Aryn Tooley

Mrs. Myers

AP Government

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Judicial Review

The United States Constitution is a document that our country uses to structure how we want government and society to be run. Laws that the government try to pass can be deemed as unconstitutional. If something is unconstitutional than it ultimately goes against what is written out in the Constitution. In the case of Marbury vs. Madison, they argued whether the Supreme Court should have the power to overturn unconstitutional federal laws. The Supreme Court should have the power to overturn federal laws because of the checks and balance system, the ability to issue writs of mandamus, and because they are the highest judicial power in the United States.

The first reason the Supreme Court should have the power to overturn unconstitutional federal laws is because of the checks and balance system between the three branches of government (Doc H). This system was put into place so that one branch did not overpower the other branches of government. If the legislative and executive branches try to pass a law that is unconstitutional, the Supreme Court should be able to review the law. Since the checks and balance system is in place than the Supreme Court should be able to deem the law unconstitutional, just like how the president can veto a bill.

The second reason the Supreme Court should have the power to overturn unconstitutional federal laws is because they have the ability to issue writs of mandamus. The authority given to the Supreme Court to issue writs of mandamus to public officers, appears not to be warranted by the Constitution (Doc G). This power was granted to the Supreme Court in the Judiciary Act of 1789 (Doc F). Even though the Constitution does not state that the Supreme Court should have the power to overturn unconstitutional laws does not mean that they should not be allowed to do it. If the Supreme Court is allowed to issue writs of mandamus, then they should be allowed to have higher judicial review.

The final reason that the Supreme Court should be allowed to overturn unconstitutional laws is because they are the highest judicial power in the United States. The judicial power of the United States, shall be vested in one Supreme Court (Doc D). The Constitution even says that all laws and treaties should be made under the Constitutions amendments (Doc E). Since the Supreme Court is the highest court in the United States they should be able to review laws that are deemed unconstitutional and decide if they should be omitted.

The Constitution is the foundation of the United States. Having laws that are unconstitutional would be contrary to how the people want this country to be run. The Supreme Court is the highest form of judicial power in the United States. The United States Supreme Court should have the power to overturn unconstitutional federal laws.