

[Forums](#) / [Introductions](#)[Help](#)

## Living document or strict construction?

✉ You are subscribed. [Unsubscribe](#)

🏷 No tags yet. [+ Add Tag](#)

Sort replies by: [Oldest first](#) [Newest first](#) [Most popular](#)

Anonymous · 2 months ago 🗨

Hello, I am Janet, a dual U.S./Canadian citizen. I am interested in the arguments concerning originalism (strict construction) adhering to the intent by the U.S. constitutional authors versus the Constitution as a "living" document, to be interpreted during the present.

↑ 0 ↓ · flag



Alec D. Rogers · 2 months ago 🗨

As Amar himself would tell you, this is really a false dichotomy. For example, some originalists would tell you strict construction is inappropriate because the document was meant to be construed broadly.

Too often, each side shouts past the other, and both sides overlook various ways in which the text itself, when properly approached, invites recourse to certain nontextual—unwritten— principles and practices. We are all textualists ; we are all living constitutionalists.

Amar, Akhil Reed (2012-09-11). America's Unwritten Constitution: The Precedents and Principles We Live By . Basic Books. Kindle Edition.

Some phrases in the Constitution are to be read dynamically, some statically. Let's try to put the labels aside, although a healthy debate on the tools of interpretation is certainly in order.

↑ 0 ↓ · flag

[+ Comment](#)

clinton mathews · 2 months ago 🗨

I hope your great question will be addressed in depth in the lectures. It most certainly will be in the forum. (see 2nd amendment discussion thus far.) I favor strict construction and strongly believe we have

strayed far from original intent, particularly in the last century's progressive movement. Our presidents feel free to selectively enforce or not enforce laws and our SCOTUS feels free to write new law (ref *Roe v. Wade*). The founders clearly did not write these things into our carefully crafted Constitution.

They did, however, write into the Constitution the provisions for amendment, and included difficult to obtain super-majority requirements so that potential changes to the Constitution would not be taken lightly. We are blessed to have had the enormous wisdom of the founders, and not so blessed to have the gaggle of professional politicians currently occupying Washington.

↑ 1 ↓ · flag

[+ Comment](#)



Alec D. Rogers · 2 months ago

Too often, people's understanding of the founder's "original intent" corresponds precisely with their own policy preferences.

Strange. Interestingly, Amar makes the case that it was the 14th amendment that really cemented the right of people to own firearms for self-defense.

↑ 0 ↓ · flag

[+ Comment](#)

New post

To ensure a positive and productive discussion, please read our [forum posting policies](#) before posting.

<b>B</b>	<i>I</i>			Link	<code>&lt;code&gt;</code>	Pic	Math		Edit: Rich ▼	Preview
<div></div>										

☐ Make this post anonymous to other students

☒ Subscribe to this thread at the same time

Add post

Living document or strict construction?

<https://class.coursera.org/conlaw-001/forum/...>