

one supreme court supremacy inferiority and the judicial department of the united states

[#Supreme Court power](#) [#US Judicial Department](#) [#judicial supremacy](#) [#constitutional law](#) [#federal judiciary](#)

Explore the foundational principles of Supreme Court supremacy and the US Judicial Department's role within the United States government. This analysis delves into the historical context and ongoing debates surrounding judicial authority, including concepts like judicial review and the balance of power that defines the federal judiciary, addressing both its perceived power and potential limitations within constitutional supremacy.

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One Supreme Court

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The Struggle for Judicial Supremacy

Examines the causes and consequences of recusal behavior on the US Supreme Court. Do US Supreme Court justices withdraw from cases when they are supposed to? What happens when the Court is down a member? In *Ethics and Accountability on the US Supreme Court*, Robert J. Hume provides the first comprehensive examination of the causes and consequences of recusal behavior on the Supreme Court. Using original data, and with rich attention to historical detail including media commentary about recusals, he systematically analyzes the factors that influence Supreme Court recusal, a process which has so far been shrouded in secrecy. It is revealed that justices do not strictly follow the recusal guidelines set by Congress, but at the same time they do not ignore these rules. Overall, justices are selective in their compliance with the recusal statute, balancing ethical considerations against other institutional and policy goals, such as the duty to sit. However, the book

also concludes that the impact of recusals on policymaking is more limited than commentators have claimed, raising questions about whether ethics reform is really needed at this time.

Ethics and Accountability on the US Supreme Court

2004 marks the fiftieth anniversary of the Supreme Court's unanimous decision to end segregation in public schools. Many people were elated when Supreme Court Chief Justice Earl Warren delivered *Brown v. Board of Education of Topeka* in May 1954, the ruling that struck down state-sponsored racial segregation in America's public schools. Thurgood Marshall, chief attorney for the black families that launched the litigation, exclaimed later, "I was so happy, I was numb." The novelist Ralph Ellison wrote, "another battle of the Civil War has been won. The rest is up to us and I'm very glad. What a wonderful world of possibilities are unfolded for the children!" Here, in a concise, moving narrative, Bancroft Prize-winning historian James T. Patterson takes readers through the dramatic case and its fifty-year aftermath. A wide range of characters animates the story, from the little-known African Americans who dared to challenge Jim Crow with lawsuits (at great personal cost); to Thurgood Marshall, who later became a Justice himself; to Earl Warren, who shepherded a fractured Court to a unanimous decision. Others include segregationist politicians like Governor Orval Faubus of Arkansas; Presidents Eisenhower, Johnson, and Nixon; and controversial Supreme Court justices such as William Rehnquist and Clarence Thomas. Most Americans still see *Brown* as a triumph--but was it? Patterson shrewdly explores the provocative questions that still swirl around the case. Could the Court--or President Eisenhower--have done more to ensure compliance with *Brown*? Did the decision touch off the modern civil rights movement? How useful are court-ordered busing and affirmative action against racial segregation? To what extent has racial mixing affected the academic achievement of black children? Where indeed do we go from here to realize the expectations of Marshall, Ellison, and others in 1954?

The American Doctrine of Judicial Supremacy

"A tour de force...A fresh and detailed account of how the court works and, relatedly, how presidents decide who gets there." -The Wall Street Journal "A fascinating look at dynamics within the court, showing how personalities and ideology can affect alliances and debates." -The New York Times The New York Times bestselling account of the most consequential shift in the use of American judicial power in almost one hundred years. Drawing on unprecedented access to the Supreme Court justices themselves and their inner circles, acclaimed ABC News legal correspondent Jan Crawford Greenburg offers an explosive newsbreaking account of one of the most momentous political watersheds in American history. From the series of Republican nominations that proved deeply frustrating to conservatives to the decades of bruising battles that led to the rise of Justices Roberts and Alito, this is the authoritative story of the conservative effort to shift the direction of the high court—a revelatory look at one of the central fronts of America's culture wars by one of the most widely respected experts on the subject.

Brown v. Board of Education

Government accountability in the nineteenth century -- Bivens and government accountability in the twentieth century -- Human rights and War on Terror litigation -- Evaluating the effectiveness of Bivens litigation -- Evaluating justifications for judicial silence -- Congressional ratification of the bivens action -- Applying Bivens to conduct outside of the United States -- Overcoming qualified immunity -- Common-law solutions to judge-made problems

U.C. Davis Law Review

This book provides a detailed historical and legal examination of presidential power and the theory of the unitary executive.

Supreme Conflict

Softbound - New, softbound print book.

Constitutional Torts and the War on Terror

What should a judge do when he must hand down a ruling based on a law that he considers unjust or oppressive? This question is examined through a series of problems concerning unjust law that arose with respect to slavery in nineteenth-century America. "Cover's book is splendid in many ways. His legal history and legal philosophy are both first class. . . . This is, for a change, an

interdisciplinary work that is a credit to both disciplines."--Ronald Dworkin, Times Literary Supplement "Scholars should be grateful to Cover for his often brilliant illumination of tensions created in judges by changing eighteenth- and nineteenth-century jurisprudential attitudes and legal standards. . . An exciting adventure in interdisciplinary history."--Harold M. Hyman, American Historical Review "A most articulate, sophisticated, and learned defense of legal formalism. . . Deserves and needs to be widely read."--Don Roper, Journal of American History "An excellent illustration of the way in which a burning moral issue relates to the American judicial process. The book thus has both historical value and a very immediate importance."--Edwards A. Stettner, Annals of the American Academy of Political and Social Science "A really fine book, an important contribution to law and to history."--Louis H. Pollak

The Unitary Executive

As environmental, national security, and technological challenges push American law into ever more inter-jurisdictional territory, this book proposes a model of 'Balanced Federalism' that mediates between competing federalism values and provides greater guidance for regulatory decision-making.

Principles of Federal Jurisdiction

Chief Justice John Marshall argued that a constitution "requires that only its great outlines should be marked [and] its important objects designated." Ours is "intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs." In recent years, Marshall's great truths have been challenged by proponents of originalism and strict construction. Such legal thinkers as Supreme Court Justice Antonin Scalia argue that the Constitution must be construed and applied as it was when the Framers wrote it. In *Keeping Faith with the Constitution*, three legal authorities make the case for Marshall's vision. They describe their approach as "constitutional fidelity"--not to how the Framers would have applied the Constitution, but to the text and principles of the Constitution itself. The original understanding of the text is one source of interpretation, but not the only one; to preserve the meaning and authority of the document, to keep it vital, applications of the Constitution must be shaped by precedent, historical experience, practical consequence, and societal change. The authors range across the history of constitutional interpretation to show how this approach has been the source of our greatest advances, from *Brown v. Board of Education* to the New Deal, from the *Miranda* decision to the expansion of women's rights. They delve into the complexities of voting rights, the malapportionment of legislative districts, speech freedoms, civil liberties and the War on Terror, and the evolution of checks and balances. The Constitution's framers could never have imagined DNA, global warming, or even women's equality. Yet these and many more realities shape our lives and outlook. Our Constitution will remain vital into our changing future, the authors write, if judges remain true to this rich tradition of adaptation and fidelity.

Justice Accused

Few individuals have had as great an impact on the law--both its practice and its history--as A. Leon Higginbotham, Jr. A winner of the Presidential Medal of Freedom, the nation's highest civilian honor, he has distinguished himself over the decades both as a professor at Yale, the University of Pennsylvania, and Harvard, and as a judge on the United States Court of Appeals. But Judge Higginbotham is perhaps best known as an authority on racism in America: not the least important achievement of his long career has been *In the Matter of Color*, the first volume in a monumental history of race and the American legal process. Published in 1978, this brilliant book has been hailed as the definitive account of racism, slavery, and the law in colonial America. Now, after twenty years, comes the long-awaited sequel. In *Shades of Freedom*, Higginbotham provides a magisterial account of the interaction between the law and racial oppression in America from colonial times to the present, demonstrating how the one agent that should have guaranteed equal treatment before the law--the judicial system--instead played a dominant role in enforcing the inferior position of blacks. The issue of racial inferiority is central to this volume, as Higginbotham documents how early white perceptions of black inferiority slowly became codified into law. Perhaps the most powerful and insightful writing centers on a pair of famous Supreme Court cases, which Higginbotham uses to portray race relations at two vital moments in our history. The *Dred Scott* decision of 1857 declared that a slave who had escaped to free territory must be returned to his slave owner. Chief Justice Roger Taney, in his notorious opinion for the majority, stated that blacks were "so inferior that they had no right which the white man was bound to respect." For Higginbotham, Taney's decision reflects the extreme state that race relations had reached just before the Civil War. And after the War and Reconstruction, Higginbotham reveals,

the Courts showed a pervasive reluctance (if not hostility) toward the goal of full and equal justice for African Americans, and this was particularly true of the Supreme Court. And in the *Plessy v. Ferguson* decision, which Higginbotham terms "one of the most catastrophic racial decisions ever rendered," the Court held that full equality--in schooling or housing, for instance--was unnecessary as long as there were "separate but equal" facilities. Higginbotham also documents the eloquent voices that opposed the openly racist workings of the judicial system, from Reconstruction Congressman John R. Lynch to Supreme Court Justice John Marshall Harlan to W. E. B. Du Bois, and he shows that, ironically, it was the conservative Supreme Court of the 1930s that began the attack on school segregation, and overturned the convictions of African Americans in the famous Scottsboro case. But today racial bias still dominates the nation, Higginbotham concludes, as he shows how in six recent court cases the public perception of black inferiority continues to persist. In *Shades of Freedom*, a noted scholar and celebrated jurist offers a work of magnificent scope, insight, and passion. Ranging from the earliest colonial times to the present, it is a superb work of history--and a mirror to the American soul.

Federalism and the Tug of War Within

Following a hard-fought war to preserve freedom and combat racial tyranny, Harry S Truman faced a nation of racial turmoil at home where many Americans did not enjoy the basic rights they had fought to secure. Lynchings, violent racial attacks, and widespread discrimination undermined the country's democratic ideals and prompted Truman to appoint a committee on civil rights. The committee's report, *To Secure These Rights*, is one of the most important documents in the history of the modern civil rights movement; its findings showed a nation torn by racial injustice and its recommendations set the agenda for the ongoing struggle for racial equality. This volume contains the full text of the 1947 report, plus an insightful introduction by Steven F. Lawson that chronicles early civil rights efforts and details the political and social climate of the postwar era. Also included are nine original images from the report, questions for consideration, an annotated chronology, and suggestions for further reading.

Michigan Law Review

Judge Bork shares a personal account of the Senate Judiciary Committee's hearing on his nomination as well as his view on politics versus the law. In *The Tempting of America*, one of our most distinguished legal minds offers a brilliant argument for the wisdom and necessity of interpreting the Constitution according to the "original understanding" of the Framers and the people for whom it was written. Widely hailed as the most important critique of the nation's intellectual climate since *The Closing of the American Mind*, *The Tempting of America* illuminates the history of the Supreme Court and the underlying meaning of constitutional controversy. Essential to understanding the relationship between values and the law, it concludes with a personal account of Judge Bork's chillingly emblematic experiences during the Senate Judiciary Committee's hearing on his Supreme Court nomination.

Constitutional Commentary

Engaging and thought-provoking, *The Supreme Court, Race, and Civil Rights* incorporates information from the disciplines of law, political science, and history; provides a thorough analysis of race and law from the perspective of politically disadvantaged groups and brings together Supreme Court readings vital to the understanding of the continuing evolution of civil rights in the United States.

Keeping Faith with the Constitution

In the first comprehensive accounting of the U.S. Supreme Court's race-related jurisprudence, a distinguished historian and renowned civil rights lawyer scrutinize a legacy too often blighted by racial injustice. The Supreme Court is usually seen as protector of our liberties: it ended segregation, was a guarantor of fair trials, and safeguarded free speech and the vote. But this narrative derives mostly from a short period, from the 1930s to the early 1970s. Before then, the Court spent a century largely ignoring or suppressing basic rights, while the fifty years since 1970 have witnessed a mostly accelerating retreat from racial justice. From the Cherokee Trail of Tears to *Brown v. Board of Education* to the dismantling of the Voting Rights Act, historian Orville Vernon Burton and civil rights lawyer Armand Derfner shine a powerful light on the Court's race record--a legacy at times uplifting, but more often distressing and sometimes disgraceful. For nearly a century, the Court ensured that the nineteenth-century Reconstruction amendments would not truly free and enfranchise African Americans. And the twenty-first century has seen a steady erosion of commitments to enforcing hard-won rights. *Justice Deferred* is the first book that comprehensively charts the Court's race

jurisprudence. Addressing nearly two hundred cases involving America's racial minorities, the authors probe the parties involved, the justices' reasoning, and the impact of individual rulings. We learn of heroes such as Thurgood Marshall; villains, including Roger Taney; and enigmas like Oliver Wendell Holmes and Hugo Black. Much of the fragility of civil rights in America is due to the Supreme Court, but as this sweeping history also reminds us, the justices still have the power to make good on the country's promise of equal rights for all.

Shades of Freedom

Challenging the ruling premises underlying many of the Supreme Court's positions on fundamental issues of government authority and individual rights, Tribe shows how the Court is increasingly coming to resemble a judicial Office of Management and Budget, straining constitutional discourse through a managerial sieve to defend its constitutional rulings. Tribe explains how the Court's "calculus" systematically excludes basic concerns about the distribution of wealth and power and conceals fundamental choices about the American polity. Calling for a more candid confrontation of those choices, Tribe exposes what has gone wrong and suggests how the Court can reclaim the historic role entrusted to it by the Constitution. ISBN 0-674-16538-1: \$29.95.

St. Louis Bar Journal

This book analyzes the theoretical nuances and practical implications of how judges use precedent.

To Secure These Rights

...A potent and original examination of how the Supreme Court subverted justice and empowered the Jim Crow era. In the years following the Civil War, the 13th Amendment abolished slavery; the 14th conferred citizenship and equal protection under the law to white and black; and the 15th gave black American males the right to vote. In 1875, the most comprehensive civil rights legislation in the nation's history granted all Americans "the full and equal enjoyment" of public accommodations. Just eight years later, the Supreme Court, by an 8-1 vote, overturned the Civil Rights Act as unconstitutional and, in the process, disemboweled the equal protection provisions of the 14th Amendment. Using court records and accounts of the period, Lawrence Goldstone chronicles how "by the dawn of the 20th century the U.S. had become the nation of Jim Crow laws, quasi-slavery, and precisely the same two-tiered system of justice that had existed in the slave era." The very human story of how and why this happened makes *Inherently Unequal* as important as it is provocative. Examining both celebrated decisions like *Plessy v. Ferguson* and those often overlooked, Goldstone demonstrates how the Supreme Court turned a blind eye to the obvious reality of racism, defending instead the business establishment and status quo--thereby legalizing the brutal prejudice that came to define the Jim Crow era.

The Tempting of America

The current five-vote majority on the Supreme Court may be the most divisive, anti-democratic court in American history. Overruling Democracy disputes the majority's awful rulings on third parties, race, high schools and corporations.

The Supreme Court, Race, and Civil Rights

There is a great difficulty in the way of a writer who attempts to sketch a living Constitution--a Constitution that is in actual work and power. The difficulty is that the object is in constant change. An historical writer does not feel this difficulty: he deals only with the past; he can say definitely, the Constitution worked in such and such a manner in the year at which he begins, and in a manner in such and such respects different in the year at which he ends; he begins with a definite point of time and ends with one also. But a contemporary writer who tries to paint what is before him is puzzled and perplexed: what he sees is changing daily. He must paint it as it stood at some one time, or else he will be putting side by side in his representations things which never were contemporaneous in reality.

Politics and the Constitution in the History of the United States

Currie's masterful synthesis of legal analysis and narrative history, gives us a sophisticated and much-needed evaluation of the Supreme Court's first hundred years. "A thorough, systematic, and careful assessment. . . . As a reference work for constitutional teachers, it is a gold mine."—Charles A. Lofgren, *Constitutional Commentary*

Hart and Wechsler's the Federal Courts and the Federal System

Legitimacy and judicial authority -- Constitutional meaning : original public meaning -- Constitutional meaning : varieties of history that matter -- Law in the Supreme Court : jurisprudential foundations -- Constitutional constraints -- Constitutional theory and its relation to constitutional practice -- Sociological, legal, and moral legitimacy : today and tomorrow

Justice Deferred

This 2008 Supplement updates the main text with recent developments. Topics discussed include the development and structure of the federal judicial system; cases and controversies; the original jurisdiction of the Supreme Court; the distribution of judicial power among federal and state courts; review of state court decisions by the Supreme Court; civil actions in the district courts; federal common law; jurisdiction of the district courts; suits challenging official action; limitations on district court jurisdiction; federal habeas corpus; problems of district court jurisdiction; and appellate review of federal decisions.

Reports of Cases Argued and Determined in the Supreme Court of Louisiana and in the Superior Court of the Territory of Louisiana. [1809-1896]

The history of the Georgia Constitution -- The Georgia Constitution and commentary

Constitutional Choices

The Enigma of Clarence Thomas is a groundbreaking revisionist take on the Supreme Court justice everyone knows about but no one knows. Most people can tell you two things about Clarence Thomas: Anita Hill accused him of sexual harassment, and he almost never speaks from the bench. Here are some things they don't know: Thomas is a black nationalist. In college he memorized the speeches of Malcolm X. He believes white people are incurably racist. In the first examination of its kind, Corey Robin – one of the foremost analysts of the right – delves deeply into both Thomas's biography and his jurisprudence, masterfully reading his Supreme Court opinions against the backdrop of his autobiographical and political writings and speeches. The hidden source of Thomas's conservative views, Robin shows, is a profound skepticism that racism can be overcome. Thomas is convinced that any government action on behalf of African-Americans will be tainted by racism; the most African-Americans can hope for is that white people will get out of their way. There's a reason, Robin concludes, why liberals often complain that Thomas doesn't speak but seldom pay attention when he does. Were they to listen, they'd hear a racial pessimism that often sounds similar to their own. Cutting across the ideological spectrum, this unacknowledged consensus about the impossibility of progress is key to understanding today's political stalemate.

Settled Versus Right

Inherently Unequal