

economic policies. He concludes with a discussion of international treaties and an analysis of when it is appropriate to incorporate international law into domestic law. He suggests that principles of international law should be adopted and applied by domestic courts only when those principles reflect genuine, long-standing international customs, and when they do not conflict with liberal constitutional principles.

The practice of including preambles in written constitutions is the subject of Sanford Levinson's essay, "Do Constitutions Have a Point? Reflections on 'Parchment Barriers' and Preambles." Levinson begins by pointing out that constitutional provisions generally serve one of two purposes. Some provisions offer definitive answers to specific questions, such as when elections should be held or whether the legislature should have one chamber or two. But other provisions address issues that do not lend themselves to definitive solutions. The latter provisions may seek to protect certain rights (e.g., freedom of speech, or equal protection of the laws), but the exact nature and extent of these rights may remain open to dispute. Rather than providing a clear-cut settlement of a given controversy, these provisions serve as the basis for an ongoing legal conversation, in which lawyers and constitutional scholars debate the meaning of the rights and protections in question. As Levinson notes, however, constitutional preambles do not fall easily into either of these two categories. On his view, preambles can serve a variety of expressive purposes. For example, a preamble may set out the ends to be attained by the constitution (as the preamble of the U.S. Constitution sets out the ends of establishing justice, ensuring domestic tranquility, providing for the common defense, and so on). Or the authors of the preamble may wish to express the essence of a people or a nation, in terms of their shared history, religion, language, ethnicity, or values. In the course of his essay, Levinson analyzes the preambles of a number of contemporary constitutions. He argues that the desire of constitutional authors to use a preamble to describe (or create) national unity is sometimes at odds with the reality of contemporary societies, which are often made up of diverse peoples with differing values. At their worst, he suggests, preambles may be used to attempt to impose uniformity where none exists, or to marginalize ethnic or religious minorities.

One of the central features of the U.S. Constitution is its establishment of an independent judiciary, in which the federal courts constitute a separate branch of the national government, federal judges enjoy tenure during good behavior, and their salaries cannot be diminished while they hold office. In "The Origins of an Independent Judiciary in New York, 1621–1777," Scott D. Gerber explores the development of the concept of judicial independence in New York State and traces its influence on the drafters of the federal constitution. Gerber recounts New York's judicial history through four periods. From 1621 to 1664, the territory was administered by the Dutch West India Company under a charter from the Dutch government. During this period, the Company established "schout" courts in various parts of the territory, courts made up primarily of mayors and aldermen, whose members exercised both legislative and judicial power. In 1664, the Dutch ceded control of the territory to England, and from 1664 to 1685 New York was under the authority of James, the Duke of York, brother of Charles II, the King of England. In contrast with the earlier period, legislative and judicial powers were divided. The duke established a judicial system consisting of: town courts (with jurisdiction over minor civil disputes); a court of sessions (with jurisdiction over more significant civil disputes, as well as noncapital criminal cases); and a court of assizes, which handled capital cases and appeals from the lower courts. After the death of Charles II in 1685, the Duke of York became King James II, and New York became a royal colony. This period (from 1685 to 1776) saw the establishment of county courts of common pleas, as well as a supreme court whose justices were