

HOW BROAD OR NARROW?

Belief is key. In any society, rights only exist to the extent that they're respected and enforced by others. The U.S. Constitution is a social contract that places some things "off limits" - untouchable by the government. Like any agreement, it has no meaning unless all parties honor it. Without a common commitment on everyone's part, a contract isn't worth the paper it's written on.

If the Constitution is a contract, then what do we all agree that it means? If it can bind the hands of government - and thereby bind the will of the majority - shouldn't everyone have a common understanding of its meaning and purpose?

Coming to this understanding has never been easy. For much of American history, the courts have served as the central referees of interpretive questions. The Constitution has been the subject of endless debates over the meaning of its language, debates that continue to evolve. Over time, some matters have been settled, while others have remained fluid and contentious.



“The reason why there are debates over the meaning of the Constitution is because some of its language is very open-ended.” - Mary Cheh, George Washington School of Law

Some of the language found in the Constitution is specific and easy to define. A person has to be at least thirty-five years old to serve as President, for example. At the same time, much of its language is extremely broad. What sorts of searches are considered “unreasonable” under the Constitution’s ban on “unreasonable searches and seizures?”

Battles are continually waged in courtrooms and in the halls of government over how the language of the Constitution is put to work every day, and how it impacts the rights of individual people. There are some who look at the document in a constrained fashion, and work for interpretations that view both individual rights and governmental authorities in a narrow way. Others seek out a broad view of both powers and rights. And there are those who champion a hybrid view of the Constitution as a guarantor of broad rights, but narrow powers.

While courts play a central and defining role, the interpretation of the Constitution is also a participatory enterprise in many ways. Determinations about individual rights face an arduous journey through the gauntlet of public opinion and public action, before they reach the Supreme Court’s docket.

“One of the first things people have to keep in mind is that no document can guarantee you any rights. It has to be the document in combination with the will of the people.”

- Sam Smith, The Progressive Review



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