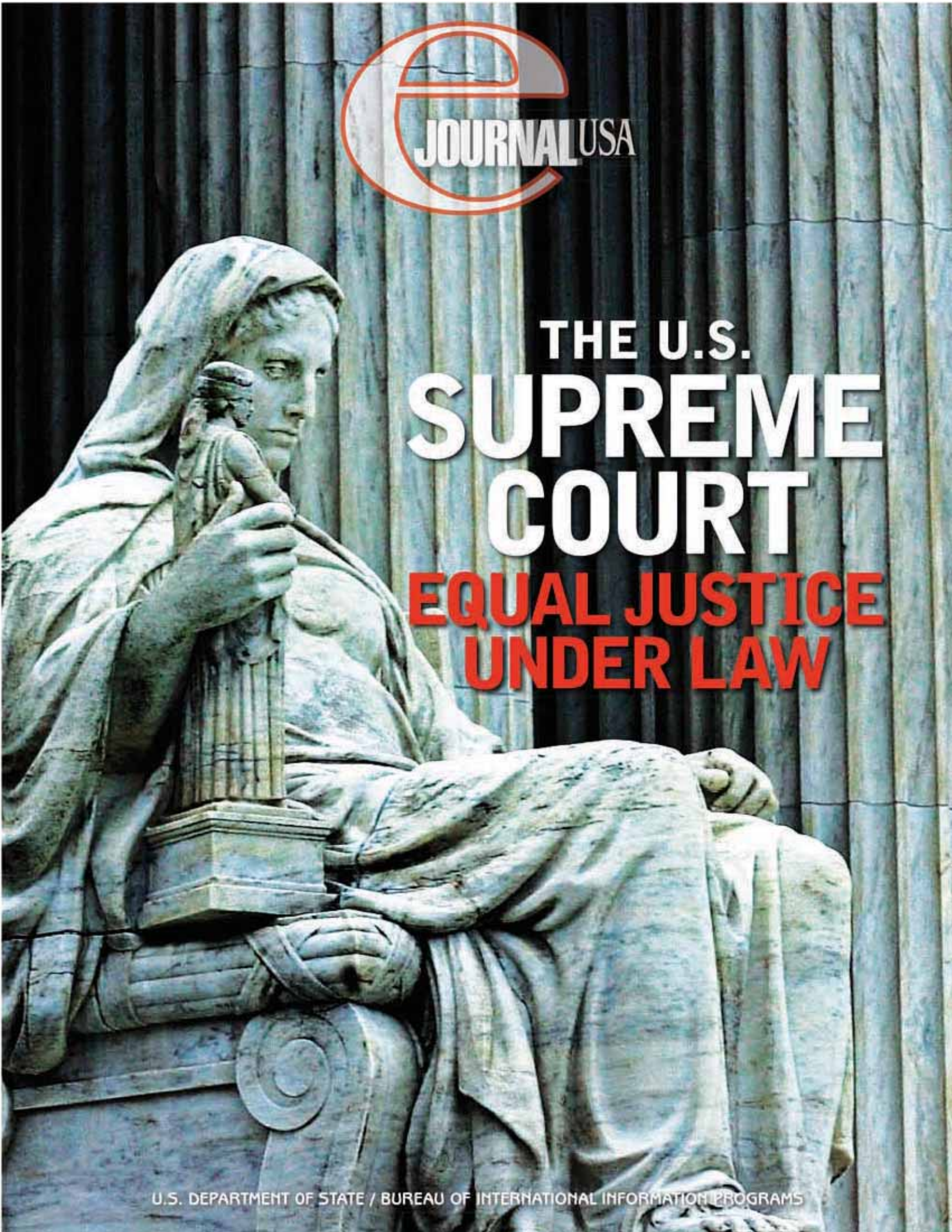

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THE U.S. SUPREME COURT

EQUAL JUSTICE UNDER LAW

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Cover: Sculptor James Earle Fraser's statue *Contemplation of Justice* on the north side of the Supreme Court building entrance.
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About This Issue

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The Supreme Court sat for a new group portrait on September 29, 2009. Seated, from left: Associate Justices Anthony M. Kennedy, John Paul Stevens, Chief Justice John G. Roberts Jr., Associate Justices Antonin Scalia, Clarence Thomas. Standing, from left: Associate Justices Samuel A. Alito Jr., Ruth Bader Ginsburg, Stephen G. Breyer, and Sonia Sotomayor.

In Washington, D.C., stands the building that best represents the rule of law in the United States. That structure is not the United States 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 High Court had met at the Capitol, a guest of the legislative branch. But in 1935 the Supreme Court at last moved to a home "designed on a scale in keeping with the importance and dignity of the Court and the Judiciary as a coequal, independent branch of the United States Government."

The Supreme Court had grown immensely in respect, legitimacy, and prestige. Few recall that the genius of its first great constitutional decision, *Marbury v. Madison* (1803), lies in Chief Justice John Marshall's ability to craft a decision that avoided ordering Secretary of State James Madison to take any particular action. Had the Court done so, Marshall understood, Madison would likely have ignored its decision. By the time the justices moved to their new home, no one ignored decisions of the Supreme Court. Not President Franklin D. Roosevelt (FDR), who fumed as the Court ruled unconstitutional key parts of his New Deal economic recovery program. In 1936, after his landslide reelection, Roosevelt proposed expanding the number of justices, affording him the opportunity to create a Court more friendly to his political objectives. Despite FDR's enormous personal popularity, the American people turned decisively against what became known as the "Court-packing scheme." The Supreme Court's role as guarantor of fair play and champion of the rule of law had become firmly enshrined in American life, and beyond the ability of even the most popular and powerful political leaders to circumscribe.

And so it remains today. This edition of *eJournal USA* focuses on how the High Court functions. Implicit in each essay is a understanding that the way in which the Supreme Court conducts its affairs adds to its legitimacy, to its prestige at home and abroad, to its stature as guarantor of the rule of law.

We present a collection of essays in this journal that explain how the Court functions. They also illustrate how it commands the respect of Americans and plays a vital role in the constitutional system. We are fortunate to feature

introductions by Chief Justice John G. Roberts Jr. and by Solicitor General Elena Kagan, as well as contributions by legal scholars and journalists.

David Savage, the *Los Angeles Times* Supreme Court reporter, discusses a wide array of cases to be argued this term and the historical precedents underlying the Court's actions. Vanderbilt University law professor Suzanna Sherry describes a number of the factors that are present in judicial decision making. Yale Law School professor and former *New York Times* reporter Linda Greenhouse asks the intriguing question, why do many Supreme Court justices migrate from their initial ideological outlooks?

The nine justices could not discharge their duties without the assistance of their law clerks and numerous Court officials. In an interview with Philippa Scarlett, a former Supreme Court law clerk and now a practicing attorney, we learn about the role of the clerk and get an insider's view of the Court. 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 Court does not operate in a vacuum. Mira Gur-Arie describes the many exchanges that occur between members of the federal judiciary and legal professionals from around the world.

We also include in this journal brief biographies of the nine sitting and two retired Supreme Court justices and conclude with a bibliography and a guide to Internet resources. We are pleased to offer this portrait of a quintessentially American institution. ■

The Editors

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INTRODUCTION

The Supreme Court of the United States

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

© AP Images/Lauren Victoria Burke

Chief Justice John G. Roberts Jr.

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. ■

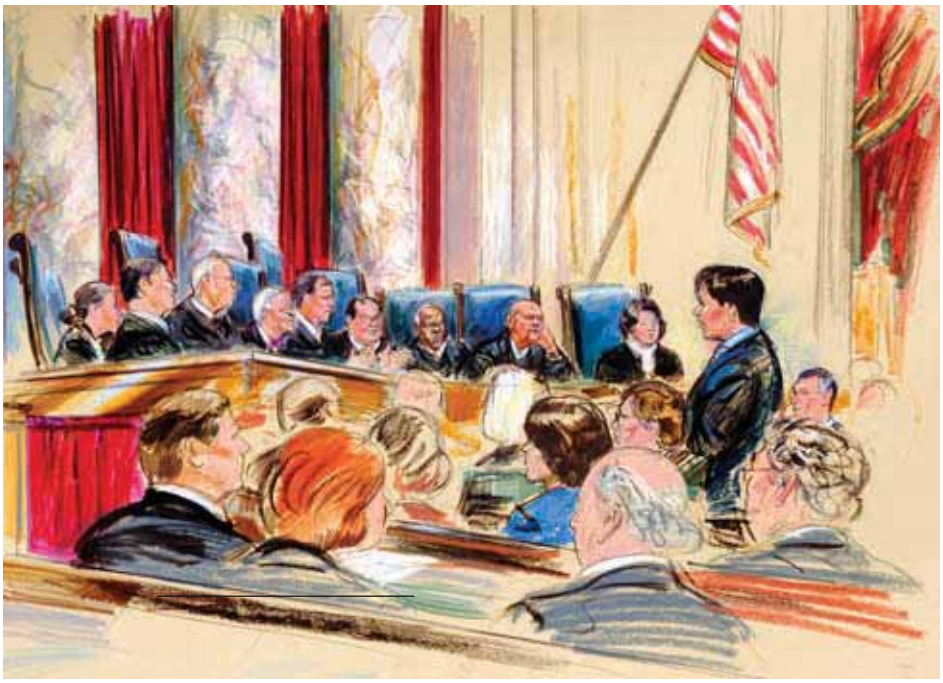
The Role of the Solicitor General

Elena Kagan
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.



An artist's drawing depicts U.S. Solicitor General Elena Kagan presenting the government's case before the Supreme Court.

© AP Images/Dana Verkouteran

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. ■

As Solicitor General, Elena Kagan was appointed by President Obama and reports to the Attorney General in the U.S. Justice Department.

Deciding "What the Law Is"

David G. Savage

© AP Images/Collection of the Supreme Court of the United States, Steve Petteway

In the justices' conference room, President Obama and Vice President Biden pose with members of the Court.

David G. Savage writes about the Supreme Court for the Los Angeles Times *and the* Chicago Tribune. *He is also the author of* The Supreme Court and the Powers of the American Government *and* The Supreme Court and Individual Rights, *both published in 2009 by CQ Press in Washington, D.C.*

Savage identifies the kinds of cases that achieve Supreme Court review and outlines some of the cases the Court will consider in the 2009-2010 term.

The U.S. Supreme Court opens its annual term in October, facing an intriguing array of cases and legal questions, all having bubbled up from state and federal courts across the nation. Some turn on the meaning of federal law. The others call for interpreting the Constitution.

For example, can federal prosecutors put in prison a man who sold videos showing farm animals being bitten and killed by vicious dogs? All the states have laws against animal cruelty, including dog fighting. Congress went further and made it a crime to sell photos or videos of animals being tortured and killed.

But when Robert Stevens was convicted for selling dog-fighting videos, a U.S. appeals court in Philadelphia freed him and ruled the law violated the First Amendment to the Constitution. It says, "Congress shall make no law … abridging the freedom of speech." On October 6, 2009, the Supreme Court justices heard the case of *U.S. v. Stevens* to decide whether a dog-fighting movie deserves to be protected as free speech.

The next day, in the case of *Salazar v. Buono*, the Court considered whether a cross honoring fallen soldiers can be maintained in a national park. Last year, a U.S. appeals court in San Francisco said the cross must be removed because this Christian symbol on public land violates the First Amendment's ban on "an establishment of religion" by the government.

Not all the cases involve such abstractions. Chermane Smith wanted the Chicago police to return her car — and soon. It was seized when her boyfriend was arrested in it and was found to be carrying illegal drugs. The Illinois Drug Asset Forfeiture Procedure Act allows the state to seize vehicles used in the commission of drug crimes. As an innocent owner, Smith was entitled to have her car returned, but the city

could take up to six months to hold a hearing to decide how to dispose of this seized property. She and other Chicagoans sued, citing the Constitution's clause that says the government may not take property "without due process of law." In *Alvarez v. Smith*, to be heard on October 13, the justices will consider whether these car owners are due a prompt hearing.

In all, 45 cases are set to be heard between the first Monday of October and the early weeks of January. During that time, the justices also will be sifting through the roughly 150 appeal petitions that arrive every week. A few of them — about 1 percent of the total — will be accepted for review, and argument of those cases will be scheduled in three or four months.

Deciding "What the Law Is"

The Supreme Court sits atop a federal court system that includes magistrates and U.S. district judges, and above them, 12 regional appeals courts and a specialized court that reviews patents and international trade claims. Most Supreme Court cases reach the justices after moving up through the system. Cases also come to the High Court from a state supreme court if the dispute 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 persons or 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. Article III of the U.S. Constitution has been interpreted as allowing federal courts to hear only cases posing an "actual controversy" — no advisory opinions allowed. Most importantly, however, the case must present a significant legal question that is in dispute. The first reason for accepting the case, according to the justices, is when the U.S. appeals courts have divided on an issue of federal law.

Plainly it will not do for the same law to be interpreted differently in different parts of the country. It takes the votes of at least four of the nine justices to hear a case. And it takes a majority of the justices participating, or five, if all nine participate, to decide a case.

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 itself stood above ordinary laws, 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 believed were in conflict with the Constitution.

To those who are not familiar with America'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 — that were enacted by the people and their representatives. A paradox it may be, but this was not an accident or a mistake. The framers of the Constitution placed great faith in the notion of a written plan for government that would stand as the law. It gave specific powers to three branches of government, dividing authority among them. The first 10 constitutional amendments, known as the Bill of Rights, set out the rights reserved for the people. For this grand plan to work, some one or some body independent of political conflicts had to enforce the Constitution as the fundamental law. The Supreme Court is that body.

Federal vs. State Laws

As composed 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 states (of the 13 original states, Rhode Island did not participate) wrote and ratified the plan for a new federal government, yet then, as now, most aspects of day-to-day governance remained with states and municipalities. 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 refereeing conflicts between the national authority and the states. It has not resolved all the conflicts. The Civil War began in 1861 when the southern states asserted a right to secede from the United States.

These disputes, though not so fiery, continue today. Nearly every term, the Court decides one or more cases involving conflicts between federal regulations and state laws. Many products, including prescription drugs, are regulated by the federal government. However, the states have laws that allow injured consumers to sue a manufacturer. Acting under such a law, Diana Levine, a musician from Vermont, won a $7 million verdict after suing drug maker Wyeth. She had been injected with an anti-nausea drug sold by Wyeth, Levine developed gangrene, and had her arm amputated. In its appeal, Wyeth's lawyers argued that the drug and its warning label had been approved by the U.S. Food and Drug

© AP Images/Toby Talbot

Plaintiff and musician Diana Levine won her case before the Supreme Court.

Administration, and that approval should shield it from being sued. The Supreme Court disagreed in *Wyeth v. Levine* on March 4, 2009. By a 6-to-3 vote, the Court ruled that federal approval of a drug does not "preempt," or override, a state's consumer protection law.

Sometimes, a Supreme Court ruling can reshape a whole area of business. In 1980 the Court, by a 5-to-4 vote, upheld a patent for a genetically engineered bacterium that could break down crude oil. Objectors had said a living organism could not be patented. This decision in *Diamond v. Chakrabarty* is credited with launching the biotechnology industry.

In this term, the Court will decide whether a novel business method can be patented. Bernard Bilski and a co-inventor devised a mathematical formula for hedging the risk of energy costs due to fluctuations in the weather, and it has been used by schools and businesses. But the U.S. Patent and Trademark Office rejected Bilski's patent application on the grounds that his was an abstract, albeit useful, idea that did not involve a machine or transform physical matter. Lawyers say the outcome in *Bilski v. Doll* could affect the status of thousands of patents in many areas, including computer software.

But the Court's best-known recent decisions arose from constitutional claims involving individual rights. Prior to the 20th century, the justices said the Bill of Rights limited only the federal government. After all, the first words of the First Amendment are "Congress shall make no law …." Beginning in the 1930s, however, the Court decided that the due process clause of the 14th Amendment, which did not apply to the states ("nor shall any State deprive any person of life, liberty, or property, without due process of law"), "incorporated" certain fundamental rights, such as freedom of speech and freedom from unreasonable searches. This notion was a powerful one. It meant the protections of the U.S. Constitution reached into every local police station or jail, every public school and town council. The most controversial rulings of recent decades enforced constitutional rights to upset long-standing practices and customs. These include *Brown v. Board of Education* (1954), which outlawed racial segregation in public schools; *Engel v. Vitale* (1962), which prohibited "official prayers" in public schools; *Miranda v. Arizona* (1966), which told police they must warn crime suspects of their right to remain silent; and *Roe v. Wade* (1973), which struck down many state laws against abortion.

"Fidelity to the Constitution"

Each Supreme Court term presents new controversies. In fall 2009, the Court will decide whether it is "cruel and unusual punishment" to sentence a juvenile offender to life in prison, without the possibility of parole, for a crime less than murder. Two cases from Florida will be heard on November 9, 2009. *Sullivan v. Florida* concerns the now 33-year-old Joe Sullivan, who was 13 years old when he was convicted of the rape of an elderly woman and sent to prison for life. *Graham v. Florida* concerns Terrance Graham, who was given a life term for an armed burglary he committed when he was 16. According to a 2005 Amnesty International report, at least 2,225 people were serving life prison terms in the United States for crimes they committed as juveniles.

Until now, the justices have been wary of setting constitutional limits on prison terms. However, the Court has invoked the Eighth Amendment's ban on "cruel and unusual punishment" to limit the death penalty, including a 2005 ruling in *Roper v. Simmons* that ended capital punishment for those under age 18 who commit a murder.

© AP Images

Mrs. Pinkston and her integrated elementary school class in Springer, Oklahoma, in 1958.

Critics in Congress and elsewhere faulted the Court's opinion for acknowledging "the overwhelming weight of international opinion" against capital punishment for under-age criminals. "The United States now stands alone in a world that has turned its face against the juvenile death penalty," wrote Justice Anthony M. Kennedy. He stressed, however, that the Court's ruling rested on "national consensus" in the United States today that executing a juvenile criminal was both cruel and unusual.

"Over time, from one generation to the next, the Constitution has come to earn the high respect and even, as [framer of the Constitution and subsequently President James] Madison dared to hope, the veneration of the American people," Kennedy wrote in the closing passage. "It does not lessen our fidelity to the Constitution or our pride in its origins to acknowledge that the express affirmation of certain fundamental rights by other nations and peoples simply underscores the centrality of those same rights within our own heritage of freedom." ■

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

Basic Facts About the U.S. Supreme Court

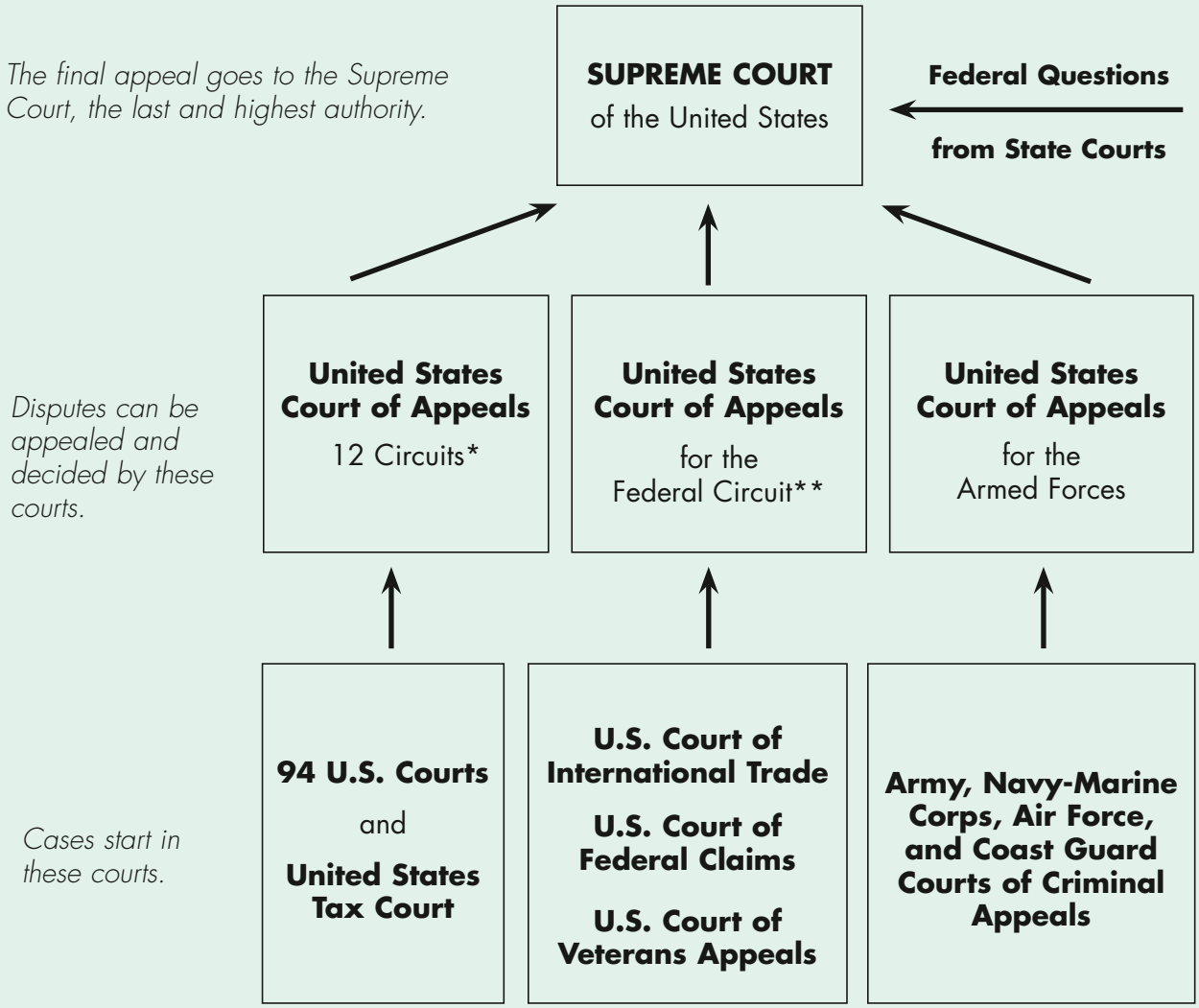
The Cases

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 required to win a case	5 out of the 9 justices

The Justices

Appointment to the Court	By the President
Confirmation of appointment to the Court	By the U.S. Senate
Number of Justices since 1790	99 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
First Woman Justice	Justice Sandra Day O'Connor
First Hispanic Justice	Justice Sonia Sotomayor

THE U.S. COURT SYSTEM



* 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: The Role of Politics in Supreme Court Decisions

Suzanna Sherry

© AP Images/J. Scott Applewhite

Right to left: Justices Roberts, Stevens, Thomas, Ginsburg, and Breyer share a collegial moment.

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 2009, 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 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

© AP Images

Republican President Dwight Eisenhower (left) selected William J. Brennan for the Supreme Court. Brennan became one of the most liberal justices of the 20th century.

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 first-hand 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.

© AP Images/Charles Tasnad

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

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. ■

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

Justices Who Change

Linda Greenhouse

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The newest justice, Sonia Sotomayor, is escorted by Chief Justice John Roberts following her investiture ceremony.

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.

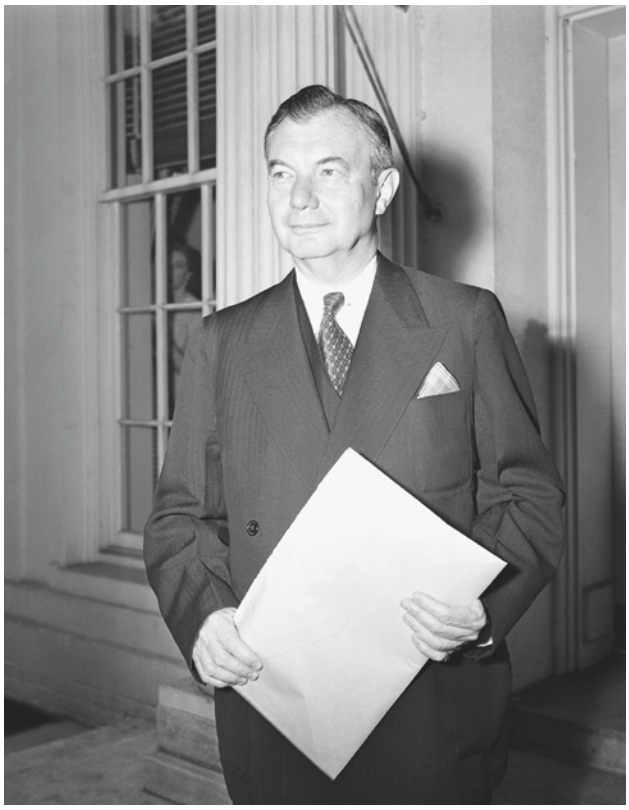
The Supreme Court's outlook is much more than the static views of nine individuals. A justice's world view evolves with the passage of time, exposure to world events, and with close personal and intellectual interaction with the other justices. The results can be unpredictable.

During the recent 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 fully a third of their cases (23 out of 74) by votes of 5 to 4? 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



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

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.

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."

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

© AP Images

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 Nuremburg 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. After four years, he remains staunchly conservative, with no 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 a 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 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.

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

Although Sonia Sotomayor was a federal judge in New York for 17 years, she comes to Washington as a stranger. Will she fit the pattern and drift from her initial premises? It is, of course, too soon to tell — but O'Connor's comment about Marshall's influence suggests another possibility. Sotomayor, the Court's first Latina justice, raised by a single mother in a public housing project, may have her own stories to tell her eight new colleagues. Perhaps, rather than the other way around, she will be the one to change the way they see the world. ■

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The Role of the Supreme Court Law Clerk: An Interview With Philippa Scarlett

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 litigation associate with Kirkland & Ellis in Washington, D.C., 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 types of tasks are Supreme Court clerks involved in?

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. 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.

Courtesy of Kirkland & Ellis LLP

Philippa Scarlett, former Supreme Court clerk

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 parties 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 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 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 and Draft the Opinion

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 prepare 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

Supreme Court Justice Sandra Day O'Connor (left) and her former clerk, Arizona Supreme Court Chief Justice Ruth V. McGregor.

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Supreme Court Justice Clarence Thomas and his former clerk Allison H. Eid, now chief justice of the Colorado Supreme Court.

who assisted the justice who authored the majority opinion will implement whatever changes the authoring justice agrees to and then circulate to the Court the revised draft opinion. This back-and-forth continues until all justices in the majority join the opinion. If there are dissenting opinions — there can be more than one — each justice will then circulate his or her dissenting opinion. Sometimes, 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.

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.

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 trial court to a court of appeals, the courts of appeals *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, a lot 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 are 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 appeals 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 circumstances 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.

The other 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 did the experience influence your career?

Scarlett: I only finished my clerkship with Justice Breyer in July 2008, so I think it is too soon to say. But 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.

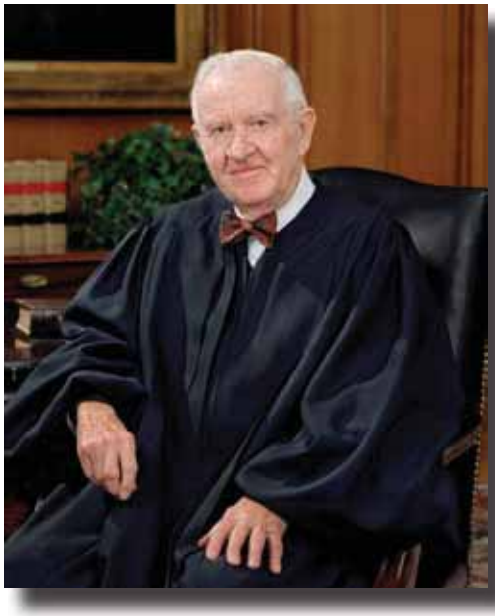
The Justices of the U.S. Supreme Court

Collection of the Supreme Court of the United States

Chief Justice John G. Roberts Jr.

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 an A.B. from Harvard College in 1976 and a J.D. from Harvard Law School in 1979. He served as a law clerk for Judge Henry J. Friendly of the United States 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, 1981-1982; associate counsel to President Ronald Reagan, White House Counsel's Office, 1982-1986; and principal deputy solicitor general, U.S. Department of Justice, 1989-1993. From 1986 to 1989 and 1993 to 2003, he practiced law in Washington, D.C. He was appointed to the United States 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.

John Paul Stevens, Associate Justice, was born in Chicago, Illinois, April 20, 1920. He married Maryan Mulholland, and they had four children: John Joseph (deceased), Kathryn, Elizabeth Jane, and Susan Roberta. He received an A.B. from the University of Chicago and a J.D. 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 from 1951 to 1952 and a member of the attorney general's National Committee to Study Antitrust Law from 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 United States Court of Appeals for the Seventh Circuit. President Gerald R. Ford nominated him as an associate justice of the Supreme Court, and he took his seat on December 19, 1975.



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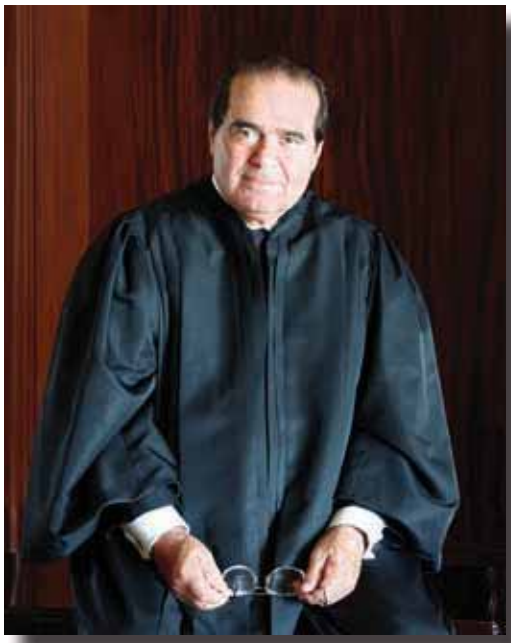
Associate Justice John Paul Stevens

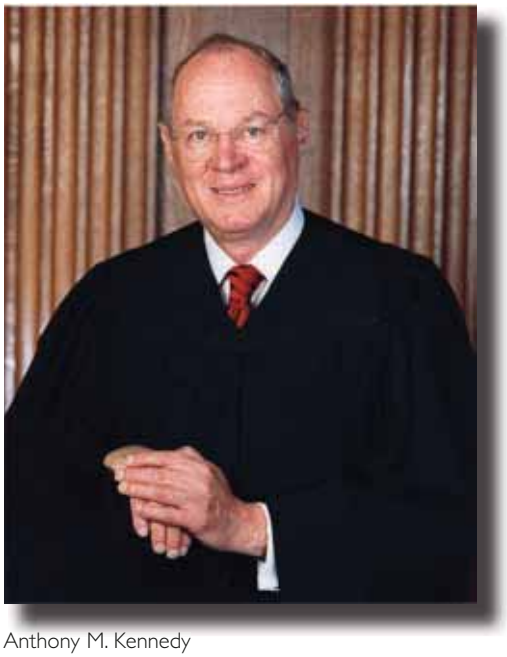


Collection of the Supreme Court of the United States

Antonin Scalia

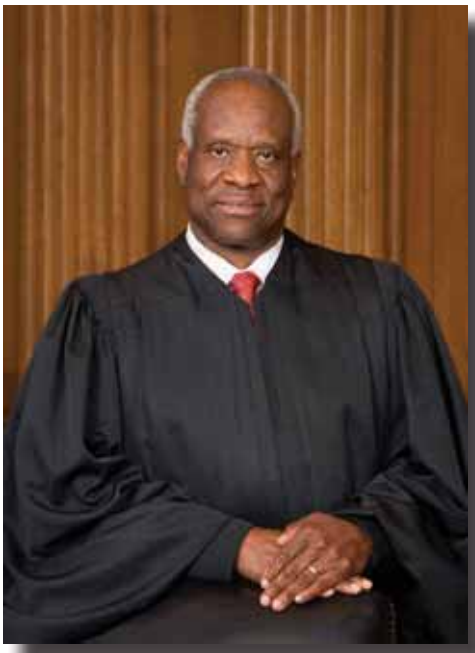
Antonin Scalia, Associate Justice, was born in Trenton, New Jersey, March 11, 1936. He married Maureen McCarthy and has nine children: Ann Forrest, Eugene, John Francis, Catherine Elisabeth, Mary Clare, Paul David, Matthew, Christopher James, and Margaret Jane. He received an A.B. from Georgetown University and the University of Fribourg, Switzerland, and an LL.B. from Harvard Law School, and he was a Sheldon Fellow of Harvard University from 1960 to 1961. He was in private practice in Cleveland, Ohio, from 1961 to 1967. He was a professor of law at the University of Virginia from 1967 to 1971 and at the University of Chicago from 1977 to 1982, as well as a visiting professor of law at Georgetown University and Stanford University. He was chairman of the American Bar Association's Section of Administrative Law, 1981-1982, and its Conference of Section Chairmen, 1982-1983. 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 a judge of the United States 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 on 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 B.A. from Stanford University and the London School of Economics, and an LL.B. 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 as 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 United States Court of Appeals for the Ninth Circuit in 1975. President Reagan nominated him as an associate justice of the Supreme Court, and he took his seat on February 18, 1988.



Collection of the Supreme Court of the United States

Anthony M. Kennedy



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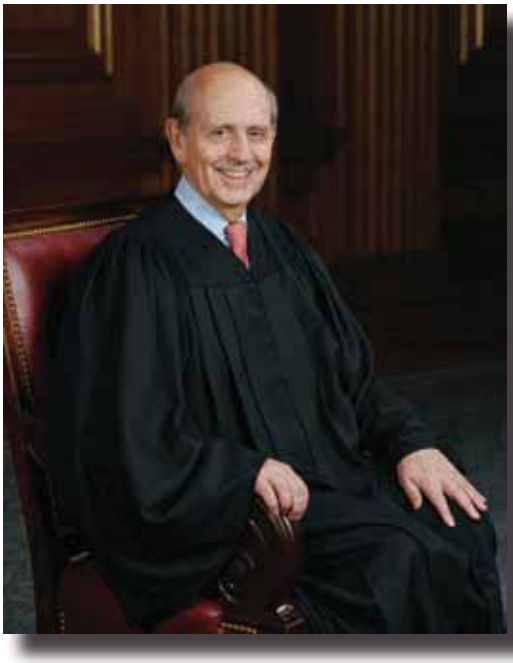
Clarence Thomas

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 an A.B., cum laude, from Holy Cross College and a J.D. from Yale Law School in 1974. He was admitted to law practice in Missouri in 1974, and he 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 United States 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 on 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 B.A. from Cornell University, attended Harvard Law School, and received an LL.B. from Columbia Law School. She served as a law clerk to Judge Edmund L. Palmieri of the United States 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 at Columbia Law School from 1972 to 1980, and she was 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 (ACLU), and she served as the ACLU's general counsel from 1973 to 1980 and on its national board of directors from 1974 to 1980. She was appointed a judge of the United States 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 on August 10, 1993.

Collection of the Supreme Court of the United States

Ruth Bader Ginsburg



Collection of the Supreme Court of the United States

Stephen G. Breyer

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 an A.B. from Stanford University, a B.A. from Magdalen College, Oxford, and an LL.B. 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 from 1965 to 1967, as an assistant special prosecutor of the Watergate Special Prosecution Force in 1973, as special counsel of the U.S. Senate Judiciary Committee from 1974 to 1975, and as chief counsel of the committee from 1979 to 1980. He was an assistant professor, professor of law, and lecturer at Harvard Law School from 1967 to 1994; a professor at the Harvard University Kennedy School of Government from 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 United States Court of Appeals for the First Circuit and as its chief judge from 1990 to 1994. He also served as a member of the Judicial Conference of the United States from 1990 to 1994 and of the United States Sentencing Commission from 1985 to 1989. President Clinton nominated him as an associate justice of the Supreme Court, and he took his seat on August 3, 1994.

Samuel A. 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. He served as a law clerk for Judge Leonard I. Garth of the United States Court of Appeals for the Third Circuit from 1976 to 1977. He was assistant U.S. attorney for the District of New Jersey, 1977-1981; assistant to the solicitor general, U.S. Department of Justice, 1981-1985; deputy assistant attorney general, U.S. Department of Justice, 1985-1987; and U.S. attorney, District of New Jersey, 1987-1990. He was appointed to the United States 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 on January 31, 2006.

Collection of the Supreme Court of the United States

Samuel A. Alito Jr.

Collection of the Supreme Court of the United States

Sonia Sotomayor

Sonia Sotomayor, Associate Justice, was born in Bronx, New York, on June 25, 1954. She received a B.A. in 1976 from Princeton University, graduating summa cum laude and receiving the university's highest academic honor. In 1979 she received a J.D. 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 for the Southern District of New York, and she served in that role from 1992 to 1998. She served as a judge on the United States 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 on August 8, 2009.

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 B.A. and an LL.B. from Stanford University. She served as deputy county attorney of San Mateo County, California, from 1952 to 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 reelected 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 Reagan nominated her as an associate justice of the Supreme Court, and she took her seat on September 25, 1981. Justice O'Connor retired from the Supreme Court on January 31, 2006.

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Sandra Day O'Connor

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David H. Souter

David H. Souter (Retired), Associate Justice, was born in Melrose, Massachusetts, September 17, 1939. He was graduated from Harvard College, from which he received an A.B. After two years as a Rhodes Scholar at Magdalen College, Oxford, he received an A.B. in jurisprudence from Oxford University and an M.A. in 1989. After receiving an LL.B. 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 he was appointed to the Supreme Court of New Hampshire as an associate justice in 1983. He became a judge of the United States 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 on October 9, 1990. Justice Souter retired from the Supreme Court on June 29, 2009. ■

Retired Justices Souter and O'Connor are still considered members of the Court with clerks and offices in the Supreme Court building.

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.

Collection of the Supreme Court of the United States

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.

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.

Collection of the Supreme Court of the United States

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 bachelors and masters 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 one thousand lectures, receptions, dinners, and other events that take place annually at the Supreme Court.

Because of the importance of the Supreme Court in this country, and in our constitutional framework, this is a wonderful place to work day to day. All the people here are extraordinarily professional, confident, and smart. Each day brings something new, and the Court and the justices are doing something wonderful as part of a long tradition. Every day, tourists visit the Court building, which is not only a wonderful physical structure but also an extraordinary symbol of its philosophical and political role.

One of the big surprises to me is that, despite the importance of the justices and some of the other people who work here, the Supreme Court is not a rigidly hierarchical institution. We all have respect for the institution and the institutional positions people occupy, and everyone is quite warm and egalitarian in dealing with one another.

Collection of the Supreme Court of the United States

Frank Wagner
Reporter of Decisions

Frank Wagner became the 15th reporter of decisions at the U.S. Supreme Court in 1987. He is a graduate of Cornell University in Ithaca, New York, and the Dickinson School of Law in Carlisle, Pennsylvania. Previously, he worked as an attorney and legal editor.

My primary job is to publish all of the legal opinions that the Court hands down in a set of law books called the *United States Reports*. These volumes are an official publication of the Court.

Before the Court issues a case, my staff and I carefully examine each opinion in the case for accurate citations and quotations, for style, and for typographical and grammatical errors. We also produce short analytical summaries of the opinions called syllabuses. An attorney and a paralegal in this office read every draft of every opinion in all cases prior to their release.

I'm the 15th reporter of decisions of the Supreme Court since 1789. Alexander Dallas was the first, and he reported from the first moments that the Court conducted business in 1790. He was not a Court employee but an entrepreneur who took careful notes and then sold his notes of what happened at the Court to the public. Today, my position is one of five positions at the Court that has been created by law.

Any attorney who comes to the Supreme Court to argue a case uses our reports to accurately study what the Court has decided in all cases over the years. Much of the interplay during the oral argument involves the justices asking attorneys to distinguish their argument from what the Court decided in other cases. The difference in the placement of a comma can change the legal meaning of a ruling. If you are arguing a case at the Supreme Court, you must know exactly what the Court has said. Attorneys, judges, and law professors use our reports.

A foreign visitor a few years ago asked me how the Court keeps the press and others from misrepresenting decisions by the Court. The answer is that we prepare official reports of the decisions and disseminate them as quickly as possible in print and on the Internet.

The computerization of Court records has changed my job significantly over the years. Before, people would have to wait at least three or four days to get a paper copy of each individual Court opinion. Today, we take the electronic image of the Court's decision and put it up on our own Web site within minutes of its issuance so that anybody anywhere in the world interested in the case can read for themselves what the Court has said.

Before coming to the Supreme Court, I was a legal editor at a publishing company and edited various sets of law books, including a commercial version of the Supreme Court reports that I produce today. I studied English in college and then attended law school. When I left law school, I wanted a job that would allow to me use both my English studies and my law degree. When this job became available, I applied and was offered what I consider the ultimate legal-editing job. I have been here for 22 years and hope to be here until I retire.

Collection of the Supreme Court of the United States

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. 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

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.

Courtesy of the Open World Leadership Center at the Library of Congress

State Judge Catherine O'Malley (left) hosts a Russian delegation at the Maryland governor's residence in Annapolis in 2007. Judge O'Malley was appointed to the bench by then-Governor Parris Glendening in 2001 and became Maryland's First Lady when her husband took office as governor in 2007.

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. Just last year, the Supreme Court of the United States received more than 1,000 visitors representing more than 90 countries. Among these visitors were justices from the supreme courts of Peru, Russia, and South Korea. These judges do not visit only Washington, D.C. Indeed, federal courts all over the United States host visiting delegations. More than 150 jurists visited the Southern District of New York in 2008, including judges from China, Iran, and Ireland. The federal court in Tampa, Florida, hosted 46 foreign judicial visitors last year, among them judges from Canada, Jordan, Panama, and Suriname. Recent visitors to courts in Chicago, Los Angeles, and New Orleans have included delegations from Liberia, Brazil, and Albania.

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.

Jennifer Carpenter, Collection of the Supreme Court of the United States

Justice Ruth Bader Ginsberg, Justice Yuriy Ivanovich Sidorenko of the Russian Federation, his wife Svetlana, and Chief Justice John Roberts during a visit to the Supreme Court in 2007.

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, 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 from less-developed countries 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 policy-making 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, D.C., 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 a judge from Afghanistan, who developed a criminal trial benchbook modeled on the center's *Benchbook for U.S. District Court Judges*; a judge from Brazil, who analyzed case management techniques in intellectual property cases; and a Chinese judge, who studied the role of court administrators in the U.S. judiciary.

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. In 2009 judges from the United States traveled to countries including Malaysia, Romania, Bulgaria, Montenegro, and Brazil. 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.

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. In 2006 the American Society of International Law and Harvard Law School hosted a transnational judicial conference for judges of supreme courts from around the world. This program focused on the role of international judicial networks in supporting efforts to promote judicial ethics, judicial education, and the enforcement of judgments. The International Organization for Judicial Training holds more narrowly focused biannual conferences for judges engaged in judicial education efforts. 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. ■

Additional Resources

Books, articles, and Web sites on the U.S. Supreme Court

BOOKS AND ARTICLES

Borgen, Christopher J., ed. "*A Decent Respect to the Opinions of Mankind…, " Selected Speeches by Justices of the U.S. Supreme Court on Foreign and International Law*. Washington, DC: American Society of International Law, 2007.
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WEB SITES

About the Court

Supreme Court of the United States
The Supreme Court's official Web site.
http://www.supremecourtus.gov/

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

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/

On the Docket
Northwestern University's Medill School of Journalism provides summaries of cases on the Supreme Court's docket in partnership with the Oyez Project.
http://journalism.medill.northwestern.edu/docket/

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 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, 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 Web site for information on Supreme Court nominations.
http://judiciary.senate.gov/nominations/SupremeCourt/SupremeCourt.cfm

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