

So You Think You Know Your Rights?



[Freedumb In America Today](#)

Dear Friends,

I fear that I might be surprised with the knowledge of how many American's would fail in a test of what they actually understand about their "True Rights."

Robert



New Common Sense

Applying First Principles to the Issues of Today

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So You Think You Know Your Rights?

It seems that there is a right to everything these days: a right to the internet, to free health care, to a good job, and to a free college education. The Supreme Court is famous for finding new rights in the "penumbras" and "emanations" of the Constitution.

This Thursday, December 15, marks the 220th anniversary of the ratification of the Bill of Rights. What better opportunity to look at what rights the Constitution actually guarantees?

[A right is not merely something you want or claim](#). You may, for example, want a better job, but that does not mean that you have a right to that job. The Framers understood a right to mean something that justly belongs to you, that others have a duty not to interfere with, and that creates a claim against anyone who would deprive you of it. The Declaration of Independence explains that people [posses certain rights by nature](#) and that [governments exist to secure these rights](#).

What does this mean for the Constitution? By creating a document of limited, enumerated powers, the framers crafted a government that would put individuals in the enjoyment of their rights. The Constitution outlines the structure of American government, by allocating powers to particular branches over specific subjects, but rarely discusses rights. At various points, the Constitution prohibits *ex post facto* laws and bills of attainders at the state and national level, requires criminal trials to have juries, and guarantees the writ of habeas corpus (except in cases of rebellion or invasion). Yet, [the word “right” appears only once in the entire document](#): the Patents Clause, which empowers Congress “to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

The First Congress amended the Constitution to include the first ten amendments, collectively known as the Bill of Rights. James Madison drafted them not only to counter false interpretations of each branch’s enumerated powers but also to support a public understanding of individual liberty that would assist citizens in the task of defending their liberties.

The First Amendment clarifies that the federal government may not interfere with particular substantive political rights involving religion, speech, press, assembly, and petition. Likewise, the Second Amendment guarantees an individual right to keep and bear arms. The next six amendments deal with more procedural political rights, mostly restraints on criminal procedure that were present in most of the state constitutions. For instance, the Fourth Amendment outlines the procedures for obtaining a warrant, and the Fifth Amendment prohibits the sovereign from trying a person twice for the same offense. The Ninth and [Tenth](#) Amendments summarize the Constitution's purpose—to secure individual liberty not by having a comprehensive list of rights but by allocating powers between state governments and the branches of the federal government.

The Bill of Rights, properly understood, serves as a check on the federal government's power. In [Securing Liberty: The Purpose and Importance of the Bill of Rights](#), Joseph Postell argues that, "implicit in the story surrounding our Bill of Rights is the proposition that the liberties of a nation can only be secured by citizens of firm conviction who understand our rights and liberties and will actively defend them." This makes understanding the nature of rights all the more important. If we continue to define "rights" to be anything we could possibly want, and insist that government is obligated pay for them, then we will place ourselves in the position of constantly appealing to government to give us more "rights." In this subservient position, we cannot sufficiently guard our liberty from government encroachment.

As you celebrate Bill of Rights Day this Thursday, take time to read the Constitution and the first ten amendments. Challenge yourself to study your natural rights for the sake of knowing your liberties and defending them from encroachments.



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