



The U.S. Supreme Court

Equal Justice Under the Law

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This revision of “*The U.S. Supreme Court: Equal Justice Under the Law*” is a collection of essays that explains how the highest court in the United States functions. It has been updated to reflect the appointments of new justices and recent, significant decisions of the court.

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US Supreme Court: Equal Justice Under the Law
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The U.S. Supreme Court

Equal Justice Under the Law

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The U.S. Supreme Court is in the foreground, with the U.S. Capitol building towering behind.
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Foreword

The Washington building that best represents the rule of law in the United States is not the U.S. Capitol building, where Congress makes the laws, but rather the Supreme Court building one block to the east. For the first century and a half of its existence, the Supreme Court met at the Capitol, a guest of the legislative branch. In 1935, the Supreme Court moved to a building of its own, a move symbolic of the stature of the judiciary as an independent branch of the United States government.

The U.S. federal government has three branches: the executive, represented by the president; the legislative, which includes both houses of Congress; and the judicial, embodied in the Supreme Court. Each branch has the power to keep in check the power of the other two. This system of “checks and balances” ensures power sharing among the three.

The historic decision that clarified the constitutionally separate executive and judicial branches of the U.S. government was *Marbury v. Madison* (1803). In that case, Chief Justice John Marshall established the Supreme Court’s judicial review of U.S. law as separate from the legislative and executive branches of government. It meant the Court could rule on the constitutionality of laws.

Subsequent decisions have further strengthened the role of the Court while showing its ability to evolve. The Supreme Court thwarted President Franklin D. Roosevelt when it overturned early legislation that supported his 1930s New Deal economic recovery effort, maintaining a decadeslong stance that government regulation of commerce was unconstitutional. The Court later ruled in favor of New Deal measures as the Great Depression worsened. In *Brown v. Board of Education of Topeka* (1954), the Supreme Court ruled segregation in

schools unconstitutional, a landmark decision for the civil rights movement which invalidated the *Plessy v. Ferguson* (1896) decision that allowed discriminatory laws. More recently, the Court upheld the Affordable Care Act of Congress proposed by President Obama in its *National Federation of Independent Business v. Sebelius* (2012) ruling. The case is discussed in journalist David G. Savage’s article “Deciding ‘What the Law Is.’” Despite controversy that may surround some decisions, the Supreme Court’s role as guarantor of the rule of law is firmly enshrined in American life.

This publication focuses on how the Supreme Court functions, illustrating the vital role the Court plays in the U.S. constitutional system. It features an introduction by Chief Justice John G. Roberts Jr. and an article by Associate Justice Elena Kagan. Other contributors are legal scholars, journalists and court officials. They examine factors that determine court opinions and dissent, the role of politics and why justices may alter their views over time.

Law clerks and Court officials help the justices discharge their duties. Former Supreme Court law clerk Philippa Scarlett, now a practicing attorney, gives an insider’s view as she explains the duties of the clerk. Four Court officials — the Court clerk, the marshal, the reporter of decisions and the public information officer — describe their jobs, their backgrounds and how they came to work for the Court. The Supreme Court’s international outreach is described by Mira Gur-Arie. Brief biographies of the nine sitting and three retired Supreme Court justices, a bibliography and a guide to Internet resources complete this portrait of this essential American institution. 🌿

The Editors

The U.S. Supreme Court: Fidelity to the Law

By John G. Roberts Jr. Chief Justice of the United States

In 1776, England's 13 American colonies declared their independence from British rule. Those new states found strength and unity in firmly held principles. Their Declaration of Independence professed that government exists to serve the people, the people have inalienable rights, and government secures those rights through adherence to the rule of law.

After the fighting ceased on the battlefields, the principles that had ignited a revolution found expression in a written constitution. The Constitution of the United States is a compact among the American people that guarantees individual liberty and fulfills that promise through the establishment of a democratic government in which those who write, enforce, and interpret the law must obey the law as well.

The Constitution prescribes a central role for the Supreme Court in the United States' system of government. It establishes the Court as an independent judicial body whose judgments are insulated from the influence of popular opinion and the coordinate branches of government. The Court instead is constrained by the principle of fidelity to the law itself. The Constitution requires the Court to adjudicate disputes, regardless of the identity of the parties, according to what the Constitution and duly enacted laws require.

Those of us who have the high privilege of serving on the Supreme Court know that the Court has earned the respect of its nation's citizens by adhering to the principles that motivated the United States' Declaration of Independence, that find expression in its Constitution, and that continue to unite the American people. I hope that those revolutionary principles, which are the foundation of the United States' enduring democracy, are a source of inspiration for nations throughout the world. ✎



Chief Justice John G. Roberts Jr. ©AP Images/Lauren Victoria Burke

The Role of the Solicitor General

By Elena Kagan, Associate Justice of the Supreme Court and former Solicitor General of the United States

I am very pleased to have this opportunity to describe to a distinguished international audience the role of the Office of the Solicitor General in the United States.

The solicitor general's office represents the United States Government in cases before the Supreme Court and supervises the handling of litigation on behalf of the government in all appellate courts. Each year, the office participates in three-quarters or more of the cases that the Supreme Court considers. When the United States Government is a party, a member of the solicitor general's office argues on its behalf. The cases are quite varied and may entail defending the constitutionality of a statute passed by Congress, asserting the legality of an executive agency's policy decision, or defending a conviction in a federal criminal case.

In cases in which the United States is not a party, the solicitor general's office often participates as a "friend of the Court," or *amicus curiae*, and advises the court of the potential impact of the case on the long-term interests of the United States. Sometimes the solicitor general's office requests permission to participate as an *amicus curiae*, and sometimes the Court actually solicits the opinion of the United States Government by inviting the solicitor general to submit a brief.

By virtue of its institutional position, the Office of the Solicitor General has a special obligation to respect the Supreme Court's precedents and conduct its advocacy with complete candor. On occasion, the solicitor general will even confess error when she believes that the position taken by

the government in the lower courts is inconsistent with her understanding of what the Constitution and laws require.

In addition to litigating cases in the Supreme Court, the Office of the Solicitor General supervises litigation on behalf of the government in the appellate courts. When the government receives an adverse ruling in the trial court, the solicitor general determines whether the government will appeal that ruling. Similarly, the solicitor general decides whether to seek Supreme Court review of adverse appellate court rulings. By controlling which cases the government appeals, the solicitor general's office maintains consistency in the positions that the United States Government asserts in cases throughout the nation's judicial system.

The Office of the Solicitor General is vital not only to ensuring that the interests of the United States Government are effectively represented in our courts, but also, by ensuring the fairness and integrity of the government's participation in the judicial system, to maintaining the rule of law in our democracy. ✎

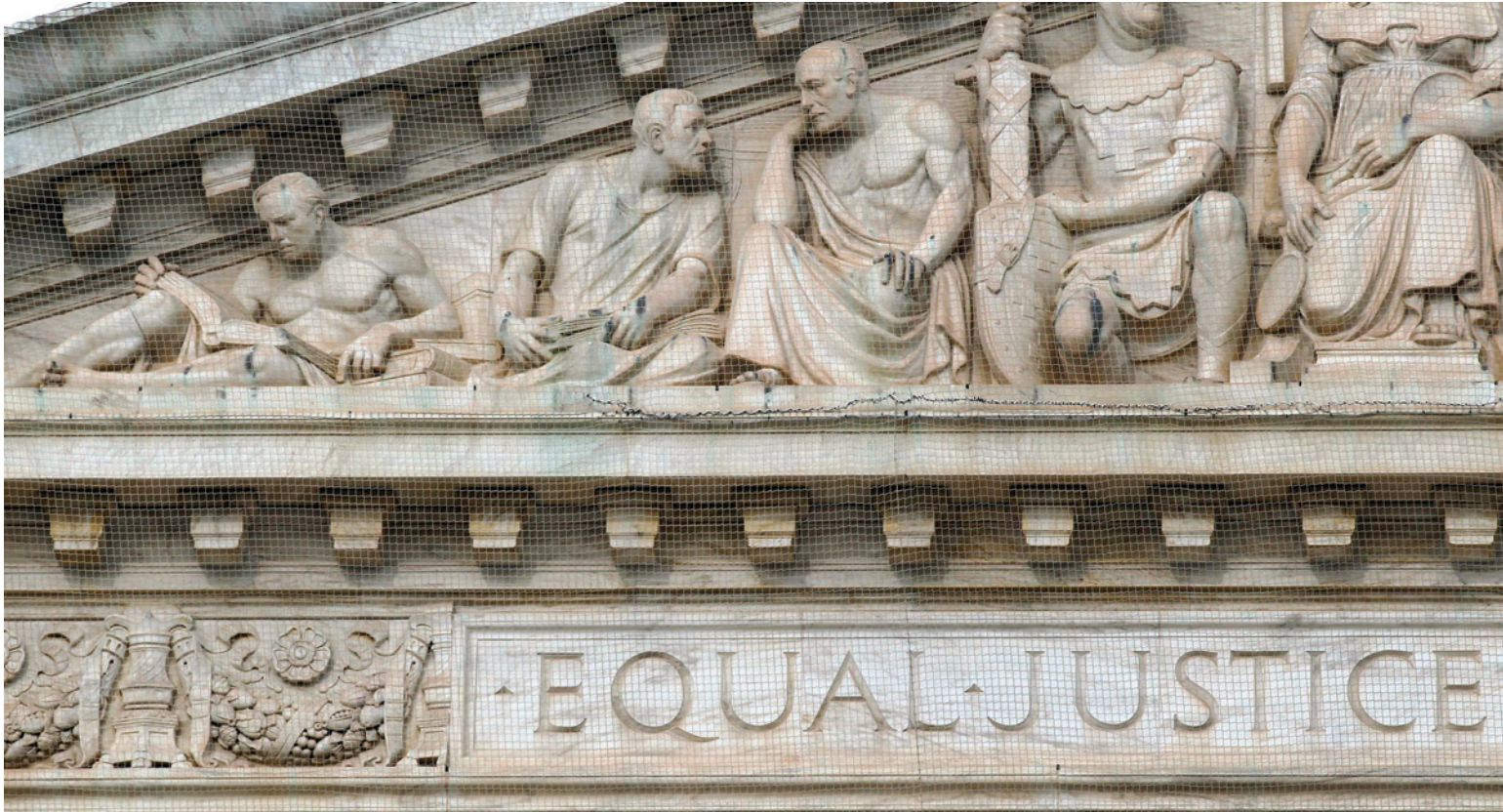
Elena Kagan served as solicitor general in 2009 and 2010. She joined the Supreme Court in August 2010.

An artist's sketch of Solicitor General Donald Verrilli arguing a case before the Supreme Court. ©AP Images



Deciding “What the Law Is”

By David G. Savage



David G. Savage writes about the Supreme Court for the *Los Angeles Times*. He is also the author of the two-volume *Guide to the U.S. Supreme Court* published by the CQ Press in Washington. The U.S. Supreme Court opens its annual term each October facing an intriguing mix of cases and legal questions, all having bubbled up from state and federal courts across the nation. Some seem quite mundane, others are clearly momentous, but all of them call on the justices to decide the meaning of a federal law or the U.S. Constitution.

One case began when a police officer took his narcotics dog to sniff around the front door of a house in Miami. When “Franky” alerted his handler by sitting down, the police decided marijuana must be growing inside, and they were right. But the court took up the case of *Florida v. Jardines* to decide whether using a police dog at the door of a private home is an “unreasonable search” banned by the Fourth Amendment.

Search cases come in many forms. Can the police, without a search warrant, secretly attach a GPS device to a car and track its movements for weeks? No, the court said in *U.S. v. Jones* in 2012. Can a police officer who stops a suspected drunken driver in the middle of the night take him to a nearby hospital

and force him to have his blood drawn? That was the question in the 2013 case of *Missouri v. McNeely*.

A national spotlight turns on the court when it takes up cases that define the powers of government and the rights of individuals. None was more dramatic than the 2012 challenge to the constitutionality of the Affordable Care Act, the health care law sponsored by President Barack Obama and Democrats in Congress and fiercely opposed by Republicans.

The case was seen as the most important since the late 1930s in defining the constitutional limits on the powers of the federal government and its relationship with the states. Small

business owners had sued to challenge the law's mandate that everyone obtain insurance coverage, while Republican state attorneys objected to the requirement that states expand their Medicaid coverage to serve more low-income residents. Medicaid is a state and federally funded program that helps qualified individuals obtain health care.

"In our federal system, the national government possesses only limited powers; the States and the people retain the remainder," began Chief Justice John G. Roberts Jr. on the morning of June 28, 2012.

The insurance mandate could not be upheld under Congress's power to regulate commerce because the mandate "does not regulate existing commercial activity. It instead compels individuals to become active in commerce by purchasing a product," Roberts wrote in *National Federation*

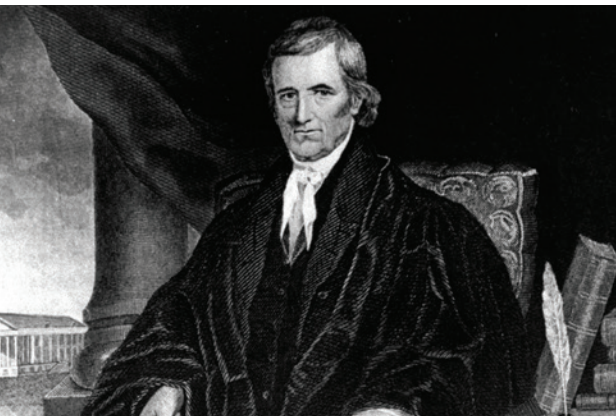
"It is emphatically the province of the judicial department to say what the law is." – Chief Justice John Marshall, *Marbury v. Madison*, 1803

of *Independent Business v. Sebelius*. But he surprised many when he accepted the fall-back argument that the tax was a constitutional penalty for those who can afford it but choose not to buy insurance.

In the second half of the opinion, Roberts said states may opt out of the Medicaid expansion. The health care law had survived, but by the narrowest of margins. "The Framers created a Federal Government of limited powers and assigned to this Court the duty of enforcing those limits. The Court does so today," Roberts said in closing. "But the Court does not express any opinion on the wisdom of the Affordable Care Act. Under the Constitution, that judgment is reserved to the people."

DECIDING "WHAT THE LAW IS"

Throughout its history, the Supreme Court's unique role has been to state the law and to define the powers of the government. "It is emphatically the province of the judicial department to say what the law is," declared Chief Justice John Marshall in 1803. His opinion in *Marbury v. Madison* set forth three principles that formed the basis of American constitutional law. First, the Constitution stood above ordinary laws,



Chief Justice John Marshall headed the Supreme Court from 1801 to 1835. His *Marbury v. Madison* decision helped define the separation of powers in U.S. government. ©AP Images

Basic Facts About the U.S. Supreme Court: The Cases

CASES FILED WITH THE COURT EACH TERM

about **10,000**

CASES SELECTED BY THE COURT FOR REVIEW EACH TERM

about **100**

WRITTEN OPINIONS EACH TERM

80-90

PERCENTAGE OF UNANIMOUS DECISIONS

25-33%

APPROVAL OF JUSTICES TO WIN A CASE

5 out of 9 justices

including those passed by Congress and signed by the President. Second, the Supreme Court would define the Constitution and say “what the law is.” And third, the court would invalidate laws that it had decided were in conflict with the Constitution.

To those unfamiliar with U.S. democracy — as well as to many who are — it may seem peculiar to rest so much power in the hands of nine unelected judges. They can strike down laws — federal, state and local — which were enacted by the people and their representatives. A paradox it may be, but this was neither an accident nor a mistake. The framers of the Constitution placed great faith in the notion of a written plan for government which would stand as the law. It gave specific powers to three branches of government and divided authority among them. The Bill of Rights, ratified in 1791, set out the rights reserved to the people. For this grand plan to work, a body which was independent of fleeting political conflicts had to enforce the Constitution as the fundamental law. The justices of the Supreme Court are that body. The Supreme Court has the power to interpret the Constitution and U.S. law. The Constitution has a system of “checks and balances” that prevent the misuse of power. While the President can veto acts of Congress, and the Supreme Court can strike down laws if they violate the Constitution, Congress can pass revised laws or sponsor amendments that change the Constitution.

GIVING LOSERS ANOTHER CHANCE

The Supreme Court sits atop a federal court system that includes 12 regional appeals courts and a specialized court that reviews patents and international trade claims. Most federal cases start before a magistrate or a U.S. district judge and move up from them. Cases also come to the high court from a state court if a dispute there turns on an issue of federal law or the Constitution.

To win a review in the high court, you must be a loser. The court hears appeals only from parties who have lost a case, or at least a significant part of a case, in a lower court. The case also must present a live dispute with real consequences. Purely abstract issues of law are shunned. Most importantly, however, the case must present a significant legal question which is in dispute. The first reason for accepting the case, according to the justices, is when the lower courts are split on an issue of federal law. It does not make sense to have a federal law mean one thing in Boston and something quite different in Houston. If at least four of the nine justices vote to hear an appeal, the court will grant it a review. It takes a majority of five to decide the case.

FEDERAL VS. STATE LAWS

As written in 1787, the Constitution had only 4,500 words. It left many questions unanswered. Foremost among them was: What about the states? The representatives of 12 of the 13 original states (Rhode Island did not participate) wrote and ratified the plan for a government of the new “United States,” yet then, as now, most day-to-day governing took place at the state and municipal levels. There, citizens register to vote. There, roads, schools, parks and libraries are built and operated. There, police and fire departments protect the public’s safety. The Supreme Court has devoted much of its time to adjudicating conflicts between the powers of the federal government and the powers of the states and localities. It has not resolved all the conflicts.

Basic Facts About the U.S. Supreme Court: The Court

APPOINTMENT TO THE COURT

by the President

CONFIRMATION OF APPOINTMENT TO THE COURT

by the U.S. Senate

NUMBER OF JUSTICES SINCE 1790

100 Associate Justices,

17 Chief Justices

APPOINTED BUT NOT CONFIRMED

36

CLERKS PER JUSTICE

3

LENGTH OF THE APPOINTMENT

Lifetime or until retirement

FIRST AFRICAN-AMERICAN JUSTICE

Justice Thurgood Marshall
Appointed 1967

FIRST WOMAN JUSTICE

Justice Sandra Day
O’Connor
Appointed 1981

FIRST HISPANIC JUSTICE

Justice Sonia Sotomayor
Appointed 2009

The Civil War began in 1861 when the Southern states asserted a right to secede from the United States.

Such federal-state conflicts, while not so incendiary, continue today. Nearly every term, the court decides several cases involving federal-state conflicts. Many products, including prescription drugs, are tightly regulated from Washington by the federal Food and Drug Administration. So, can a patient who is hurt by a regulated drug sue the manufacturer under a state's consumer protection law? Yes, the court said in *Wyeth v. Levine*, deciding the federal law did not displace the state's law.

Diana Levine, a musician from Vermont, sued Wyeth, a drug maker, after she was injected with an anti-nausea drug and suffered a horrible complication. She did not know, nor did the nurse who injected her, that this drug could cause gangrene if it were injected into an artery. Levine's lower arm was amputated, and the Supreme Court upheld the jury's \$7 million verdict against the drug maker.

In 2012, however, the court said the federal immigration law can displace a state's policy of aggressive enforcement against illegal immigrants. In *Arizona v. United States*, the court rejected most of a state law that authorized local police to arrest and jail illegal immigrants over the objections of federal officials. Justice Anthony Kennedy said the Constitution makes federal measures "the supreme law of the land."

THE CONSTITUTION GUIDES THE COURT

The court's best-known decisions in recent decades arose from constitutional claims involving individual rights. The Bill of Rights protects the freedom of speech, the free exercise of religion, and the freedom from an official "establishment of religion" and from "unreasonable searches" and "cruel and unusual punishments." Those rights are tested every year in real cases.

The court invoked the Eighth Amendment's ban on "cruel and unusual punishments" to limit harsh treatment for young offenders. In 2005, the justices abolished the death penalty for convicted murderers under the age of 18 (*Roper v. Simmons*), and they later said that young offenders may not be sentenced to life in prison with no hope of parole for crimes such as robbery or rape (*Graham v. Florida*, 2010). More recently, the court took a third step and ruled that, before juvenile murderers are sentenced to prison for life, a judge must weigh their youth as a reason for a lesser term (*Miller v. Alabama*, 2012).

“As a nation, we have chosen a different course — to protect even hurtful speech on public issues to ensure that we do not stifle public debate.” – Chief Justice John G. Roberts Jr., *Snyder v. Phelps*, 2011

The principle of free speech is a pillar of the Constitution, and the court has said it will protect the rights of unpopular speakers, even when their words are outrageous and hurtful. In 2009, the court rejected a multimillion dollar jury verdict against a Kansas minister and his family for picketing and carrying signs at the funerals of soldiers who fought in Iraq. “Thank God for Dead Soldiers,” one said. Chief Justice John Roberts said it is tempting to punish speakers whose words are the most offensive. “As a nation, we have chosen a different course — to protect even hurtful speech on public issues to ensure that we do not stifle public debate,” he said in *Snyder v. Phelps*. (2011) The court in 2012 upheld the free-speech rights of liars and boasters when it struck down the Stolen Valor Act, a federal law that made it a crime to falsely claim to have won military honors (*United States v. Alvarez*).

The court also must decide whether the government can use public money to shape the message of others. Several international groups working to combat HIV and AIDS objected to a U.S. federal funding law that required them, as a condition of receiving money, to have a public policy “explicitly opposing prostitution and sex trafficking.” They said such a policy would make it more difficult to persuade sex workers to come for testing and treatment. Early in 2013, the court agreed to rule on whether forcing a private group to espouse a government's policy violated its rights to free speech (*U.S. Agency for International Development v. Alliance for Open Society International*).

The court has given the strongest protection to speech that involves politics, but that, too, has provoked controversy. In 2010, the justices ruled that Citizens United, a small incorporated political group, had a free-speech right to make and market a DVD called *Hillary: The Movie* that harshly portrayed former first lady and then–New York Senator Hillary Rodham Clinton as she ran for president in 2008. The ruling set off a political furor because it made void a long-standing federal ban on campaign spending by corporations. The story may not be over. Opponents to the Citizens United decision, including several states, are urging Congress to pass a Constitutional amendment to reverse the Supreme Court decision.

In the past, critics have faulted the court's decisions which struck down long-standing practices, such as segregation in public schools (*Brown v. Board of Education*, 1954), official prayers in public schools (*Engel v. Vitale*, 1962), laws against abortion (*Roe v. Wade*, 1973) or laws directed against gays and lesbians (*Lawrence v. Texas*, 2003). But the justices say the Constitution's drafters wrote a government charter designed to protect freedom, one that could be adapted to changing times. “They knew times can blind us to certain truths and later generations can see that laws once thought necessary and proper in fact serve only to oppress,” Justice Kennedy wrote in the Lawrence decision. “As the Constitution endures, persons in every generation can invoke its principles in their own search for greater freedom.” ❧

The opinions expressed in this article do not necessarily reflect the view or policies of the U.S. government.



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The U.S. Court System

1. Cases start in these courts:



- 94 U.S. Courts and U.S. Tax Court
- U.S. Court of International Trade, U.S. Court of Federal Claims, U.S. Court of Veterans Appeals
- Army, Navy-Marine Corps, Air Force, and Coast Guard Courts of Criminal Appeals

2. Disputes

can be appealed and decided by these courts:



- U.S. Court of Appeals, 12 Circuits*
- U.S. Court of Appeals for the Federal Circuit**
- U.S. Court of Appeals for the Armed Forces

3. The Final Appeal

goes to the Supreme Court, the last and highest authority



Supreme Court of the United States

* The 12 regional Courts of Appeals also receive cases from a number of federal agencies

** The Court of Appeals for the Federal Circuit also receives cases from the International Trade Commission, the Merit Systems Protection Board, the Patent and Trademark Office, and the Board of Contract Appeals

Influence and Independence: Role of Politics in Court Decisions

By Suzanna Sherry

Suzanna Sherry is the Herman O. Loewenstein Professor of Law at Vanderbilt University Law School in Nashville, Tennessee. She has co-authored three books on constitutional law and constitutional theory: *Judgment Calls: Separating Law From Politics in Constitutional Cases* (2008), *Desperately Seeking Certainty: The Misguided Quest for Constitutional Foundations* (2002), and *Beyond All Reason: The Radical Assault on Truth in American Law* (1997). She has also written dozens of articles and co-authored three textbooks. Sherry acknowledges fears that a given justice's political opinions shape his or her rulings. These fears, she concludes, are greatly overstated. Many factors, both personal and institutional, outweigh a justice's political leanings in explaining his or her decisions.

Almost two centuries ago, the famous student of American life and customs Alexis de Tocqueville wrote, “[T]here is hardly a political question in the United States which does not sooner or later turn into a judicial one.” That statement is still accurate today, and it poses a unique dilemma for American courts. How can judges resolve issues that, by their nature, are political rather than legal? The answer lies in the structure of the judicial branch and the decision-making process in which judges engage.

Unlike judges in many other countries, American judges are drawn from the ranks of ordinary lawyers and installed on the bench without any specialized training. Not even Supreme Court justices, although they often have prior experience on other courts, receive specialized training beyond the legal education of every lawyer in the United States. And while individuals (including future Supreme Court justices) studying to become lawyers may choose to emphasize particular subject areas, such as employment law or antitrust law, there are no courses that aim to prepare them for a judicial career.

Supreme Court justices, then, begin their careers as lawyers. Their backgrounds, their political preferences, and their intellectual inclinations are, in theory, as diverse as you might find in any group of lawyers. This diversity on the Supreme Court — especially political diversity — is somewhat narrowed by the process through which justices are chosen: Each is nominated by the president and must be confirmed by a majority vote in the Senate. Once appointed, justices serve until they die or choose to retire; there are no fixed terms and no mandatory retirement. Vacancies on the Supreme Court are thus sporadic and unpredictable, and the political views of any particular justice will depend on the political landscape at the time of his or her appointment. A popular president whose

party is in the majority in the Senate will likely make very different choices than a weak president faced with a Senate in which the opposing party has the majority.

At any particular time, the Court will consist of justices appointed by different presidents and confirmed by different Senates. As the Court began its term in October 2012, for example, the nine sitting justices were appointed by five different presidents — three Republicans and two Democrats. The diversity of political views on the Court and the periodic appointment of new justices guarantee that no single political faction will reliably prevail for long.

Differences aside, all of the justices share a commitment to uphold the Constitution. Their fidelity to that goal makes the United States a country governed by the rule of law, rather than by the rule of men. The justices, in interpreting and applying the Constitution and laws, do not view themselves as Platonic guardians seeking to govern an imperfect society but, instead, as faithful agents of the law itself. The Supreme Court can, and does, decide political questions, but does so using the same legal tools that it uses for any legal question. If it were

Justice David Souter (left) did not always follow the political lead of President George H.W. Bush. ©AP Images





President Bill Clinton and his Supreme Court nominee Stephen Breyer at the White House in Washington in 1994. Breyer remains among the liberal Supreme Court judges. *Courtesy of the Supreme Court of the United States*

otherwise, the Court might jeopardize its own legitimacy: The public might not regard it as an institution particularly worthy of respect.

PERSONAL AND POLITICAL VIEWS

Nevertheless, justices do have personal views. They are appointed through a political process. Observers naturally must ask how great a role their political views actually play. Some scholars argue that the justices' political preferences play a large role, essentially dictating their decisions in many cases. They point to the fact that justices appointed by conservative presidents tend to vote in a conservative fashion and those appointed by liberal presidents vote the opposite way. The confirmation battles over recently nominated justices certainly suggest that many people view the justices' personal politics as an important factor in judicial decision making.

But we should not so quickly conclude that Supreme Court justices, like politicians, merely try to institute their own policy preferences. A number of factors complicate the analysis. First, it is difficult to disentangle a justice's political preferences from his or her judicial philosophy. Some justices believe that the Constitution should be interpreted according to what it meant when it was first adopted or that statutes should be interpreted by looking only to their texts. Others believe that the Constitution's meaning can change over time or that documentary evidence surrounding a statute's enactment can be useful in its interpretation.

Some justices are extremely reluctant to overturn laws enacted by state or federal legislatures, and others view careful

oversight of the legislatures as an essential part of their role as guardians of the Constitution. A justice who believes that the Constitution ought to be interpreted according to its original meaning and who is reluctant to strike down laws will probably be quite unsympathetic to claims that various laws violate individuals' constitutional rights. If that justice also happens to be politically conservative, we might mistakenly attribute the lack of sympathy to politics rather than a judicial philosophy.

A justice's personal experiences and background also may influence how he or she approaches a case — although not always in predictable ways. A judge who grew up poor may feel empathy for the poor or may, instead, believe that his or her own ability to overcome the hardships of poverty shows that the poor should bear responsibility for their own situation. A justice with firsthand experience with corporations or the military or government bodies (to choose just a few examples) may have a deeper understanding of both their strengths and their weaknesses.

In the end, it seems difficult to support the conclusion that a justice's politics are the sole (or even the primary) influence on his or her decisions. There are simply too many instances in which justices surprise their appointing presidents, vote contrary to their own political views, or join with justices appointed by a president of a different party. Two of the most famous liberal justices of the 20th century, Chief Justice Earl Warren and Justice William Brennan, were nominated by Republican President Dwight Eisenhower — and Warren was confirmed by a Republican-majority Senate. Between

a quarter and a third of the cases decided by the Supreme Court are decided unanimously; all the justices, regardless of their political views, agree on the outcome. One study has concluded that in almost half of non-unanimous cases, the justices' votes do not accord with what one would predict based on their personal political views. Moreover, some deeply important legal questions are not predictably political: We cannot always identify the "conservative" or "liberal" position on cases involving, for example, conflicting constitutional rights or complex regulatory statutes.

OTHER FACTORS IN DECISION MAKING

The structure and functioning of the judiciary also temper any individual justice's tendency toward imposing personal political preferences. The most important factor is that the Court must publicly explain and justify its decisions: Every case is accompanied by one or more written opinions that provide the reasoning behind the Court's decision, and these opinions are available to anyone who wants to read them. They are widely discussed in the press (and on the Internet) and are often subject to careful critique by lawyers, judges, and scholars. This transparency ensures that justices cannot bend the law indiscriminately; their discretion is cabined by the pressures of public exposure. And any justice who does not want to be thought a fool or a knave will take care to craft persuasive opinions that show the reasonableness of his or her conclusions.

Deliberation also plays a role in moderating the influence of politics on justices' decision-making. Before reaching a decision, each justice reads the parties' briefs, listens to (and often asks questions of) the parties' lawyers at oral argument, and converses with other justices. The justices may also discuss cases with their law clerks, recent law school graduates who may bring a somewhat different perspective. After an initial vote on the case, the justices exchange drafts of opinions. During this long deliberation process, the justices remain open to persuasion, and it is not unusual for a justice to change his or her mind about a case. Because the justices, the lawyers, the parties, and the clerks represent a diverse range of political views, this process helps to focus the justices on legal, rather than political, factors.

Finally, the concept of *stare decisis*, or adherence to the decisions made in prior cases, limits the range of the Court's discretion. Absent extraordinary circumstances, the Supreme Court will follow *precedent* — the cases it has previously decided. Even justices who might disagree with a precedent (including those who dissented when the case was originally decided) will almost always feel bound to apply it to later cases. As decisions on a particular issue accumulate, the Court might clarify or modify its doctrines, but the earlier precedents will mark the starting point. History is full of examples of newly elected presidents vowing to change particular precedents of the Supreme Court, but failing despite the appointment of new justices. *Stare decisis* ensures that doctrinal changes are likely to be gradual rather than

abrupt and that well-entrenched decisions are unlikely to be overturned. This gradual evolution of doctrine, in turn, fosters stability and predictability, both of which are necessary in a nation committed to the rule of law.

No system is perfect, of course. In a small number of cases, one likely explanation for particular justices' votes seems to be their own political preferences. These cases are often the most controversial and usually involve political disputes that have divided the country along political lines. It is no surprise that they similarly divide the justices. The existence of such cases, however, should not lead us to conclude that politics is a dominant factor in most of the Court's cases.

Many factors, therefore, influence the Supreme Court's decisions. The justices' political views play only a small role. Were it otherwise, the Court would be less able to serve as an independent check on the political branches, less able to protect the rights of individuals, and less secure in its legitimacy. The public would not have as much confidence in a Court seen as just another political body, rather than as an independent legal decision maker. The justices (and other judges) know this, and they safeguard the Court's reputation by minimizing the role of politics in their own decisions. ✂

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Justices Who Change: Justices, Judgments and the Court's Workings

By Linda Greenhouse



Sonia Sotomayor is escorted by Chief Justice John Roberts following her investiture ceremony. ©AP Images/Evan Vucci

Linda Greenhouse is Knight Distinguished Journalist in Residence and Joseph Goldstein Lecturer in Law at Yale Law School in New Haven, Connecticut. From 1978 to 2008, she covered the Supreme Court for the *New York Times*.

The Supreme Court's outlook is much more than the static views of nine individuals. A justice's worldview evolves with the passage of time, exposure to world events, and with close personal and intellectual interaction with the other justices. The results can be unpredictable.

During the U.S. Senate confirmation hearing on Sonia Sotomayor's nomination to the Supreme Court, the focus was naturally enough on what kind of Supreme Court justice she would be. Her assurance that her watchword as a judge was "fidelity to the law," and that she saw a judge's job as applying the facts of the case to the relevant law, satisfied most of the senators. After confirmation by a vote of 68 to 31, Sotomayor took her seat on August 8, 2009.

Her description of the job as a kind of mechanical exercise, nevertheless, begged several interesting questions. If the craft of judging is really so simple and straightforward, how do we account for the fact that during the Supreme Court's last term,

the justices decided nearly a quarter of their cases (15 out of 63) with majorities of only 5 votes. (Thirteen of these cases were decided by votes of 5 to 4, and two others, with a justice not participating, by votes of 5 to 3.) Presumably, the justices on each side of those disputed decisions thought they were being faithful to the law. But for any of a variety of reasons, they saw the law differently.

That much is both obvious and predictable; if the justices didn't differ from one another, then the process of filling a Supreme Court vacancy would hardly be the galvanizing event in American politics that it is today.

But the mechanical description of the judicial role begged another, more elusive question about judicial behavior: how to account for the change that many, if not most, Supreme Court justices undergo during their tenure. Not uncommonly, and sometimes quite dramatically, a justice's perspective changes. A justice may still be applying the facts to the law while coming

to different conclusions about which facts really matter and which legal precedents provide the right framework for the decision. A president may believe correctly that he has found a Supreme Court nominee who shares his priorities and outlook on the law. But years later, perhaps long after that president has left office, that nominee, shielded by life tenure, may well become a very different kind of judge. Examples are legion. Here are just a few.

FROM PRESIDENTIAL AUTHORITY TO AFFIRMATIVE ACTION

When Robert H. Jackson, attorney general in the administration of President Franklin D. Roosevelt, took his seat on the Supreme Court in 1941, he was a strong advocate of presidential power. Early in his tenure, shortly after the United States entered World War II, the Court decided an important case on the dimensions of the president's wartime authority. The question in this case (*Ex parte Quirin*) was the validity of the military commission that tried and sentenced to death eight Nazi saboteurs who had been caught trying to enter the country.



Robert H. Jackson changed his views on presidential powers after 11 years on the Supreme Court. ©AP Images

The court upheld the procedure and outcome, but Jackson, in an unpublished opinion that came to light only years later, would have gone further. The saboteurs were “prisoners of the president by virtue of his status as the constitutional head of the military establishment,” he wrote, suggesting that the Court should not even have undertaken to review Roosevelt’s exercise of his authority.

Few people would have predicted that just 11 years later, Jackson would take a very different position in one of the most famous of all Supreme Court decisions on the limits of presidential authority. During the Korean War, the country’s steel mills were shut down by a strike, cutting off production of weapons and other important items. President Harry S. Truman ordered a government seizure of the steel mills. The Supreme Court declared the president’s action unconstitutional (*Youngstown Sheet & Tube Co. v. Sawyer*). Jackson agreed, in a concurring opinion that the Court has cited in recent years in decisions granting rights to the detainees in the U.S. prison at Guantanamo Bay, Cuba. A president cannot

rely on the unilateral exercise of executive power, Jackson said; the Court would not rubber-stamp presidential actions taken in the absence of authorization by Congress but would evaluate them in context to see whether the president’s claim of power was legitimate.

Barely a decade on the Court had transformed Robert Jackson from one of the presidency’s strongest defenders to one of the most powerful advocates of limits on presidential authority.

President Dwight D. Eisenhower named a political rival, Governor Earl Warren of California, as chief justice. Warren had spent 23 years as a local prosecutor and state attorney general, and during his first term on the Court, 1953–1954, he voted most of the time against criminal defendants and against people who claimed that their civil rights were being violated. But over the next 15 years, he became a champion of criminal defendants and civil rights plaintiffs, and the Warren Court is known for its expansive interpretation of the rights of both.

The career of Justice Byron R. White, named to the Court by President John F. Kennedy in 1962, illustrates a modern example of a justice who became more conservative over time. He grew disenchanted with the pro-defendant rulings of the Warren Court and did what he could to limit the scope of the famous *Miranda* ruling, which invalidated the convictions of defendants who had not been read a list of their rights in advance of being questioned by the police. A majority opinion he wrote in 1984 (*United States v. Leon*) placed the first important limitation on the “exclusionary rule” that had long required courts to exclude incriminating evidence that the police had obtained improperly.

Justice Harry A. Blackmun was named to the Court in 1970 by President Richard M. Nixon, who had vowed during his 1968 campaign for the White House to find “law and order” justices who would reverse the rulings of the Warren Court. Early in his tenure, Harry Blackmun seemed to fill the role perfectly. He dissented in 1972 from the Supreme Court decision that invalidated all death penalty laws in the country, and he joined the majority four years later when the Court upheld new laws and permitted executions to resume. In 1973 he wrote in a majority opinion that requiring payment of a \$50 fee to file for bankruptcy did not violate the rights of poor people. This decision (*United States v. Kras*) outraged one of the most liberal justices, William O. Douglas, who complained, “Never did I dream that I would live to see the day when a court held that a person could be too poor to get the benefits of bankruptcy.”

Yet only four years later, Blackmun was arguing strenuously in dissent that the government should pay for abortions for women who were too poor to afford them. By the end of his Supreme Court career, in 1994, he was an avowed opponent of capital punishment and was widely considered to be the most liberal member of the Supreme Court.

Justice Sandra Day O'Connor, the first woman on the Supreme Court, named by President Ronald Reagan in 1981, was also reliably conservative in her early years. She was highly critical of *Roe v. Wade*, the 1973 Supreme Court decision that established a constitutional right to abortion. She also was skeptical of government programs that gave preferences in hiring or in public works contracts to members of disadvantaged minority groups. Yet in 1992 O'Connor provided the crucial fifth vote that kept *Roe v. Wade* from being overturned (*Planned Parenthood of Southeastern Pennsylvania v. Casey*). And in 2003 she wrote the Court's majority opinion that upheld an affirmative action program that gave an advantage to black applicants for admission to a leading public law school at the University of Michigan (*Grutter v. Bollinger*).

A TRANSFORMATIVE EXPERIENCE

How common are such profound shifts? More common than most Americans realize. Professor Lee Epstein of Northwestern University Law School in Chicago has studied the history of what she calls "ideological drift" among Supreme Court justices. In a 2007 article on her findings, she observed, "Contrary to received wisdom, virtually every justice serving since the 1930s has moved to the left or right or, in some cases, has switched directions several times" [<http://www.law.northwestern.edu/journals/lawreview/colloquy/2007/8>].

The intriguing question is why this happens. Supreme Court justices, after all, arrive at the Court as mature adults, often quite prominent in public life — not the sort of people, in other words, who are still finding their way.

Robert Jackson posed the same question in a book he published shortly before his own appointment to the Court. Writing as a close student of the Court, he asked in *The Struggle for Judicial Supremacy*, "Why is it that the Court influences appointees more consistently than appointees influence the Court?" In other words, his own observation told him that the bare fact of serving on the Court was a transformative experience. His own experience would prove unique: He took a year off from his Supreme Court duties to serve as the chief prosecutor at the Nuremberg war crimes trials. Is it fanciful to suppose that his close examination of the effects of unbridled executive power in Nazi Germany influenced his thinking about the need for limits on presidential authority?

Harry Blackmun underwent a different kind of transforming experience. He wrote the opinion in *Roe v. Wade*, an opinion that spoke for a 7-to-2 majority and that came to him not by his choice but by assignment from Chief Justice Warren E. Burger. Nevertheless, the public quickly attached the abortion decision to Blackmun personally. He received hate-filled letters by the tens of thousands from those who opposed the decision and was greeted as a hero by those who supported it. As a result, his own self-image became inextricably connected to *Roe v. Wade* and to its fate in an increasingly hostile atmosphere, and it is possible

to trace his liberal evolution to his self-assigned role as the chief defender of the right to abortion.

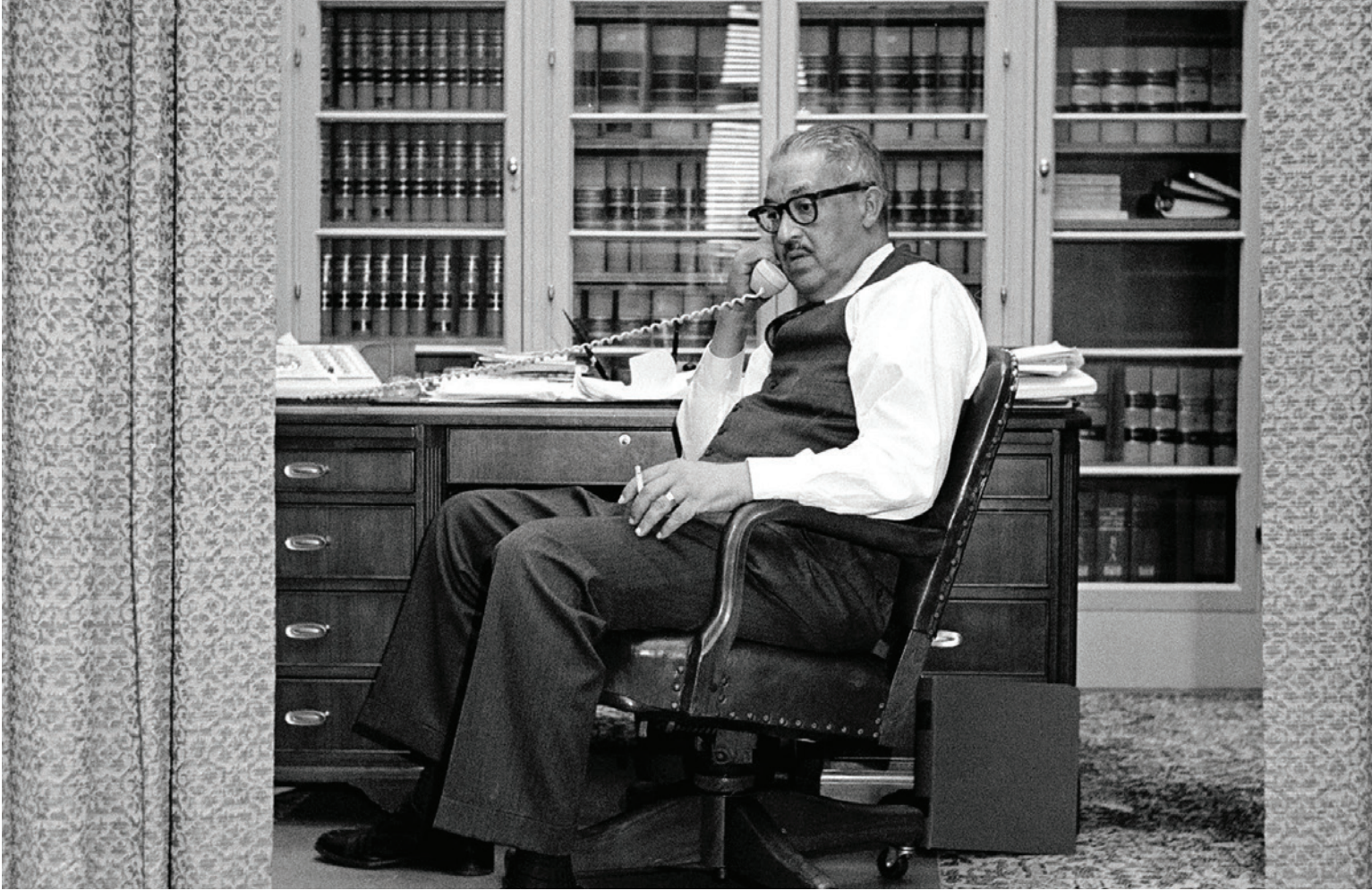
Several recent studies have found that those justices most likely to migrate from their initial ideological outlooks are those who are newcomers to Washington rather than "insiders" familiar with the ways of the capital. This observation has common-sense appeal: A mid-life move to Washington, under a national spotlight, has to be an awesome experience that may well inspire new ways of looking at the world. Professor Michael Dorf of Columbia Law School has found in studying the last dozen Republican nominees to the Court that those who lack prior experience in the executive branch of the federal government are most likely to drift to the left, while those who have such experience are not likely to change their ideological outlook.

That also makes sense: Those with executive branch experience, typically a prominent legal position in the White House or Justice Department, have paid their dues and are known quantities. Warren Burger and William H. Rehnquist, the last two chief justices, fit that model; both had served as assistant attorneys general. Chief Justice John G. Roberts Jr., who served as a young lawyer in the White House and as a senior lawyer in the Solicitor General's Office in the Justice Department, appears highly likely to fit it as well. Approaching a decade as Chief Justice, he remains staunchly conservative, with little sign of "drift."

But with the average tenure of a Supreme Court justice now at 18 years, the timeline is a generous one. Epstein's analysis of Sandra Day O'Connor's voting patterns over her 24-year career shows that as late as 2002, O'Connor would predictably have voted to strike down the same University of Michigan affirmative action program that she in fact voted to uphold the next year. O'Connor herself has spoken warmly of the influence she felt from Justice Thurgood Marshall, with whom she shared her first decade on the bench. A great civil rights crusader and the country's first black Supreme Court justice, Marshall would often illustrate legal points with stories from his own



Justice Sandra Day O'Connor was a Supreme Court selection of President Ronald Reagan. ©AP Images



President Lyndon Johnson nominated the first African American to serve on the Court, Thurgood Marshall. ©AP Images

life — stories that “would, by and by, perhaps change the way I see the world,” as O’Connor wrote in a tribute after Marshall’s retirement in 1991.

Although Sonia Sotomayor was a federal judge in New York for 17 years, she came to Washington as a stranger. Elena Kagan, the dean of Harvard Law School when nominated and confirmed to the court in 2010, was no stranger to Washington, having worked in the Clinton White House. But unlike all the other justices, she had never sat as a judge on any court. Will either of the two newest justices drift as so many others have from their initial premises? It is, of course, too soon to tell — but O’Connor’s comment about Marshall’s influence suggests another possibility, at least with respect to Justice Sotomayor. The Court’s first Latina justice, raised by a single mother in a public housing project, she has her own stories to tell her colleagues. She recently published a memoir in both English and Spanish (*My Beloved World, Mi Mundo Adorado*). Perhaps, rather than the other way around, she will be the one to change the way the other justices see the world. ✎

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The Role of a Supreme Court Law Clerk



Philippa Scarlett, former U.S. Supreme Court Clerk Courtesy of Kirkland & Ellis, LLP

Philippa Scarlett has served as law clerk to U.S. Supreme Court Associate Justice Stephen G. Breyer and to Judge Ann C. Williams of the U.S. Court of Appeals for the Seventh Circuit. Now a partner with Kirkland & Ellis in Washington, she has also worked in the Office of Overseas Prosecutorial Development at the U.S. Department of Justice. Scarlett has lived in Africa, Asia, Europe and South America, and her pro bono work has included winning asylum in the United States for survivors of torture. In this interview, Scarlett describes the responsibilities of a Supreme Court law clerk.

Question: What tasks do Supreme Court clerks perform?

Philippa Scarlett: While the precise assignments of each law clerk vary somewhat from justice to justice, there are generally speaking four categories of tasks for which U.S. Supreme Court law clerks are responsible.

REVIEW THE CASES

The first is to help review the more than 7,000 petitions for Supreme Court review, officially called petitions for a “writ of certiorari,” that the Court receives each year. The Supreme Court’s review of a case is discretionary, with a few exceptions; in other words, for the vast majority of petitions, the Court decides whether or not to grant the petition review for a decision on the merits. The majority of the justices participate in what is called the “cert pool,” where cert is short for “writ of certiorari.” The cert pool is comprised of the law clerks of each participating justice. Every week, a set of the incoming petitions is divided and assigned to each law clerk of the justices participating in the cert pool. Each law clerk is then required to review closely and analyze each of his or her assigned petitions and prepare a memo to all the justices participating in the cert pool. The pool memo, as it is called, summarizes the petition, analyzes the legal claims it makes, assesses whether the Court has jurisdiction to actually decide the case, and then makes a

recommendation to the Court on whether or not to grant the petition. The justices read each pool memo and make their own assessment of whether or not to grant each petition under consideration at the justices’ private conference, which is held about every two weeks when the Court is in session. Often, a justice will ask his or her law clerk to do follow-up research about a petition, in which case that law clerk will prepare a follow-up memorandum for his or her individual justice. At the justices’ private conference — only the justices are present for these meetings, no other Court personnel — the justices discuss the petitions and cast their votes to grant or deny each petition. A petition must receive the affirmative vote of at least four of the nine justices in order for the Court to grant it.

HELP PREPARE THE JUSTICES FOR ORAL ARGUMENT

Once a petition is granted, the Court sets a schedule by which the parties to the case, as well as other entities with a special interest in the case — called *amici curiae* or friends of the Court — are to submit their written arguments on the merits of the granted case. The Court also sets a date for the parties to come to Court and formally present their arguments orally before all justices of the Court. Here is where the second major task for Supreme Court law clerks comes in. Before a case is argued, the law clerks write a memorandum, called a bench memorandum, to their individual

justices, which seeks to help their justices prepare for oral argument and the ultimate disposition of the case. Generally speaking, a bench memo analyzes the written briefs and the relevant law at issue in each case that the Court has granted review. Often a justice will ask his or her law clerk to research a particular legal issue that the parties did not cover in their briefs but may be important to how the Court resolves the case. The law clerk incorporates that research and analysis into the bench memo. Again, each justice runs his or her chambers a little differently, so, for example, not all justices require their clerks to prepare bench memoranda.

After oral argument, the justices meet privately to discuss the case and cast their votes on the outcome of the case. The case is decided according to the votes of five or more justices. If the chief justice is part of the majority, he will assign the drafting of the legal opinion to himself or to one of the other justices who comprise the majority in a given case. That legal opinion is the document that decides the case and explains the Court's reasoning for reaching its conclusion. In the U.S. legal system, judicial opinions become part of the law as binding precedent to which judges must defer in the next case that presents the same or a substantially similar legal issue. If the Court's opinion is not unanimous — in other words, if there are justices who dissent from the position or outcome or reasoning of the decision that received the majority of the justices' votes — then the most senior justice in the minority will assign the drafting of the dissenting opinion, again either to himself or herself or to another dissenting justice, if there are more than one. Thus, for example, if the chief justice is in the minority view, then the next most senior justice, determined by the number of years that person has served as a justice on the Supreme Court, who is in the majority will assign the writing of the Court's opinion and the chief justice will assign the drafting of the dissenting opinion or opinions.

HELP RESEARCH FOR AND ASSIST IN THE DRAFTING OF JUDICIAL OPINIONS

Once a justice is assigned the drafting of the Court's majority opinion or decides that he or she will file a dissenting opinion, the justice will often ask the law clerk who drafted the bench memorandum of the particular case to do extensive research, in collaboration with the Court's library and sometimes other libraries such as the Library of Congress. Researching for and assisting the justices in drafting judicial opinions is the third major task of a Supreme Court law clerk. Once the justice feels that the draft opinion is complete, he or she will ask his or her law clerk to finalize the draft for circulation to the Court. The clerk then circulates the draft opinion to the other justices of the Court. If the judicial opinion is that of the majority of the Court, each justice who is in the majority reviews the circulated draft and decides whether or not to formally join the opinion. Sometimes, a justice who agrees with the conclusion of the draft opinion might ask the authoring justice to incorporate another point or otherwise edit the draft. The law clerk

who assisted the justice who authored the majority opinion will implement whatever changes the authoring justice agrees to and then circulates to the Court the revised draft opinion. This back-and-forth continues until all justices in the majority formally join the opinion. If there are dissenting opinions — there can be more than one — each justice will then circulate his or her dissenting opinion. Often, the justice who authored the majority opinion will incorporate into the majority opinion a response to the dissenting opinion's arguments. Once the content of the majority and dissenting opinions is decided, the law clerks of the justices who authored the majority and the dissenting opinions will work with the court's reporter of decisions to finalize the opinions for publication. This process involves checking all the citations in the judicial opinion for complete accuracy and conforming the opinion to the official style of the Court.



Supreme Court Justice Sandra Day O'Connor (left) and her former clerk, Arizona Supreme Court Chief Justice Ruth V. McGregor. ©AP Images/Matt York

Once the opinion is ready for publication, the authoring justice will orally announce the decision to the public in a formal hearing and summarize the reasoning of the opinion. Sometimes, the justice will ask his or her law clerk to write the initial draft of this oral statement.

HELPING WITH EMERGENCIES

The fourth major task of Supreme Court clerks is to assist the justices in deciding emergency applications to the Court, the majority of which are applications by prisoners to halt their scheduled executions. Such applications come to the Court about once or twice a week and sometimes are submitted to the Court within a few hours of the scheduled execution. Each justice and one of his or her law clerks, who is randomly assigned to that particular emergency motion, researches and analyzes its legal claims. The law clerk then circulates to the Court his or her justice's vote on whether to grant or deny the emergency application to halt the execution. A stay requires the affirmative vote of five justices of the Court.

Many of the Supreme Court’s resources, including law clerk time, are devoted to assessing the 7,000-plus petitions filed each year and deciding whether or not to grant a case review.

So those are the four main tasks of a Supreme Court law clerk: drafting pool memoranda, drafting bench memoranda, assisting with the drafting of judicial opinions, and assisting the justices in their review of emergency stay applications. In addition, some justices ask their law clerks to assist them in preparing speeches or other presentations for public audiences.

Q: Compared to your previous clerkship, how was working at the Supreme Court different? Were there similarities with your other clerkship?

Scarlett: Before clerking for Justice Stephen G. Breyer on the U.S. Supreme Court, I clerked for Judge Ann C. Williams on the U.S. Court of Appeals for the Seventh Circuit in Chicago, Illinois. There are many differences between the two clerkships. Perhaps the biggest difference stems from the fact that the Supreme Court has discretion to review a case. If a party appeals its case from the federal trial court to a court of appeals, the court of appeal *must* adjudicate the case, so long as the jurisdictional requirements are satisfied.

This is not so at the Supreme Court, with a few exceptions. Therefore, many of the Supreme Court’s resources, including law clerk time, are devoted to assessing the 7,000-plus petitions filed each year and deciding whether or not to grant a case review on the merits. There is a wide range of issues the Supreme Court considers in deciding whether or not to exercise its discretion and grant a case review on the merits, but the most salient factor that often compels the Court to review a case is if the federal courts of appeal have decided the same issue of federal law in a divergent manner — that is, if there is a split of authority. The Supreme Court will often intervene in such a circumstance to decide the legal issue definitively and thereby impose uniformity in the country on that legal issue, whether it arises in the state of California or New York or Florida, for example.

Another big difference between the clerkships is dealing with the emergency stay applications in death penalty cases. At the Supreme Court, an emergency motion to stay an execution is filed about once every week or two; at the court of appeals level, the number of such motions is considerably fewer. Thus, Supreme Court clerks spend a considerable amount of time assisting the justices in assessing emergency motions, some of which can be filed late into the night.

Q: Is there anything about the judicial decision-making process that would be surprising to our readers?

Scarlett: A feature of the Supreme Court that the justices often mention publicly is its collegiality and civility. Despite

the fact that the justices decide sometimes very contentious cases on, for example, abortion, guns, or voting rights, and may disagree vehemently about the proper outcome of those cases, the justices clearly respect one another deeply and also the institution of the Court and report that they do not let their difference in views on the law detract from their working relationship.

Q: How do you feel about being a clerk for the Supreme Court?

Scarlett: I can say that clerking for Justice Breyer was one of the most enriching and fulfilling experiences of my professional life to date, and it is an experience for which I am very grateful. ✨

The opinions expressed in this interview do not necessarily reflect the views or policies of the U.S. government.

Working Behind the Scenes

The U.S. Supreme Court employs nine officers who assist the court in the performance of its functions. Here we present first-person accounts by four of the officers currently serving the court: the clerk, the marshal, the reporter of decisions and the public information officer. The officers discuss their roles in the administration of the court and their feelings about their jobs. The other court officers are the counselor to the chief justice, the librarian, the court counsel, the curator and the director of data systems.



WILLIAM K. SUTER, CLERK

William K. Suter became the 19th clerk of the U.S. Supreme Court in 1991. Previously, he was a career officer and a lawyer in the U.S. Army; he retired with the rank of major general. He is a graduate of Trinity University in San Antonio, Texas, and the Tulane University School of Law in New Orleans, Louisiana. He will retire at the end of the 2013 term.

As I was completing a career in the Army as a judge advocate and nearing the end of my term of service, I learned that the clerk's position was coming open at the U.S. Supreme Court. I applied and was offered the job two days after my interview. That was 18 years ago, and every day has been a wonderful day since I was appointed the 19th clerk of the court.

The job of a clerk essentially is to be the conduit between lawyers, litigants, the people, and the court. Every court that I know of in the world has a clerk. In Canada, she's called the registrar. In Brazil, he's called the secretary general. All over Europe and Asia, every court has a clerk.

Here at the U.S. Supreme Court, when you come to file a suit, an appeal, or a petition, you don't go to see someone wearing a robe; you see the clerk or one of his or her designees, and they handle the legal paperwork. Here at the court, there are 32 of us, including highly trained paralegals, non-paralegals, and attorneys, who do the work of gathering documents and ensuring that cases are eligible to be heard by the court and are filed in a timely manner. We prepare the documents so that the justices are able to use them to make decisions regarding the parties.

I also have other ceremonial roles in the court. For example, I attend all full argument sessions of the court; I'm seated at one end of the bench, and the marshal of the court is seated on the other end. We're there to provide any assistance the justices might need. Also, when motions are made for lawyers to be admitted to the Supreme Court — to do any business with this court, you must be a member of our bar — the chief justice entertains and grants the motion, and then I administer the oath of office to new members of the bar.

I've listened to more than 1,300 oral arguments during my time here, and even though lawyers who appear before the Supreme Court have studied and practiced their arguments for hundreds of hours, they're still very nervous because they're facing nine exceptionally bright justices who have read the briefs thoroughly and have prepared dozens of questions.

We try to assist the lawyers so that they're not any more nervous than they are naturally, arguing in front of the Supreme Court, and I've written a booklet to advise counsel on the things I recommend they do — and things I recommend they not do. In any event, the oral argument is lawyering at its best.

This court continues to be driven by two things: tradition and discipline. An example of the tradition of the court is the morning suit, comprised of tails and striped pants, that the marshal of the court and I wear whenever we're in court, and that all clerks and marshals have worn before us. In terms of discipline, there is no such thing as a big case or a small case at the Supreme Court; all cases are important, and no one gets emotionally involved in a case. You do your job.

Being a student of the law for many years, a lawyer, and an American, and always having had great respect for our legal system and for the Supreme Court, just entering this building every morning makes me feel worthwhile. I think we all share a sense of mission that we're here to do the work for the court to fulfill its constitutional mission for the people.



PAMELA TALKIN, MARSHAL

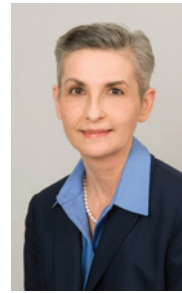
Pamela Talkin is the 10th marshal of the U.S. Supreme Court and the first woman to hold the position. She earned bachelor's and master's degrees in Spanish from the City University of New York at Brooklyn College and previously served as the deputy executive director of the U.S. Office of Compliance, a regulatory agency.

I oversee the security, operations, and maintenance of the Supreme Court building. My most visible role is to attend all sessions of the court and to fulfill the responsibility of “crying” the court when it is in session from October through June. Before court begins, I bang the gavel — I’m the only person in the courtroom with a gavel — introduce the nine justices and open the court with the official opening cry of the court, part of which is “Oyez! Oyez! Oyez!”

I am the first woman marshal and only the 10th marshal that the court has ever had. All of my predecessors have worn formal attire, and when I became marshal, there was no doubt that I would wear the same thing that all the men had always worn when attending sessions of the court: a formal morning suit with tails, pin-striped slacks, and a vest.

One of my most important jobs is ensuring the security of the court. I manage the court’s independent police force as they protect the building and provide security for the justices, other court employees, and visitors. About eight weeks after I took the job as marshal, the September 11, 2001, terrorist attacks on the United States occurred. In terms of the safety and security of the court, that event changed the way we all looked at security and access to public places.

Another one of my main functions is to “attend the court,” which means that I am responsible for escorting the justices to Congress for the State of the Union address, to presidential inaugurations and state funerals, and to other official functions, as well as for ensuring their security at those events. Further, my office coordinates most of the approximately 1,000 lectures, receptions, dinners, and other events that take place annually at the Supreme Court.



CHRISTINE LUCHOK FALLON, REPORTER OF DECISIONS

Christine Luchok Fallon became the 16th reporter of decisions at the U. S. Supreme Court in 2011. She is a graduate of West Virginia University in Morgantown, West Virginia, and the

Columbus School of Law at Catholic University of America in Washington. Previously she worked as an attorney, a legal editor, and the Supreme Court’s deputy reporter of decisions.

My primary responsibility is to see that the legal opinions handed down by the court are published in a set of law books called the *United States Reports*. These volumes are an official publication of the court.

Before the court issues any case, my staff and I carefully examine each opinion in the case for the accuracy of citations and quotations, for style, and for typographical and grammatical errors. An attorney and a paralegal in this office read every draft of every opinion in every case prior to its release. And we re-edit the opinions after they are released as we prepare them for publication in the *United States Reports*.

We also produce short analytical summaries of the opinions called syllabuses. Though the syllabus is the work of the reporter, each syllabus is reviewed and approved by the Chambers whose writings it reflects.

I am the court’s 16th reporter of decisions, and the first woman to hold the position. The court has had reporters since it first conducted business in 1790. However, the early reporters had one thing in common: They were not court employees but entrepreneurs who took careful notes of what happened at the court and then sold those notes to the public. Today, my position is one of five positions at the court that has been created by law. Although each of my fellow officers is responsible for managing a different function at the court, we all work closely together in a truly collaborative fashion.

An attorney who argues a case before the court may study the reports to see what the court has decided in similar cases. At oral argument, they may be asked to distinguish their argument from other cases that the court has heard, so it is important that the reports accurately reflect what the court has said.

In the 25 years that I have been at the court, first as the deputy reporter and now as the reporter, I have been privileged to work on many important and interesting cases, including the well-known *Bush v. Gore* case, cases involving federal campaign finance law, and the Patient Protection and Affordable Care Act case. Newsworthy or not, each case that the court releases should be as error-free as possible from a technical standpoint.

I believe that my role in ensuring such accuracy at the time of release has become more important in recent years, as the public has come to expect instantaneous access to the court's opinions. When I first came to the court, opinions were handed down in paper form. Someone who wanted to read an opinion might have to wait three or four days to receive a paper copy. Today, copies of the court's opinions are put up on the court's website within minutes of their release and are immediately available to anyone in the world who is interested in reading what the court has to say. Within a few hours, I may receive inquiries from readers about errors or perceived errors. Thus, now more than ever, it is important for the reporter to try to ensure that every "i" is dotted and "t" is crossed before a case is released.



**KATHLEEN LANDIN ARBERG,
PUBLIC INFORMATION OFFICER**

Kathleen Landin Arberg became the fifth public information officer of the U.S. Supreme Court in 1999. She is a graduate of the University of Virginia and previously worked as a motions clerk at the U.S. Court of Appeals for the Fourth Circuit, a paralegal in the U.S. Tax Court, and a case manager at the U.S. Bankruptcy Court.

I am the public information officer at the U.S. Supreme Court and the fifth person to hold the position, which was created in 1935. The chief justice at the time realized that the court opinions were being reported inaccurately by the media, or not reported at all. To correct the problem, the Public Information Office was established to be the source for information about the court and a point of contact for reporters and the public. I serve as the court's spokeswoman. My primary responsibilities are to educate the public about the history and function of the court, to release the court's orders and opinions from my office at the same time that they are announced by the justices in the courtroom, and to facilitate accurate and informed media coverage.

The Supreme Court press corps is comprised of approximately 35 people from 18 news organizations who are assigned to cover the court on a full-time basis. But for high-profile cases, more than 100 reporters might come to the court. The court provides a pressroom for reporters to use. Journalists who cover the court on a regular basis are given assigned spaces to work.

Portraits: Collection of the Supreme Court of the United States

The court provides broadcast booths suitable for television and radio reporters to use.

Because there are no cameras allowed in the courtroom, artists' sketches are used to illustrate oral arguments. But, after oral arguments, reporters and camera crews gather on the marble plaza in front of the court building to interview the attorneys associated with the case.

Until the opinions are announced by the justices at 10 a.m., no one knows in advance what they will be, so there's an element of suspense. This is especially true near the end of the term when it is typical for the more highly anticipated cases of the term to be decided.

My office organizes the opinions in the order that they will be announced in the courtroom. They are announced in order of the seniority of the justice who wrote the opinion.

We listen to the announcements of the court on speakers in my office and hand out the opinions one at a time as they are announced in the courtroom. The justice who wrote the opinion briefly summarizes the facts of the case and the court's decision. Some reporters listen in my office so they can obtain copies of the opinions immediately and start writing stories. Other reporters choose to hear the announcements in the courtroom, where they sit in a section of seats reserved for members of the press.

The Public Information Office never comments on an opinion or attempts to explain an opinion, because the opinions of the court speak for themselves. We will, however, provide guidance to journalists by pointing them in the direction of resources or people outside the court who might be helpful, such as the attorneys who argued the case or constitutional law experts. ❧

The opinions expressed are those of the authors.

Judges Coming Together: International Exchanges and the U.S. Judiciary

By Mira Gur-Arie

Mira Gur-Arie is director of the International Judicial Relations Office of the Federal Judicial Center, the education and research agency for the U.S. federal courts. She outlines programs available for judges from around the world to exchange information and support in their shared mission to uphold the rule of law.

The United States courts have experienced the impact of globalization in many ways. With increasing frequency, litigation involves evidence located abroad, foreign law, and international treaties, putting judges in contact with legal issues from around the world. This has, in turn, inspired in U.S. judges a growing interest in the legal world outside their jurisdiction, with many American judges hosting visits from foreign jurists and participating in conferences and technical assistance projects abroad. These international exchanges are much valued and mutually rewarding, enabling judges to exchange insights about the challenges and rewards of a judge's role in preserving the rule of law.

The U.S. judiciary has much to share, with its long history of independence, its developed jurisprudence, and its rich experience with administering a large and diverse court system. Each year the United States hosts

well over 2,000 judges and lawyers from abroad. In 2012, the Supreme Court of the United States received more than 800 visitors representing over 95 countries. Among these were justices from the supreme courts of Morocco, Kosovo, and the Philippines.

Judicial delegations from other countries do not visit only Washington. Federal courts all over the United States host visiting judges, providing an opportunity to observe trials, learn about courtroom technology and speak with their U.S. counterparts about the role of a judge in the United States. More than 150 judges and court officials visited the Massachusetts District Court in 2012, including judges from Romania, Brazil, and China; California's Northern District Court in San Francisco also hosts judges and court officials from other countries, with more than 15 delegations visiting the court each year; six judges from Jordan were

Chief Justice John Roberts talks with members of the Supreme Court of Albania delegation.
Collection of the Supreme Court of the United States



among the visitors to Utah’s District Court in 2012. In some cases judges from other countries participate in extended professional exchanges as interns or “guest research judges.” The Massachusetts court has hosted judges from South Korea, China, and Turkey for such longer visits; these programs enable the visiting judges to acquire a more in-depth understanding of U.S. judicial practice, observe different phases of court proceedings, and learn about the legal research and judgment drafting process.

Despite the diversity of the countries represented, the questions that emerge during these exchanges resonate with a single theme: How can judges and judicial systems work more effectively? Visiting judges want to know about judicial administration, strategies U.S. judges have employed to manage their caseloads efficiently, developing training for judges and court personnel, and the U.S. experience with implementing and enforcing a judicial code of conduct.

During visits, foreign judges observe a broad range of proceedings: case conferences, criminal case arraignments and bail hearings, trials, oral arguments, and bankruptcy proceedings. Perhaps most importantly, visiting judges have the opportunity to speak one-on-one with U.S. judges. This judge-to-judge sharing of experience provides visitor and host alike useful insights about judging.

COMMON BONDS

Certainly, both visitor and host are impressed with their shared sense of role and mission, despite differences in their countries’ legal traditions, mechanisms of adjudication, and resources. Throughout the world, it is the judge’s responsibility to maintain the dignity of court proceedings and ensure that the rights of litigants are respected. Judges often discover that the great burden of this responsibility, and the often solitary avocation of judging, is a cross-cultural phenomenon — a realization that enables an ease of communication with their colleagues from other countries.

This openness enables these conversations to lead to candid exchanges about the benefits and disadvantages of different judicial systems. Judges visiting the United States are keen to learn about the many unique features of the U.S. courts. Judges from countries without jury systems have the opportunity to observe jury selection and the trial process; they immediately note the difference between reality and Hollywood’s depictions, and they often admire the relationship of mutual respect that develops between the jurors and the judge. Similarly, U.S. judges, deeply acculturated to the common law tradition, are often surprised to learn about the duties and powers of an investigative judge in civil law countries. They are also intrigued with the very different orientation of court proceedings that rely more on paper submissions by attorneys than the taking of oral testimony in court. Such conversation and debate among jurists may best be initiated by a discussion of vocabulary,

Visitors to the U.S. courts often comment on the deep-rooted tradition of judicial independence in the United States and the many practical and physical advantages this confers on a judge’s work.

as many of the terms of art that define legal systems (trial, appeal, plea bargain) may have different meanings.

Visitors to the U.S. courts often comment on the deep-rooted tradition of judicial independence in the United States and the many practical and physical advantages this confers on a judge’s work. One significant advantage enjoyed by federal judges in the United States is their life tenure — a tenure protected from political caprice and unrest. The U.S. courts are also well resourced, with a number of new courthouses, extensive automation, and administrative agencies and staff that greatly facilitate a judge’s work.

Some visiting judges spend time with representatives of the institutions that support the work of the U.S. judiciary. The Judicial Conference of the United States is the policymaking body for the federal courts. Its Committee on International Judicial Relations coordinates many of the judiciary’s exchanges with other countries, identifying judges with particular areas of expertise to participate in judicial development projects and facilitating visits by foreign delegations to U.S. courts across the country. These efforts are supported by staff from the Administrative Office of the U.S. Courts, the agency responsible for the judiciary’s administrative, legal and management affairs. Each year the Administrative Office hosts foreign judges and court administrators in its Washington offices to discuss topics ranging from court automation and the budget process to media relations and court security.

The Federal Judicial Center is the research and education agency for the U.S. federal courts. The Center’s implementing legislation was amended in 1991 to include a mandate to “provide information to help improve the administration of justice in foreign countries and to acquire information about the judicial systems of other nations that will improve the administration of justice in the courts of the United States.”

This statutory directive underscores the recognition that the U.S. judiciary’s engagement with its foreign counterparts is a two-way street, offering an opportunity not only to share lessons learned in the United States but also to develop an understanding of how other nations structure their court systems. The center’s Visiting Foreign Judicial Fellows program provides an opportunity for foreign judges to pursue more focused research projects and spend time visiting courts and

meeting with U.S. judges. Recent fellows have included an attorney from a Bulgarian nongovernmental organization working on judicial reform initiatives; a judge from Jordan who worked on a paper about judicial independence; and a research judge from the Constitutional Court of Korea who studied the case selection and conference methods of the U.S. Supreme Court.

PROFESSIONAL EXCHANGES

A number of organizations and institutions in the United States facilitate transnational judicial exchanges. The Open World Program, funded by the U.S. Congress, was created with the broad mission of furthering “cooperation between the United States and the countries of Eurasia and the Baltic States” by facilitating professional exchanges focusing on democratic and accountable government. Since its inception in 1999, Open World’s rule of law program has brought to the United States more than 12,000 judges and court professionals from Russia, Ukraine, Lithuania, and Uzbekistan for week-long visits to U.S. courts across the country.

Perhaps most active in supporting the U.S. judiciary’s work with other nations is the U.S. State Department. Judges from the United States travel to countries including Peru, Austria, Cambodia, Burkina Faso and Tunisia. The U.S. Department of Justice also works closely with U.S. judges as part of its international technical assistance efforts, sending U.S. judges to Georgia, Nepal, and the United Arab Emirates, among other countries, and bringing delegations from abroad to the United States.

Similarly, the U.S. Agency for International Development integrates judicial development projects and exchanges as part of its Democracy and Governance projects. The reach and breadth of these efforts illustrate not only the deep commitment of the United States to facilitating international judicial exchanges, but the strong interest of judges in working with their colleagues around the world.



The U.S. State Department and the U.S. Agency for International Development (USAID) have judicial exchange programs. In Colombia USAID installed virtual courtrooms which allow justice to reach remote areas of the country. ©USAID

Although offering a more formal setting, international conferences provide a valuable venue for judges from the United States to learn from and share with their foreign colleagues. These conferences are sponsored by international and nongovernmental organizations as well as private institutions and universities.

The International Association of Judges is an association of national judicial organizations from countries throughout the world. Its annual meetings focus on the status of the judiciary, law and procedure, and other issues of interest to judges.

The International Organization for Judicial Training (IOJT) was established in 2002 in order to promote the rule of law by supporting the work of judicial education institutions around the world. IOJT convenes biannual conferences that provide a forum for judges and judicial educators to discuss modern teaching methods, distance education technologies and strategies for improving the capacity of their judicial training institutes. The Brandeis Institute for International Judges also serves a more discrete aspect of international judicial cooperation, providing a forum for judges serving on international courts and tribunals to share experiences and discuss best practices.

These judicial exchanges are valued for many reasons. Global interdependence can be felt in virtually every facet of modern life, and the work of the judiciary is no exception. This phenomenon is evidenced by the growing numbers of cross-border disputes, as well as by greatly increased access to information, images, and legal decisions from judiciaries around the world.

The opportunity to meet with and learn from judges who have experienced different educational systems, appointment processes, and practical challenges is invaluable. Judges are given the opportunity to see the mechanics of justice through fresh eyes and revisit their own professional procedures and practices with a new perspective. Differences in language and tradition are no bar to appreciating each other’s common sense of purpose — the commitment to justice and upholding the public’s trust. ❁

The opinions expressed in this article do not necessarily reflect the views or policies of the U.S. government.



THE JUDGES

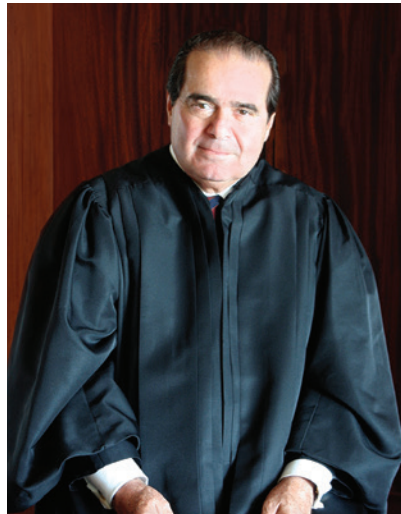
The Justices of the U.S. Supreme Court



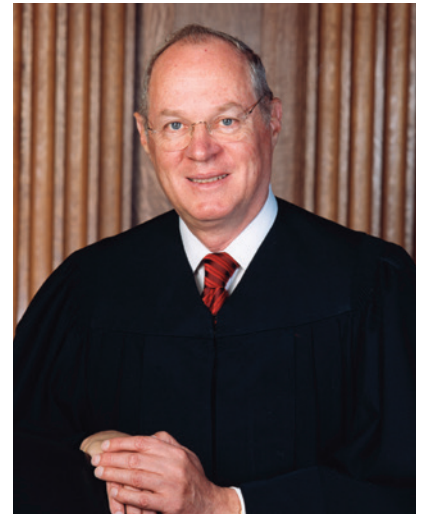
The official portrait of the nine U.S. Supreme Court Justices. Seated, from left: Associate Justices Clarence Thomas, Antonin Scalia, Chief Justice John G. Roberts Jr., Associate Justices Anthony Kennedy, Ruth Bader Ginsberg. Standing from left: Associate Justices Sonia Sotomayor, Stephen G. Breyer, Samuel A. Alito Jr. and Elena Kagan. *Collection of the Supreme Court of the United States*



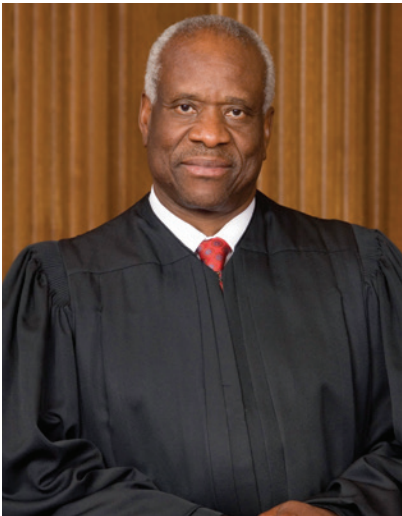
John G. Roberts Jr., chief justice of the United States, was born in Buffalo, New York, January 27, 1955. He married Jane Marie Sullivan in 1996, and they have two children, Josephine and John. He received a bachelor's degree from Harvard College in 1976 and a law degree from Harvard Law School in 1979. He served as a law clerk for Judge Henry J. Friendly of the U.S. Court of Appeals for the Second Circuit from 1979 to 1980 and as a law clerk for then-Associate Justice William H. Rehnquist of the Supreme Court of the United States during the 1980 term. He was special assistant to the attorney general, U.S. Department of Justice, 1981 to 1982; associate counsel to President Ronald Reagan, White House Counsel's Office, 1982 to 1986; and principal deputy solicitor general, U.S. Department of Justice, 1989 to 1993. From 1986 to 1989 and 1993 to 2003, he practiced law in Washington. He was appointed to the U.S. Court of Appeals for the District of Columbia Circuit in 2003. President George W. Bush nominated him as chief justice of the United States, and he took his seat on September 29, 2005.



Antonin Scalia, associate justice, was born in Trenton, New Jersey, March 11, 1936. He married Maureen McCarthy and has nine children: Ann Forrest, Eugene, John Francis, Catherine Elisabeth, Mary Clare, Paul David, Matthew, Christopher James, and Margaret Jane. He received a bachelor's degree from Georgetown University and the University of Fribourg, Switzerland, and a law degree from Harvard Law School, and was a Sheldon Fellow of Harvard University from 1960 to 1961. He was in private practice in Cleveland, Ohio, from 1961 to 1967, a professor of law at the University of Virginia from 1967 to 1971, a professor of law at the University of Chicago from 1977 to 1982 and a visiting professor of law at Georgetown University and Stanford University. He was chairman of the American Bar Association's Section of Administrative Law 1981 to 1982 and its Conference of Section Chairmen 1982 to 1983. He served the federal government as General Counsel of the Office of Telecommunications Policy from 1971 to 1972, chairman of the Administrative Conference of the United States from 1972 to 1974, and assistant attorney general for the Office of Legal Counsel from 1974 to 1977. He was appointed judge of the U.S. Court of Appeals for the District of Columbia Circuit in 1982. President Ronald Reagan nominated him as an associate justice of the Supreme Court, and he took his seat September 26, 1986.



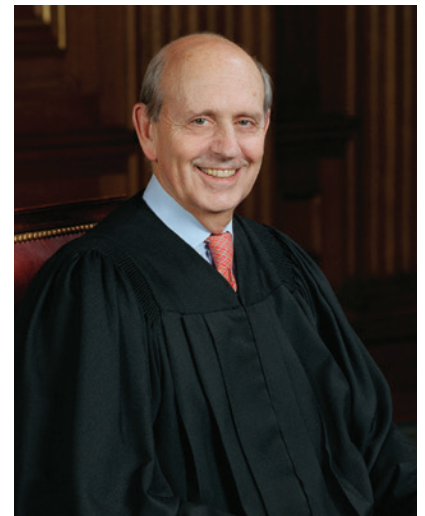
Anthony M. Kennedy, associate justice, was born in Sacramento, California, July 23, 1936. He married Mary Davis and has three children. He received a bachelor's degree from Stanford University and the London School of Economics, and his law degree from Harvard Law School. He was in private practice in San Francisco, California, from 1961 to 1963 as well as in Sacramento, California, from 1963 to 1975. From 1965 to 1988, he was a professor of constitutional law at the McGeorge School of Law, University of the Pacific. He has served in numerous positions during his career, including a member of the California Army National Guard in 1961, the board of the Federal Judicial Center from 1987 to 1988, and two committees of the Judicial Conference of the United States: the Advisory Panel on Financial Disclosure Reports and Judicial Activities, subsequently renamed the Advisory Committee on Codes of Conduct, from 1979 to 1987, and the Committee on Pacific Territories from 1979 to 1990, which he chaired from 1982 to 1990. He was appointed to the U.S. Court of Appeals for the Ninth Circuit in 1975. President Ronald Reagan nominated him as an associate justice of the Supreme Court, and he took his seat February 18, 1988.



Clarence Thomas, associate justice, was born in the Pin Point community of Georgia near Savannah June 23, 1948. He married Virginia Lamp in 1987 and has one child, Jamal Adeen, by a previous marriage. He attended Conception Seminary and received a bachelor's degree, cum laude, from Holy Cross College and a law degree from Yale Law School in 1974. He was admitted to law practice in Missouri in 1974, and served as an assistant attorney general of Missouri from 1974 to 1977, an attorney with the Monsanto Company from 1977 to 1979, and legislative assistant to Senator John Danforth from 1979 to 1981. From 1981 to 1982, he served as assistant secretary for civil rights, U.S. Department of Education, and as chairman of the U.S. Equal Employment Opportunity Commission from 1982 to 1990. He became a judge of the U.S. Court of Appeals for the District of Columbia Circuit in 1990. President George H.W. Bush nominated him as an associate justice of the Supreme Court, and he took his seat October 23, 1991.



Ruth Bader Ginsburg, associate justice, was born in Brooklyn, New York, March 15, 1933. She married Martin D. Ginsburg in 1954, and has a daughter, Jane, and a son, James. She received a bachelor's degree from Cornell University, attended Harvard Law School, and received a law degree from Columbia Law School. She served as a law clerk to Edmund L. Palmieri, judge of the U.S. District Court for the Southern District of New York, from 1959 to 1961. From 1961 to 1963, she was a research associate and then associate director of the Columbia Law School Project on International Procedure. She was a professor of law at Rutgers University School of Law from 1963 to 1972 and Columbia Law School from 1972 to 1980, and a fellow at the Center for Advanced Study in the Behavioral Sciences in Stanford, California, from 1977 to 1978. In 1971, she was instrumental in launching the Women's Rights Project of the American Civil Liberties Union, and she served as the ACLU's general counsel from 1973 to 1980, and on the National Board of Directors from 1974 to 1980. She was appointed a judge of the U.S. Court of Appeals for the District of Columbia Circuit in 1980. President Bill Clinton nominated her as an associate justice of the Supreme Court, and she took her seat August 10, 1993.



Stephen G. Breyer, associate justice, was born in San Francisco, California, August 15, 1938. He married Joanna Hare in 1967, and has three children: Chloe, Nell and Michael. He received a bachelor's degree from Stanford University, a bachelor's degree from Magdalen College, Oxford, and a law degree from Harvard Law School. He served as a law clerk to Justice Arthur Goldberg of the Supreme Court of the United States during the 1964 term, as a special assistant to the assistant U.S. attorney general for antitrust, 1965 to 1967, as an assistant special prosecutor of the Watergate Special Prosecution Force, 1973, as special counsel of the U.S. Senate Judiciary Committee, 1974 to 1975, and as chief counsel of the committee, 1979 to 1980. He was an assistant professor, professor of law, and lecturer at Harvard Law School, 1967 to 1994, a professor at the Harvard University Kennedy School of Government, 1977 to 1980, and a visiting professor at the College of Law, Sydney, Australia, and at the University of Rome. From 1980 to 1990, he served as a judge of the U.S. Court of Appeals for the First Circuit, and as its chief judge, 1990 to 1994. He also served as a member of the Judicial Conference of the United States, 1990 to 1994, and of the U.S. Sentencing Commission, 1985 to 1989. President Bill Clinton nominated him as an associate justice of the Supreme Court, and he took his seat August 3, 1994.



Samuel Anthony Alito Jr., associate justice, was born in Trenton, New Jersey, April 1, 1950. He married Martha-Ann Bomgardner in 1985, and has two children: Philip and Laura. Educated at Princeton University and Yale Law School, he served as a law clerk for Leonard I. Garth of the U.S. Court of Appeals for the Third Circuit from 1976 to 1977. He was assistant U.S. attorney, District of New Jersey, 1977 to 1981, assistant to the solicitor general, U.S. Department of Justice, 1981 to 1985, deputy assistant attorney general, U.S. Department of Justice, 1985 to 1987, and U.S. attorney, District of New Jersey, 1987 to 1990. He was appointed to the U.S. Court of Appeals for the Third Circuit in 1990. President George W. Bush nominated him as an associate justice of the Supreme Court, and he took his seat January 31, 2006.



Sonia Sotomayor, associate justice, was born in Bronx, New York, on June 25, 1954. She earned a bachelor's degree in 1976 from Princeton University, graduating summa cum laude and receiving the university's highest academic honor. In 1979 she earned a law degree from Yale Law School where she served as an editor of the *Yale Law Journal*. She served as assistant district attorney in the New York County District Attorney's Office from 1979 to 1984. She then litigated international commercial matters in New York City at Pavia & Harcourt, where she served as an associate and then partner from 1984 to 1992. In 1991, President George H.W. Bush nominated her to the U.S. District Court, Southern District of New York, and she served in that role from 1992 to 1998. She served as a judge on the U.S. Court of Appeals for the Second Circuit from 1998 to 2009. President Barack Obama nominated her as an associate justice of the Supreme Court, and she took her seat August 8, 2009.



Elena Kagan, associate justice, was born in New York on April 28, 1960. She received a bachelor's degree, summa cum laude, in 1981 from Princeton University. She attended Worcester College, Oxford University, as Princeton's Daniel M. Sachs Graduating Fellow, and received a master of philosophy degree in 1983. In 1986 she earned a law degree from Harvard Law School, graduating magna cum laude, where she was supervising editor of the *Harvard Law Review*. She served as a law clerk to Judge Abner Mikva of the U.S. Court of Appeals for the District of Columbia Circuit from 1986 to 1987 and served as a law clerk to Justice Thurgood Marshall of the Supreme Court during the 1987 term. After briefly practicing law at a Washington law firm, she became a law professor, first at the University of Chicago Law School and later at Harvard Law School. She also served for four years in the Clinton administration as associate counsel to the president and then as deputy assistant to the president for domestic policy. Between 2003 and 2009, she served as the dean of Harvard Law School. In 2009, President Barack Obama nominated her as the solicitor general of the United States. After serving in that role for a year, the president nominated her as an associate justice of the Supreme Court, and she took her seat on August 7, 2010.



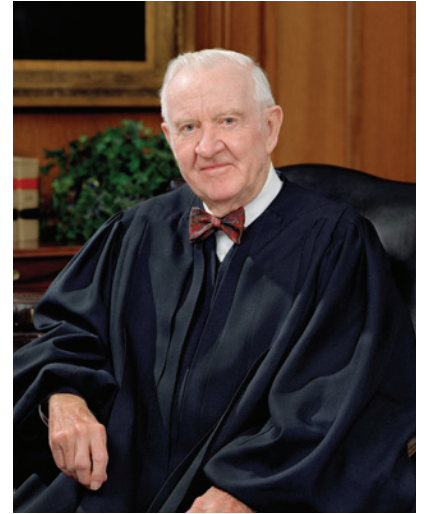
Sandra Day O'Connor (Retired),

associate justice, was born in El Paso, Texas, March 26, 1930. She married John Jay O'Connor III in 1952 and has three sons: Scott, Brian and Jay. She received a bachelor's degree and a law degree from Stanford University. She served as deputy county attorney of San Mateo County, California, from 1952 and 1953 and as a civilian attorney for Quartermaster Market Center, Frankfurt, Germany, from 1954 to 1957. From 1958 to 1960 she practiced law in Maryvale, Arizona, and served as assistant attorney general of Arizona from 1965 to 1969. She was appointed to the Arizona State Senate in 1969 and was subsequently re-elected to two two-year terms. In 1975 she was elected judge of the Maricopa County Superior Court and served until 1979, when she was appointed to the Arizona Court of Appeals. President Ronald Reagan nominated her as an associate justice of the Supreme Court, and she took her seat September 25, 1981. Justice O'Connor retired from the Supreme Court on January 31, 2006.



David H. Souter (Retired),

associate justice, was born in Melrose, Massachusetts, September 17, 1939. He graduated from Harvard College, from which he received a bachelor's degree. After two years as a Rhodes Scholar at Magdalen College, Oxford, he received a bachelor's degree in jurisprudence from Oxford University and a master's degree in 1989. After receiving a law degree from Harvard Law School, he was an associate at Orr and Reno in Concord, New Hampshire, from 1966 to 1968, when he became an assistant attorney general of New Hampshire. In 1971 he became deputy attorney general and in 1976 attorney general of New Hampshire. In 1978, he was named an associate justice of the Superior Court of New Hampshire, and was appointed to the Supreme Court of New Hampshire as an associate justice in 1983. He became a judge of the U.S. Court of Appeals for the First Circuit on May 25, 1990. President George H.W. Bush nominated him as an associate justice of the Supreme Court, and he took his seat October 9, 1990. Justice Souter retired from the Supreme Court on June 29, 2009.



John Paul Stevens (Retired),

associate justice, was born in Chicago, Illinois, April 20, 1920. He married Maryan Mulholland, and has four children: John Joseph (deceased), Kathryn, Elizabeth Jane and Susan Roberta. He received a bachelor's degree from the University of Chicago and a law degree from Northwestern University School of Law. He served in the United States Navy from 1942 to 1945, and was a law clerk to Justice Wiley Rutledge of the Supreme Court of the United States during the 1947 term. He was admitted to law practice in Illinois in 1949. He was associate counsel to the Subcommittee on the Study of Monopoly Power of the Judiciary Committee of the U.S. House of Representatives, 1951 to 1952, and a member of the Attorney General's National Committee to Study Antitrust Law, 1953 to 1955. He was second vice president of the Chicago Bar Association in 1970. From 1970 to 1975, he served as a judge of the U.S. Court of Appeals for the Seventh Circuit. President Gerald Ford nominated him as an associate justice of the Supreme Court, and he took his seat December 19, 1975. Justice Stevens retired from the Supreme Court on June 29, 2010.

ADDITIONAL RESOURCES

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WEBSITES

ABOUT THE COURT

Supreme Court of the United States
The Supreme Court's official website.
<http://www.supremecourt.us/>

The Supreme Court Historical Society
<http://www.supremecourthistory.org/>

SCOTUS Blog
The U.S. Supreme Court official blog.
<http://www.scotusblog.com/>

ASSOCIATIONS

American Association for Justice
www.justice.org

American Bar Association
www.abanet.org

American Judicature Society
www.ajs.org

American Tort Reform Association
www.atra.org

Brennan Center for Justice
www.brennancenter.org

Justice at Stake Campaign
www.justiceatstake.org

CASES

Landmark Supreme Court Cases

A joint project of Street Law and the Supreme Court Historical Society.
<http://www.landmarkcases.org/>

Oyez: U.S. Supreme Court Multimedia

A complete and authoritative source for all audio recorded in the Court since the installation of a recording system in October 1955.
<http://www.oyez.org/>

Preview of U.S. Supreme Court Cases

<http://www.abanet.org/publiced/preview/home.html>

U.S. Supreme Court Records and Briefs

Supreme Court records and briefs and other relevant materials from selected cases from the Lillian Goldman Law Library, Yale Law School.
<http://curiae.law.yale.edu>

Web Guide to U.S. Supreme Court Research

A selection of annotated links to the most reliable, substantive sites for U.S. Supreme Court research.
<http://www.llrx.com/features/supremectwebguide.htm>

THE JUDGES

Interviews of U.S. Supreme Court Justices

Law professor Bryan Garner interviewed eight of the nine justices in 2006–2007 about legal writing and advocacy.
<http://lawprose.org/interviews/supreme-court.php>

NEWS

NewsHour Supreme Court Watch

http://www.pbs.org/newshour/indepth_coverage/law/supreme_court/

Supreme Court: *New York Times* Topics

http://topics.nytimes.com/top/reference/timestopics/organizations/s/supreme_court/index.html?inline=nyt-org

NOMINATIONS

Supreme Court Nominations

Resources about the nomination process for replacement of U.S. Supreme Court justices. It includes lists of nominees confirmed and not confirmed by Congress, a bibliography on the nomination process, and material on 2009 nominee Sonia Sotomayor.
From the Law Library of Congress.
<http://www.loc.gov/law/find/court-nominations.php>

Supreme Court Nominations Research Guide

"This guide is designed to explain the nomination process and to suggest resources for further research in the nomination process" for U.S. Supreme Court justices.
From Georgetown Law Library.
http://www.ll.georgetown.edu/guides/supreme_court_nominations.cfm

United States Senate Committee on the Judiciary: The Supreme Court of the United States

The official Senate Judiciary Committee website for information on Supreme Court nominations.
<http://judiciary.senate.gov/nominations/SupremeCourt/SupremeCourt.cfm>



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