



The Judicial System

Isaac Mehlhaff

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Why the Judicial System?



- settle disputes peacefully
- solve collective action and coordination problems
- resolve issues related to interpretation of laws
- coordinate legal interpretations → constrain people's behavior in predictable ways → more effective enforcement of laws



- **criminal case:** government prosecutes individual or entity for crime against society (e.g. robbery)
- **civil case:** individual(s) sues another individual(s) for violating civil code of conduct (e.g. medical malpractice and everything you see on *Judge Judy*)
- **standing:** right to have one's case heard in a particular court (e.g. you were directly harmed by a law or action)
- **class action:** case in which plaintiff or defendant is a collective group of individuals

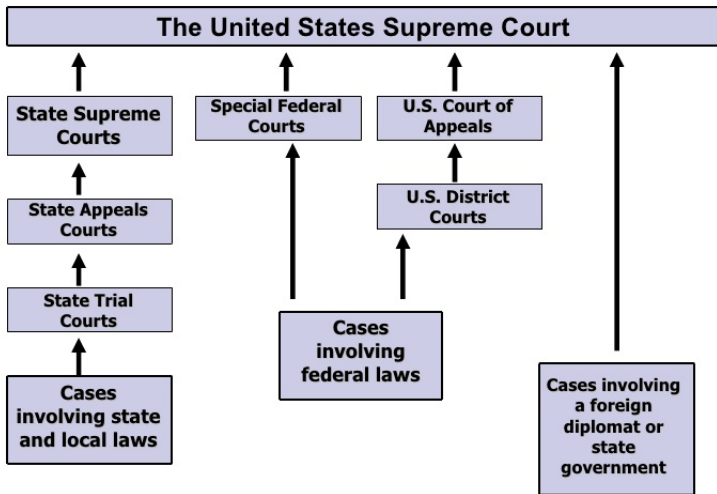


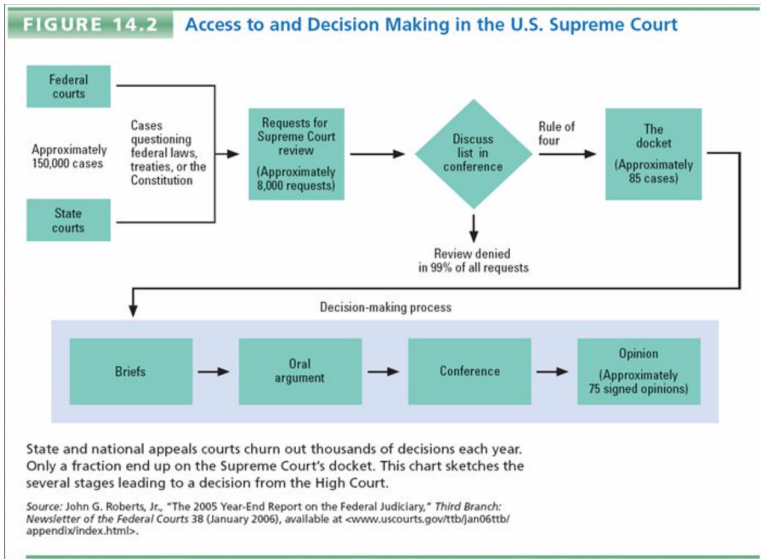
- **common law:** judiciary determines interpretation of laws (United States, Canada, and Australia)
- **civil law:** legal codes and statutes describe laws in detail, judiciary only applies laws as they are written (most of Europe, Eurasia, and Latin America)
- **stare decisis:** judges respect legal precedent
- **statutory law:** laws passed through legislative process or rules made by bureaucracy
- **Constitutional law:** legal norms set forth by Constitution



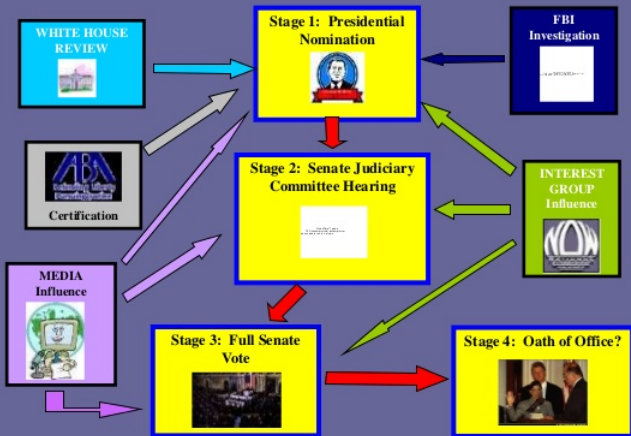
- What are the benefits and drawbacks of a common law system where judges have broad ability to interpret laws and engage in judicial review?
- What would the Framers think of judicial review?

Structure of the American Judiciary





U.S. Supreme Court Confirmation Process





- What qualities should a potential SCOTUS justice have? What types of prior experience might be helpful?
- Should SCOTUS justices have term limits?



- **legal model:** decisions determined by facts of the case, strict interpretations of legal text, and precedent (strict, textualist, unbiased)
- **attitudinal model:** decisions determined by judges' ideology (personal preferences, biased)
- **strategic model:** decisions determined by judges' ideology and constraints hindering the implementation of that ideology (attitudinal model + take institutions into account)



- How should courts work? How should justices make decisions?
- What would the Framers think of justices making decisions along ideological lines?



- **loose constructionism:** what the law says, applied differently based on unique aspects of cases or time periods
- **strict constructionism:** what the law says, applied equally to all cases over time
- **originalism:** what the Framers *intended* the law to mean
- **textualism:** what the law *meant* at the time it was written



- What are the benefits and drawbacks to each mode of interpretation?
- When might we want to apply different modes of interpretation to different issues or cases?