

Founding Document Clauses Pertaining to Slavery, Annotated



Slavery and the Struggle for Abolition from the Colonial Period to the Civil War

How did the principles of the Declaration of Independence contribute to the quest to end slavery from colonial times to the outbreak of the Civil War?

Building Context - The Declaration of Independence, 1776

In the years following the Seven Years War (1755-1763), the relationship between Great Britain and the North American colonies became strained due to a variety of political and economic factors. Attempts at compromise, including an Olive Branch Petition sent to the king, had been unsuccessful. On June 7, 1776, Richard Henry Lee brought what came to be called the Lee Resolution before the Continental Congress. This resolution stated, “these United Colonies are, and of right ought to be, free and independent states.”

Congress debated independence for several days before giving Thomas Jefferson the job of drafting a formal Declaration of Independence. Jefferson’s draft was influenced by George Mason’s Virginia Declaration of Rights, as well as by his study of natural rights theory and the writings of John Locke. Benjamin Franklin and John Adams edited Jefferson’s draft, and the final document was presented to Congress about two weeks later.

On July 2, 1776, the Continental Congress voted to declare independence from England. Two days later, the Declaration of Independence was adopted. Many consider the Declaration of Independence to be the philosophical foundation of American freedom. The Declaration of Independence set forth the foundational idea that all men are equal in liberty. Though this equality for Blacks was not realized at the time, the Declaration established this as a Founding principle of the United States.

Excerpts from The Declaration of Independence, 1776

In Congress, July 4, 1776.	<i>Annotations</i>
<p>The unanimous Declaration of the thirteen united States of America, When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel [compel or urge] them to the separation.</p>	<p><i>The colonists wished to “dissolve the political bands” that bound them to Great Britain (that is, declare their independence), and they listed the reasons why they wished to do so.</i></p>
<p>We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.</p>	<p><i>“Unalienable rights” (or inalienable rights) are rights that come from nature. Therefore, everyone is born with them, and they cannot be surrendered by an individual, nor can they be taken away because no authority on earth has the power to do so. The Declaration of Independence claims Life, Liberty, and the Pursuit of Happiness as natural rights.</i></p>
<p>--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,</p> <p>--That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter [amend or change] it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.</p>	<p><i>The purpose of the government is to secure inalienable rights and to protect the happiness and safety of the people. The government gets its power from the consent of the governed, that is, the people.</i></p> <p><i>The sovereign people can alter or abolish the government when it violates natural rights.</i></p>

Building Context - The U.S. Constitution, 1787

The delegates to the Constitutional Convention held in Philadelphia from May to September 1787 established a system of republican government unique in world history. The final document made no mention of the words “slave,” “race,” or “color.” Yet the debate over slavery exposed divisions among the delegates at the Convention. North Carolina, South Carolina, and Georgia refused to commit to a document without some guarantees for slavery, and so the Framers compromised to ensure all the states present at the Convention would sign the Constitution. Because of slavery’s contradiction with Founding principles and the expectation of its ultimate extinction in the future, slavery was not referred to directly in the document. After seventeen weeks of deliberation, the Philadelphia convention approved a draft of the Constitution to submit to popular conventions in the states for ratification. Slavery was allowed to persist where it already existed as a state institution but was not legitimized in the Constitution.

Excerpts from the United States Constitution, 1787

Preamble: We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our **Posterity** [future generation], do **ordain** [decree or command] and establish this Constitution for the United States of America.

Annotations

The Preamble states the purpose of the government created by the Constitution. In particular, the phrases “establish justice” and “secure the blessings of liberty for ourselves and our posterity” contradict the existence of slavery.

The Constitution established a governing framework that would secure [protect] liberty for the current and future generations [“posterity”]. This framework and the framers deliberate choice of language and constitutional provisions regarding the institution of slavery gave future generations the opportunity to abolish slavery.

Article I, Section 2. [Three-Fifths Clause]

....Representatives and direct Taxes shall be apportioned [allocated] among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.

The Three-Fifths Clause is found in Article 1, which details the powers of the Legislative Branch. This clause was designed as a compromise in the debates over representation and taxation as many southerners wanted to count the enslaved fully as persons for representation and the northerners not count them at all. . “Three fifths of all other Persons” indirectly refers to enslaved individuals. By allowing enslaved individuals to be counted toward the total population, slave-holding states could increase their representatives in the House of Representatives.

The Thirteenth Amendment to the Constitution (1865) outlawed slavery and therefore made the Three-Fifths Clause obsolete.

Article I, Section 9. [Slave Trade Clause]

...

The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The “Migration or Importation of such Persons” refers to the international slave trade and is commonly referred to as the Slave Trade Clause. Like the Three-Fifths Clause, the Slave Trade Clause is also found in in Article 1 and is another example of an indirect reference to slavery in the Constitution. The Lower South delegates wanted slavery to last forever with no congressional interference, but they lost the argument. This clause allowed Congress to ban the importation of enslaved individuals starting in 1808. Congress passed such legislation that very year, and the bill was signed into law by Thomas Jefferson. Despite the end of the international slave trade in the United States, domestic slave trading persisted until the Civil War.

<p>Article IV, Section 2. [Fugitive Slave Clause]</p> <p>...</p> <p>No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.</p>	<p><i>The Fugitive Slave Clause is found in Article IV, the section of the Constitution dealing with states and citizenship. This clause also offers an indirect reference to slavery and was meant to appease slave owners. The clause states that any “person held to Service or Labour” [enslaved individuals] that escaped had to be returned to their owner. The Fugitive Slave Law of 1850 would provoke great resistance in the North when it obliged all to participate in the enforcement of the act.</i></p>
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