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A NON-LAWYER'S GUIDE TO DEBUNKING THE TOP FOUR MYTHS ABOUT THE U.S. CONSTITUTION

The world was, put as plainly as possible, when Hillary Clinton lost the 2016 Presidential Election. She was a political favorite, and the common string of conversation at the time sounded something like, "Hillary? She can't lose." The real shock came the day following the election, when it was clear that Clinton had won the popular vote, despite losing the Electoral College.

The possibility of a candidate losing an election by getting more votes be barred by the U.S. Constitution, right? Surely there are safeguards in place to prevent such an uproar from occurring? Dear reader, now knowing what I know about the law, I share your cynicism and ,yr cinswtnh ger issue: what does our Constitution actually guarantee us?

What protections are undeniable, and what protections are subject to the pen stroke of a Supreme Court Justice? There are at least four myths about the Constitution that every American should be able to debunk. You do need a law degree to continue reading.

It is no secret that extremists on both sides of the aisle have stretched, shrunk, and exploited the U.S. Constitution to satisfy their respective polarized propagandas, by misleading the public on guaranteed rights and manipulating the text to limit rights aimed at protecting

Regardless of its number of justices, the Court is supposed to function as an apolitical "check" on governmental power. This power to "check" and potentially curtail government powers is also not explicitly declared in the Constitution. Instead, this "check," formally known as judicial review, comes from . The facts of the case are less important than the holding. The Supreme Court held that it possessed the right of judicial review. Judicial review is the power of the federal courts, particularly the Supreme Court, to declare governmental actions as unconstitutional. It is the only branch of government with this massive oversight power.

So neither the Supreme Court's number of justices nor its power of judicial review are mentioned in the Constitution; but, the Court's jurisdiction is. The Constitution requires that the lower federal courts (if the Congress decided to create any, which it did) have either federal question jurisdiction or diversity jurisdiction over the parties. As for the Supreme Court, its creation was required by the Constitution, and it has a sort of discretionary jurisdiction, because it can hear cases that have been appealed regardless of whether the case started in state or federal court. It also has original jurisdiction, which refers to the very few cases that can be filed in and hear be filed [illegible]

hold your breath on the Court overturning any conservative decision in the next decade. My apologies for being the bearer of your bad news.

Turning to arguably the most discouraging piece of constitutional law: individual rights. Remember the Bill of Rights, the first ten amendments to the Constitution that cover things from gun control to being free from cruel and unusual punishment? Cases covering these ten amendments are somewhat easier for the courts to decide than issues relating to the remaining amendments, because these ten expressly articulate several rights. How do we know we have a constitutional right to bear arms? The Second Amendment says so. How do we know we have the right to peacefully assemble? The First Amendment declares it. I will preface this with an acknowledgement that cases surrounding these amendments can still be convoluted, particularly when related to complicated principles like searches and seizures (Fourth Amendment) or the right to bear arms (Second Amendment). But my point is that at least with regards to the rights outlined in the first ten amendments, there is some explicit basis, some key wording, that individuals can argue their rights through.

Abortion, contraception, and same-sex marriage, among other things, are not mentioned in the Constitution. So where are the rights to those things rooted (if you agree we have those rights)? Those "rights" come from the Due Process Clause of the Fourteenth Amendment. Now, we are getting into the weeds of a constitutional law class here, so I'll keep this as straightforward as possible. The idea is that some rights are so essential, vital, and fundamental that taking them away or restricting them violates the due process rights of the person deprived regardless of how it is taken away. Again, these rights are stated in the Constitution, but we