

# Chapter 2: Understanding the U.S. Supreme Court

# Introduction

- Supreme Court interpretation of Constitution.
- Blend of types of knowledge.
- Court: Governmental institution.

# Processing Supreme Court Cases

(1 of 9)

Deciding to Decide: The Supreme Court's  
Caseload: How Cases Get to the Court:  
Jurisdiction and the Routes of Appeal

- Four ways in which the cases come to the Court.
- Original cases.

# Processing Supreme Court Cases

(2 of 9)

Deciding to Decide: The Supreme Court's  
Caseload: How the Court Decides: The  
Case Selection Process

- The lack of agenda control.
- Protocols for selecting cases.
- Special role of Chief Justice.
- Beginning the discussion of a petition.

# Processing Supreme Court Cases

(3 of 9)

Deciding to Decide: The Supreme Court's Caseload: Consideration Affecting Case Selection Decisions.

- Legal considerations.
- Extent to which Rule 10 affect the Court.
- Three important political factors.

# Processing Supreme Court Cases

(4 of 9)

Deciding to Decide: The Supreme Court's Caseload: Consideration Affecting Case Selection Decisions.

- Solicitor general: successful.
- Amicus curiae brief.
- The ideology of the justices.

# Processing Supreme Court Cases

(5 of 9)

## The Role of Attorneys: Written Arguments.

- Document positions of cases.
- Court rules for submitting briefs.
- Presentation and format of merits briefs.

# Processing Supreme Court Cases

(6 of 9)

## The Role of Attorneys: Oral Arguments

- Thirty minutes of time.
- Importance of oral arguments in the past.
- Priority for justices.
- Effectiveness of oral arguments.



# Processing Supreme Court Cases

(7 of 9)

## The Supreme Court Decides: Some Preliminaries: The Conference

- Decision: private conference.
- Two basic reasons.
- General nature of Court's discussions.

# Processing Supreme Court Cases

(8 of 9)

The Supreme Court Decides: Some Preliminaries: Opinion Assignment and Circulation

- Tentative outcome and vote.
- Factors considered while making assignments.
- Cases decided by one-vote margin.

# Processing Supreme Court Cases

(9 of 9)

## The Supreme Court Decides: Some Preliminaries: Opinion Assignment and Circulation

- Opinion writer: Critical player.
- Post draft, justices have many options.
- Majority opinion undergoes revision.

# Supreme Court Decision Making: Legalism (1 of 8)

- Legalistic theory of judicial decision making.
- Realistic theory of judging.
- Appropriate criteria for reaching decisions.
- Legalism: Constitutional law.

# Supreme Court Decision Making: Legalism (2 of 8)

## Originalism

- Original intent and its merits.
- Merits of original intent approach.
- Original understanding and its merits.
- Criticism.

# Supreme Court Decision Making: Legalism (3 of 8)

## Textualism

- Resembles originalism.
- Example: Analyzing the First Amendment.
- Sometimes overlap.
- Value-free form of jurisprudence.

# Supreme Court Decision Making: Legalism (4 of 8)

## Structural Analysis

- Interpretation: follow form.
- Examples of structural analysis:
  - *McCulloch v. Maryland*.
  - *INS v. Chadha*.

# Supreme Court Decision Making: Legalism (5 of 8)

## Stare Decisis

- Decision based on established rulings.
- Benefits of the approach.
- Precedent: An important factor.
- Precedent, often a mere window dressing: Reason.



# Supreme Court Decision Making: Legalism (6 of 8)

## Pragmatism

- Balancing exercise.
- Effect of appearance of pragmatism.
- *United States v. Leon*.

# Supreme Court Decision Making: Legalism (7 of 8)

## Polls of Other Jurisdictions

- *Wolf v. Colorado.*
- *Rochin v. California.*
- *Mapp v. Ohio.*

# Supreme Court Decision Making: Legalism (8 of 8)

## Polls of Other Jurisdictions

- Criticism.
- Highlights of Justice Blackmun speech.

# Supreme Court Decision Making: Realism (1 of 8)

## Preference-Based Approaches: Judicial Attitudes

- Pritchett's study of relevance of the justices' personal attitudes.
- Attempts to predict voting behavior.
- Particular Court: ideologically predisposed.

# Supreme Court Decision Making: Realism (2 of 8)

## Preference-Based Approaches: Judicial Role

- View based on fundamental beliefs.
- Roles in terms of activism and restraint.
- Inequality between judicial liberalism and conservatism.
- Limitations.

# Supreme Court Decision Making: Realism (3 of 8)

## Strategic Approaches

- Rest on simple prepositions.
- Justices: strategic actors.
- Rational choice paradigm.
- Manifestation of strategic behavior.

# Supreme Court Decision Making: Realism (4 of 8)

## External Factors: Public Opinion

- Justices: affected by public opinion.
- Helmut Norpoth and Jeffrey A. Segal's study.
- Criticism.

# Supreme Court Decision Making: Realism (5 of 8)

## External Factors: Partisan Politics

- Political environment: affects Court behavior.
- Partisan attachments of the justices.
- Influence reflects the partisan composition of branches.



# Supreme Court Decision Making: Realism (6 of 8)

## External Factors: Partisan Politics

- Assistance of Bureaucracy.
- Reflected in the arguments.
- Legislature's power over the Court.

# Supreme Court Decision Making: Realism (7 of 8)

## External Factors: Interest Groups

- Influence by submitting amicus curiae briefs.
- *Regents of the University of California v. Bakke.*
- *Grutter v. Bollinger and Fisher v. University of Texas.*

# Supreme Court Decision Making: Realism (8 of 8)

## External Factors: Interest Groups

- Reasons to approach the Court.
- Attorneys: more experienced than staff.

# Conducting Research on the Supreme Court (1 of 2)

## Locating Supreme Court Decisions

- Four major reporters.
- Case citation.
- Example: *Texas v. Johnson*.
- Abbreviations vary by reporter.

# Conducting Research on the Supreme Court (2 of 2)

## Locating Other Information on the Supreme Court and Its Members

- Reference material on the Court.
- Legal Information Institute.
- SCOTUSblog.
- Oyez Project site.