

WHDE
Lesson Plan

Constitutional Rights in the U.S. and Republic of Korea

AUTHOR INFORMATION

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GENERAL INFORMATION

Lesson Grade Span: Secondary – High School (9-12)

Targeted Grade Level/Course: 9-12 Grade/Civics or Government

Estimated Time to Complete Lesson: One (1) 90 minute block period or two (2) 45 minute regular periods.

FOCUSED QUESTION

- What fundamental rights should be constitutionally protected in a liberal democracy and why?
- How do the United States Constitution and the Constitution of the Republic of Korea compare with regard to the rights of citizenship?
- What rights are common to the U.S. Constitution and the Constitution of the Republic of Korea?
- Are there rights in the Constitution of the Republic of Korea not protected in the United States Constitution?
- Are there rights that the U.S. Constitution protects that are not in the Constitution of the Republic of Korea?
- Why might a society protect certain civil liberties and rights in their Constitution?

STANDARDS (STATE/C3)

Iowa Core Curriculum

SS-Gov.9-12.14. Analyze the role of citizens in the U.S. political system, with attention to the definition of who is a citizen, expansion of that definition over time, and changes in participation over time.

SS-Gov.9-12.16. Evaluate how the U.S. Constitution establishes the Rule of Law, governmental powers and responsibilities, as well as limits to a government.

STUDENT & TARGET OUTCOMES

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- Students will be able to analyze the Constitutions of the United States and South Korea.
- Students will be able to identify and describe similarities and differences between the rights and responsibilities of the citizenship under both Constitutions.
- Students will be able to hypothesize reasons why the United States and South Korean Constitutions are different.
- Students will be able to evaluate their own policy beliefs about the similarities and difference reflected in the United States and South Korean Constitutions.

LESSON OVERVIEW

With the assistance of the United States and numerous other foreign nations and the dedication and sacrifices of the Korean people, the Republic of Korea emerged out of the oppressions of Japanese occupation and the chaos of the Korean War. Through a tumultuous political history over the next several decades, Korea has emerged as a vibrant democracy that consistently ranks among the most democratic societies on the globe and particularly in Asia. This lesson explores the different approaches to rights reflected in the constitutions of the United States and South Korea. Students will examine Chapter II of The Constitution of the Republic of Korea in relationship to their study and understanding of the United States Constitution. The students will then be able to compare and contrast specific provisions of the two documents and formulate hypotheses about why the two documents approach rights differently.

PROCEDURES

TEACHER BACKGROUND INFORMATION:

Following joint Soviet and American occupation of the Korean peninsula, 1948 saw the establishment of both the Republic of Korea (South Korea) and the Democratic People's Republic of Korea (North Korea). These two governments fought each other through the kinetic period of the Korean civil war from 1950-53 (also known as the Korean War to Americans). During that conflict South Korea was led by an ardent anti-communist President, Syngman Rhee. For most Americans that ends the story of Korean politics. That, however, is the starting point of South Korea's democratization story.

While anti-communist, Syngman Rhee's government was also authoritarian and repressive. In an effort to maintain control Rhee's government used excessive force and questionable electoral practices to hold onto power for more than a decade. In response to Rhee's abuses, political opposition formed and challenged the legitimacy of his grip on power. Eventually his government ended through citizen protests demanding democratic reform.

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After Rhee's resignation, power shifted to Rhee's former opponents who were also unable to satisfy the demands of the people for effective reform and a workable democratic system. The turmoil which ensued led to a military coup and the instillation of a military regime. That regime, under the leadership of Park Chung-hee, would rule South Korea for 18 years. While Park's government would oversee dramatic economic growth and the shift to an export economy, like his predecessor Rhee, Park was an autocratic leader who abused power. Again civil liberties were trampled upon with press censorship, warrantless arrests, the kidnapping and attempted assassination of his political rival. It was a society in which state-sanctioned harassment sought to end political opposition. The abuses became so pervasive, however, that Park's own intelligence director ultimately assassinated him and power once again shifted.

The repeated and pervasive infringements of fundamental civil liberties by regime after regime through the first five republics of South Korea finally came to a head in the June Democracy Movement of 1987. Led by university students, protests for democracy intensified. Tragically, so did the repressive efforts of the authoritarians to hold on to power. Following the torture death of one student activist and the death of another killed by a gas canister to his skull, civil protest finally resulted in the creation of a revised Constitution in 1987 that enshrined fundamental civil liberties, which have helped South Korea become a bastion of democracy in the region.

Under the reforms to the Constitution in 1987, South Korea has seen peaceful transitions of power from one party to their opposition, the election of a female president, the impeachment and removal of a president for corruption, and the continued presence of citizen demonstration and political protests that have included sustained demonstrations of millions of engaged citizens. The Constitution of the Republic of Korea, as revised in 1987 has led to a society that in 2018 rated was rated more democratic by *The Economist* media's annual rankings than the United States.

PROCEDURE:

Anticipatory Set: When students enter the room, they should find a prompt on the board asking them to briefly journal in their notebook, in response to the question: "What fundamental rights should be constitutionally protected in a liberal democracy?" After students have had 5-7 minutes to reflect and journal, then briefly discuss as a class what they see as the fundamental rights that should be protected? Do those rights extend beyond what is protected in the Bill of Rights? Should items such as economic protections and a right to education or healthcare be addressed? What might be challenges to including such rights?

Instructional Activities: The teacher should divide the class into six different groups by distributing copies of the six handouts. The members of each "expert" group, defined by receiving a copy of one of the six numbered handouts, will focus on that subset of rights. Each handout contains a set of rights from Chapter II of The Constitution of the Republic of Korea, as revised in 1987. Students should then be given time to read their provisions from the Constitution of the Republic of Korean. Students should **highlight in one color (e.g., pink) the**

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rights of citizens as against the government contained in their handout. Students should also underline any terms or concepts that they do not understand (e.g., ex post facto, flagrante delicto). Once the students have had a chance to mark up their handout, they should move seats to discuss their provisions with their “expert” group. As a group they should identify the most significant provisions of their section and the key rights contained in the provision.

As an “expert” group, the students then divide the subparts of each of their articles and investigate if the same concept is addressed somewhere in the United States Constitution as amended. Is it contained in the Bill of Right? Is it in the first seven Articles? Is it in Amendments 11-27? If using an electronic copy of the United States Constitution, they may do this using the Ctrl F short cut on their computer to target their searches. Once they have identified similar language, if it exists, in the United States Constitution then they should compare the language. They should identify ways in which the two texts are similar and ways in which they are different. The students should also **highlight with a second color (e.g., blue) the rights similarly addressed in the U.S. Constitution**. Thus, the handouts should include pink items that are only in the Constitution of the Republic of Korea and purple items that are in both.

After each group has “investigated” which rights and responsibilities from Chapter II of the Constitution of the Republic of Korea are included the United States Constitution, as amended, the “expert” group should then meet to discuss their findings. They should identify what they believe are the most significant differences between the two Constitutions on civil rights and liberties as reflected in their articles. The group should then pick a spokesperson to address the class on their findings. While the groups present, the teacher should record in a chart on the whiteboard, with two columns (Korean Constitution, Both Constitutions). Following the presentations, the class could then brainstorm any civil liberties or rights in the United States Constitution that are not already reflected in the first two columns to complete what is essentially a large Venn Diagram.

FORMATIVE ASSESSMENT- include rubric

WHOLE GROUP REFLECTION/FORMATIVE ASSESSMENT:

The teacher should facilitate a discussion of chart that is on the board. The teacher may ask the students to hypothesize reasons why the constitutions are different. What experiences, unique to each country, might have led to rights beings included? (e.g., U.S. Const. 3rd Amendment protection against quartering of soldiers, or Constitution of the Republic of Korean, Article 39 [Duty to Military Service]) As part of the discussion, the teacher could ask students to evaluate their own policy beliefs about the rights protected in the constitutions or the responsibilities in the Constitution of the Republic of Korea.

RESOURCE LIST

Excerpts from the Korean Constitution as amended in 1987. Korea (South), (1987). The Constitution of the Republic of Korea. Seoul: Office of Public Information, Republic of Korea.

- **Handout #1: [Articles 10-12] CHAPTER II of The Constitution of the Republic of Korea**
- **Handout #2: [Articles 13-20] CHAPTER II of The Constitution of the Republic of Korea**
- **Handout #3: [Articles 21-26] CHAPTER II of The Constitution of the Republic of Korea**
- **Handout #4: [Articles 27-30] CHAPTER II of The Constitution of the Republic of Korea**
- **Handout #5: [Articles 31-33] CHAPTER II of The Constitution of the Republic of Korea**
- **Handout #6: [Articles 34-39] CHAPTER II of The Constitution of the Republic of Korea**

United States Constitution

Students should be given access to a copy of the United States Constitution. It would be preferable for students to have digital access so that they could use the find function to search through the Constitution for concepts addressed in certain Articles of Chapter II of The Constitution of the Republic of Korea. An online version of the United States Constitution, as amended, is available at (<https://constitutioncenter.org/interactive-constitution/full-text>)

MODIFICATIONS & EXTENSIONS (OPTIONAL)

MODIFICATIONS for lower students

- Depending on the level of English language ability of the students, the teacher may wish to modify the lesson by providing additional definitions of key terms and extending the time to work on reading strategies to help with understanding complex texts.
- Instead of a classroom discussion facilitated by the teacher, students could write their final evaluations of the two competing systems in a reflection where they compare and contrast the civil liberties and rights protected by each.

EXTENSIONS for higher level students

- The teacher may wish to extend this lesson by adding additional countries to the examination. It could be particularly interesting to add a country from Africa or Latin America. If the class is an AP Comparative Government course, the students could be divided up to examine civil rights and liberties in each of the countries included in that AP curriculum (China, Great Britain, Iran, Mexico, Nigeria and Russia). The students could then work with others assigned to their same country and present the essential elements of civil liberties and rights to the class as a whole.

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- The teacher could also extend this lesson by examining in depth one specific civil liberty protected, such as the right to privacy of correspondence under Article 18 and its relationship to wiretapping or the PRISM program and FISA courts in the U.S.A.
- The lesson could be extended to include news articles about specific stories of how civil rights and liberties play out in practice in South Korea.

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Handout #1: [Articles 10-12]

**CHAPTER II: Rights and Duties of the Citizens
(Korean Constitution of 1987 –English translation)**

Article 10 [Dignity, Pursuit of Happiness]

All citizens shall be assured of human worth and dignity and have the right to pursue happiness. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals.

Article 11 [Equality]

(1) All citizens shall be equal before the law, and there shall be no discrimination in political, economic, social, or cultural life on account of sex, religion, or social status.

(2) No privileged caste shall be recognized or ever established in any form.

(3) The awarding of decorations or distinctions of honor in any form shall be effective only for recipients, and no privileges ensue therefrom.

Article 12 [Personal Liberty, Personal Integrity]

(1) All citizens shall enjoy personal liberty. No person shall be arrested, detained, searched, seized, or interrogated except as provided by Act. No person shall be punished, placed under preventive restrictions, or subject to involuntary labor except as provided by Act and through lawful procedures.

(2) No citizen shall be tortured or be compelled to testify against himself in criminal cases.

(3) Warrants issued by a judge through due procedures upon the request of a prosecutor shall be presented in case of arrest, detention, seizure, or search: *Provided*, That in a case where a criminal suspect is an apprehended *flagrante delicto*, or where there is danger that a person suspected of committing a crime punishable by imprisonment of three years or more may escape or destroy evidence, investigative authorities may request an *ex post facto* warrant.

(4) Any person who is arrested or detained shall have the right to prompt assistance of counsel. When a criminal defendant is unable to secure counsel by his own efforts, the State shall assign counsel for the defendant as prescribed by Act.

(5) No person shall be arrested or detained without being informed of the reason therefore and of his right to assistance of counsel. The family, etc., as designated by Act, of a person arrested or detained shall be notified without delay of the reason for and the time and place of the arrest or detention.

(6) Any person who is arrested or detained shall have the right to request the court to review the legality of the arrest or detention.

(7) In a case where a confession is deemed to have been made against a defendant's will due to torture, violence, intimidation, unduly prolonged arrest, deceit or etc., or in a case where a confession is the only evidence against a defendant in a formal trial, such a confession shall not be admitted as evidence of guilt, nor shall a defendant be punished by reason of such a confession.

Handout #2: [Articles 13-20]

**CHAPTER II: Rights and Duties of the Citizens
(Korean Constitution of 1987 –English translation)**

Article 13 [nulla poena sine lege, double jeopardy, retroactive law, family liability]

- (1) No citizen shall be prosecuted for an act which does not constitute a crime under the Act in force at the time it was committed, nor shall he be placed in double jeopardy.
- (2) No restriction shall be imposed upon the political rights of any citizen, nor shall any person be deprived of property rights by means of retroactive legislation.
- (3) No citizen shall suffer unfavorable treatment on account of an act not of his own doing but committed by a relative.

Article 14 [Residence, Move]

All citizens shall enjoy freedom of residence and the right to move at will.

Article 15 [Occupation]

All citizens shall enjoy freedom of occupation.

Article 16 [Home, Search, Seizure]

All citizens shall be free from intrusion into their place of residence. In case of search or seizure in a residence, a warrant issued by a judge upon request of a prosecutor shall be presented.

Article 17 [Privacy]

The privacy of no citizen shall be infringed.

Article 18 [Privacy of Correspondence]

The privacy of correspondence of no citizen shall be infringed.

Article 19 [Conscience]

All citizens shall enjoy the freedom of conscience.

Article 20 [Religion]

- (1) All citizens shall enjoy freedom of religion.
- (2) No state religion shall be recognized, and religion and state shall be separated.

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Handout #3: [Articles 21-26]

CHAPTER II: Rights and Duties of the Citizens
(Korean Constitution of 1987 –English translation)

Article 21 [Speech, Press, Assembly, Association, Honor, Public Morals]

- (1) All citizens shall enjoy freedom of speech and the press, and freedom of assembly and association.
- (2) Licensing or censorship of speech and the press, and licensing of assembly and association shall not be recognized.
- (3) The standards of news service and broadcast facilities and matters necessary to ensure the functions of newspapers shall be determined by Act.
- (4) Neither speech nor the press shall violate the honor or rights of other persons nor undermine public morals or social ethics. Should speech or the press violate the honor or rights of other persons, claims may be made for the damage resulting therefrom.

Article 22 [Learning, Intellectual Rights]

- (1) All citizens shall enjoy freedom of learning and the arts.
- (2) The rights of authors, inventors, scientists, engineers, and artists shall be protected by Act.

Article 23 [Property, Public Welfare, Expropriation]

- (1) The right to property of all citizens shall be guaranteed. The contents and limitations thereof shall be determined by Act.
- (2) The exercise of property rights shall conform to the public welfare.
- (3) Expropriation, use, or restriction of private property from public necessity and compensation therefore shall be governed by Act: *Provided*, That in such a case, just compensation shall be paid.

Article 24 [Right to Vote]

All citizens shall have the right to vote under the conditions as prescribed by Act.

Article 25 [Right to Public Office]

All citizens shall have the right to hold public office under the conditions as prescribed by Act.

Article 26 [Petition]

- (1) All citizens shall have the right to petition in writing to any governmental agency under the conditions as prescribed by Act.
- (2) The State shall be obligated to examine all such petitions.

Handout #4: [Articles 27-30]
CHAPTER II: Rights and Duties of the Citizens
(Korean Constitution of 1987 –English translation)

Article 27 [Right to Trial]

- (1) All citizens shall have the right to be tried in conformity with the Act by judges qualified under the Constitution and the Act.
- (2) Citizens who are not on active military service or employees of the military forces shall not be tried by a court martial within the territory of the Republic of Korea, except in case of crimes as prescribed by Act involving important classified military information, sentinels, sentry posts, the supply of harmful food and beverages, prisoners of war and military articles and facilities and in the case of the proclamation of extraordinary martial law.
- (3) All citizens shall have the right to a speedy trial. The accused shall have the right to a public trial without delay in the absence of justifiable reasons to the contrary.
- (4) The accused shall be presumed innocent until a judgment of guilt has been pronounced.
- (5) A victim of a crime shall be entitled to make a statement during the proceedings of the trial of the case involved under the conditions as prescribed by Act.

Article 28 [False Imprisonment]

In a case where a criminal suspect or an accused person who has been placed under detention is not indicted as provided by Act or is acquitted by a court, he shall be entitled to claim just compensation from the State under the conditions as prescribed by Act.

Article 29 [State and Official's Liability]

- (1) In case a person has sustained damages by an unlawful act committed by a public official in the course of official duties, he may claim just compensation from the State or public organization under the conditions as prescribed by Act. In this case, the public official concerned shall not be immune from liabilities.
- (2) In case a person on active military service or an employee of the military forces, a police official or others as prescribed by Act sustains damages in connection with the performance of official duties such as combat action, drill, and so forth, he shall not be entitled to a claim against the State or public organization on the grounds of unlawful acts committed by public officials in the course of official duties, but shall be entitled only to compensations as prescribed by Act.

Article 30 [Victims]

Citizens who have suffered bodily injury or death due to criminal acts of others may receive aid from the State under the conditions as prescribed by Act.

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Handout #5: [Articles 31-33]

CHAPTER II: Rights and Duties of the Citizens
(Korean Constitution of 1987 –English translation)

Article 31 [Education]

- (1) All citizens shall have an equal right to receive an education corresponding to their abilities.
- (2) All citizens who have children to support shall be responsible at least for their elementary education and other education as provided by Act.
- (3) Compulsory education shall be free of charge.
- (4) Independence, professionalism, and political impartiality of education and the autonomy of institutions of higher learning shall be guaranteed under the conditions as prescribed by Act.
- (5) The State shall promote lifelong education.
- (6) Fundamental matters pertaining to the educational system, including in-school and lifelong education, administration, finance, and the status of teachers shall be determined by Act.

Article 32 [Work]

- (1) All citizens shall have the right to work. The State shall endeavor to promote the employment of workers and to guarantee optimum wages through social and economic means and shall enforce a minimum wage system under the conditions as prescribed by Act.
- (2) All citizens shall have the duty to work. The State shall prescribe by Act the extent and conditions of the duty to work in conformity with democratic principles.
- (3) Standards of working conditions shall be determined by Act in such a way as to guarantee human dignity.
- (4) Special protection shall be accorded to working women, and they shall not be subjected to unjust discrimination in terms of employment, wages, and working conditions.
- (5) Special protection shall be accorded to working children.
- (6) The opportunity to work shall be accorded preferentially, under the conditions as prescribed by Act, to those who have given distinguished service to the State, wounded veterans and policemen, and members of the bereaved families of military servicemen and policemen killed in action.

Article 33 [Unions]

- (1) To enhance working conditions, workers shall have the right to independent association, collective bargaining, and collective action.
- (2) Only those public officials who are designated by Act, shall have the right to association, collective bargaining, and collective action.
- (3) The right to collective action of workers employed by important defense industries may be either restricted or denied under the conditions as prescribed by Act.

Handout #6: [Articles 34-39]

**CHAPTER II: Rights and Duties of the Citizens
(Korean Constitution of 1987 –English translation)**

Article 34 [Welfare]

- (1) All citizens shall be entitled to a life worthy of human beings.
- (2) The State shall have the duty to endeavor to promote social security and welfare.
- (3) The State shall endeavor to promote the welfare and rights of women.
- (4) The State shall have the duty to implement policies for enhancing the welfare of senior citizen and the young.
- (5) Citizens who are incapable of earning a livelihood due to a physical disability, disease, old age, or other reasons shall be protected by the State under the conditions as prescribed by Act.
- (6) The State shall endeavor to prevent disasters and to protect citizens from harm therefrom.

Article 35 [Environment, Housing]

- (1) All citizens shall have the right to a healthy and pleasant environment. The State and all citizens shall endeavor to protect the environment.
- (2) The substance of the environmental right is determined by Act.
- (3) The State shall endeavor to ensure comfortable housing for all citizens through housing development policies and the like.

Article 36 [Marriage, Family, Mothers, Health]

- (1) Marriage and family life shall be entered into and sustained on the basis of individual dignity and equality of the sexes, and the State shall do everything in its power to achieve that goal.
- (2) The State shall endeavor to protect mothers.
- (3) The health of all citizens shall be protected by the State

Article 37 [Restriction, No Infringement of Essentials]

- (1) Freedoms and rights of citizens shall not be neglected on the grounds that they are not enumerated in the Constitution.
- (2) The freedoms and rights of citizens may be restricted by Act only when necessary for national security, the maintenance of law and order, or for public welfare. Even when such restriction is imposed, no essential aspect of the freedom or right shall be violated.

Article 38 [Duty to Pay Taxes]

All citizens shall have the duty to pay taxes under the conditions as prescribed by Act.

Article 39 [Duty to Military Service]

- (1) All citizens shall have the duty of national defense under the conditions as prescribed by Act.
- (2) No citizen shall be treated unfavorably on account of the fulfillment of his obligation of military service.