisions; and particularly privileged sources of inspiration and guidance, including the Federalist papers, William Blackstone's *Commentaries on the Laws of England*, the Northwest Ordinance of 1787, Lincoln's Gettysburg Address, and Martin Luther King, Jr.'s "I Have a Dream" speech. These diverse supplements are indispensable instruments for making sense of the written Constitution. When used correctly, these extra-textual aids support and enrich the written document without supplanting it.

An authoritative work by one of America's preeminent legal scholars, *America's Unwritten Constitution* presents a bold new vision of the American constitutional system, showing how the complementary relationship between the Constitution's written and unwritten components is one of America's greatest and most enduring strengths.

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- 640 pages

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Most helpful customer reviews

86 of 91 people found the following review helpful.

Another Sterling Performance from Prof. Amar

By Fakey McFakename

I just received this book - two weeks before it is officially released. I'm not entirely sure how that is possible, but congratulations to Amazon for its efficiency.

As a Yale Law student, the temptation to buy this book was overwhelming. And it hasn't disappointed: as one would expect from Akhil Amar, the writing is lucid; the arguments are powerful (even when one might not entirely agree with them); and the level of scholarly detail astounding. I have no doubt that this book will take its place in the canon of Constitutional scholarship, and every law student, attorney, and judge should put this at the top of their reading list.

Amar is known for holding a few positions outside the mainstream, and this book is no exception. Like in *America's Constitution: A Biography*, readers will occasionally find, particularly near the end of a chapter, some claims that may lead them to raise an eyebrow. But even these deserve a careful read, and from time to time, the reader will be convinced. Even when they are not, hearing Amar's intelligent arguments will remind them of the necessity of not blindly following the mainstream and making one's mind up for oneself, based on all the evidence and logic.

Some arguments in this book are of enormous importance. Amar's call to remember the Common Law and revolutionary experience that colors the words used in the concise text of the Constitution serves as an important reminder to modern judges to avoid the temptation to construe language in a vacuum; like all forms of communication, it is vital to recall that the meaning of language is a product of social and historical context. Similarly, Amar's reminders that, even when a broad principle is enumerated in the Constitutional text, advances in understanding may lead it to be applied differently to how the Drafters may have expected resemble the 'New Textualist' and 'Living Originalist' (see: *Living Originalism*) schools that have done so much to ground rights 'discovered' recently in sound constitutional theory.

Nonetheless, one cannot accept what Amar says uncritically. Unless I have missed it, he fails to address recent revisionist arguments against the traditional identification of the early 20th Century as 'the Lochner era' (see, e.g., *Rehabilitating Lochner: Defending Individual Rights against Progressive Reform*). Whatever one thinks about whether these arguments have merit, they deserve a response. While Amar properly criticizes the majority opinion in *Roe v. Wade* for its singular unwillingness to explain how it found a right to abortion that contradicted the laws of every State, his proposed alternative basis - that these laws that specially affected women were invariably first enacted by all-male legislatures - is almost perverse in its tendency to ignore the fact that such laws are generally created not out of any evil desire to subjugate women (even if some - presumably including Amar - might say that was their effect), but out of a sincere belief that a child's life is terminated. Nor, as far as I can tell, does Amar discuss whether *Roe* could survive if a legislature in which women were properly represented decided to limit access to abortion. Again - whatever one thinks of abortion and *Roe*, Amar's argument has notable omissions.

Despite these caveats, and the disagreements many (if not most) readers will have with some of Amar's positions (inevitable for a book that comments on so many controversial legal and political issues), this book clearly deserves five stars. Overall, it is an excellent work of scholarship - and like all such works, it should not be read uncritically. But disagreeing with an argument in the book is part of the fun of reading it.

26 of 26 people found the following review helpful.

Insights on Every Page

By Eclecticism

Like another reviewer here, I bought this Kindle book on the strength of Akhil Reed Amar's other book, "America's Constitution: A Biography." Er, no problem with the use of "America" in either of these titles. These two books really should be read sequentially, starting with Biography. In Biography, Reed goes word for word through the "terse text." In Unwritten, he shows how the various Constitutions -- implicit, lived, symbolic, etc. -- flesh out and strengthen the words of the document itself.

While reading this book I was mulling the thought of subtracting a star due to a tendency of the author to get a little too far down in the weeds. And then I came to Chapter 6, "Honoring the Icons: America's Symbolic Constitution." This chapter examines six texts -- no spoilers here but at least one of them will surprise you -- that illustrate not just the Constitution but what it means to be an American. Another part of this chapter -- on the three Supreme Court cases that deserve to be in the SCOTUS Hall of Shame (my words, not his) is similarly insightful. This chapter is worth being issued as a Kindle-single edition.

Akhil Reed Amar's writing throughout is lawyerly but elegant (check out the Look Inside feature to confirm). The book is written for a layperson, not a lawyer, with ample, clear definitions of important terms. Yes, Amar should be on the Supreme Court. Maybe he's been asked, but why would he give up a tenured gig at Yale to come down to Washington, even if a seat on the Supreme Court is tenured as well?

Buy both of these books and read them carefully. You will emerge with a greater understanding of the document and our society. And speaking of Biography, I've given my hard-copy version to a friend and replacing it with the Kindle version. Both books deserve re-reading.

5 of 6 people found the following review helpful.

Why Unwritten Law Is So Important In America

By John A. Hunt, Attorney, Las Vegas, Nevada

Akhil Reed Amar, a professor of law at Yale Law School who is well known as a legal scholar and expert on constitutional law, impressed me when I read his scholarly treatise on the Bill of Rights but I am even more enamored after completing "America's Unwritten Constitution: The Precedents and Principles We Live By." In this book Amar delves into and explains why there are so many legal constitutional precedents now set in stone that are not actually enumerated in the Constitution.

Containing only 8,000 words, the U.S. Constitution cannot possibly explicitly provide for every issue faced by our nation down through the years to this present day. Yet, argues Amar, America's written constitution and unwritten Constitution fit snugly together to create this grand body of laws that guides our nation through its grand history. The author's call to pay attention to common law and historical context is a solid reminder that legal opinions cannot be written in a vacuum. The author's lawyerly but elegant style helps all readers understand how our Unwritten Constitution came to be and how important it is to all citizens.

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