

Summary

8.1 Guardians of the Constitution and Individual Rights

From humble beginnings, the judicial branch has evolved over the years to a significance that would have been difficult for the Constitution's framers to envision. While they understood and prioritized the value of an independent judiciary in a common law system, they could not have predicted the critical role the courts would play in the interpretation of the Constitution, our understanding of the law, the development of public policy, and the preservation and expansion of individual rights and liberties over time.

8.2 The Dual Court System

The U.S. judicial system features a dual court model, with courts at both the federal and state levels, and the U.S. Supreme Court at the top. While cases may sometimes be eligible for both state and federal review, each level has its own distinct jurisdiction. There are trial and appellate courts at both levels, but there are also remarkable differences among the states in their laws, politics, and culture, meaning that no two state court systems are exactly alike. The diversity of courts across the nation can have both positive and negative effects for citizens, depending on their situation. While it provides for various opportunities for an issue or interest to be heard, it may also lead to case-by-case treatment of individuals, groups, or issues that is not always the same or even-handed across the nation.

8.3 The Federal Court System

The structure of today's three-tiered federal court system, largely established by Congress, is quite clear-cut. The system's reliance on precedent ensures a consistent and stable institution that is still capable of slowly evolving over the years—such as by increasingly reflecting the diverse population it serves. Presidents hope their judicial nominees will make rulings consistent with the chief executive's own ideological leanings. But the lifetime tenure of federal court members gives them the flexibility to act in ways that may or may not reflect what their nominating president intended. Perfect alignment between nominating president and justice is not expected; a judge might be liberal on most issues but conservative on others, or vice versa. However, presidents have sometimes been surprised by the decisions made by their nominees, such as President Eisenhower was by Justice Earl Warren and President Reagan by Justice Anthony Kennedy.

8.4 The Supreme Court

A unique institution, the U.S. Supreme Court today is an interesting mix of the traditional and the modern. On one hand, it still holds to many of the formal traditions, processes, and

procedures it has followed for many decades. Its public proceedings remain largely ceremonial and are never filmed or photographed. At the same time, the Court has taken on new cases involving contemporary matters before a nine-justice panel that is more diverse today than ever before. When considering whether to take on a case and then later when ruling on it, the justices rely on a number of internal and external players who assist them with and influence their work, including, but not limited to, their law clerks, the U.S. solicitor general, interest groups, and the mass media.

8.5 Judicial Decision-Making and Implementation by the Supreme Court

Like the executive and legislative branches, the judicial system wields power that is not absolute. There remain many checks on its power and limits to its rulings. Judicial decisions are also affected by various internal and external factors, including legal, personal, ideological, and political influences. To stay relevant, Court decisions have to keep up with the changing times, and the justices' decision-making power is subject to the support afforded by the other branches of government in implementation and enforcement. Nevertheless, the courts have evolved into an indispensable part of our government system—a separate and coequal branch that interprets law, makes policy, guards the Constitution, and protects individual rights.

Key Terms

amicus curiae

literally a “friend of the court” and used for a brief filed by someone who is interested in but not party to a case

appellate court

a court that reviews cases already decided by a lower or trial court and that may change the lower court's decision

appellate jurisdiction

the power of a court to hear a case on appeal from a lower court and possibly change the lower court's decision

associate justice

a member of the Supreme Court who is not the chief justice

brief

a written legal argument presented to a court by one of the parties in a case

chief justice

the highest-ranking justice on the Supreme Court

circuit courts

the appeals (appellate) courts of the federal court system that review decisions of the lower (district) courts; also called courts of appeals

civil law

a non-criminal law defining private rights and remedies

common law

the pattern of law developed by judges through case decisions largely based on precedent

concurring opinion

an opinion written by a justice who agrees with the Court's majority opinion but has different reasons for doing so

conference

closed meeting of the justices to discuss cases on the docket and take an initial vote

courts of appeals

the appellate courts of the federal court system that review decisions of the lower (district) courts; also called circuit courts

criminal law

a law that prohibits actions that could harm or endanger others, and establishes punishment for those actions

dissenting opinion

an opinion written by a justice who disagrees with the majority opinion of the Court

district courts

the trial courts of the federal court system where cases are tried, evidence is presented, and witness testimony is heard

docket

the list of cases pending on a court's calendar

dual court system

the division of the courts into two separate systems, one federal and one state, with each of the fifty states having its own courts

judicial activism

a judicial philosophy in which a justice is more likely to overturn decisions or rule actions by the other branches unconstitutional, especially in an attempt to broaden individual rights and liberties

judicial restraint

a judicial philosophy in which a justice is more likely to let stand the decisions or actions of the other branches of government

judicial review

the power of the courts to review actions taken by the other branches of government and the states and to rule on whether those actions are constitutional

majority opinion

an opinion of the Court with which more than half the nine justices agree

Marbury v. Madison

the 1803 Supreme Court case that established the courts' power of judicial review and the first time the Supreme Court ruled an act of Congress to be unconstitutional

oral argument

words spoken before the Supreme Court (usually by lawyers) explaining the legal reasons behind their position in a case and why it should prevail

original jurisdiction

the power of a court to hear a case for the first time

precedent

the principles or guidelines established by courts in earlier cases that frame the ongoing operation of the courts, steering the direction of the entire system

Rule of Four

a Supreme Court custom in which a case will be heard when four justices decide to do so

senatorial courtesy

an unwritten custom by which the president consults the senators in the state before nominating a candidate for a federal vacancy there, particularly for court positions

solicitor general

the lawyer who represents the federal government and argues some cases before the Supreme Court

stare decisis

the principle by which courts rely on past decisions and their precedents when making decisions in new cases

trial court

the level of court in which a case starts or is first tried

writ of *certiorari*

an order of the Supreme Court calling up the records of the lower court so a case may be reviewed; sometimes abbreviated *cert.*