

Judicial Authority

Name of Student

Institutional Affiliation

1-2 Judicial Authority

Introduction to Judicial Review and Examination of Articles III and VI

Judicial review, a cornerstone of American jurisprudence, emerged from *Marbury v. Madison*, 5 U.S. 137, establishing the Supreme Court's authority to invalidate federal laws conflicting with the Constitution (*Marbury v. Madison*, n.d.). This principle, though not explicitly outlined in the Constitution, aligns with the broader framework of checks and balances detailed in Articles III and VI. Article III vests judicial power in the Supreme Court and outlines its jurisdiction, emphasizing its role in interpreting the law and ensuring its alignment with the Constitution (The Constitution of the United States, 2015). Article VI declares the Constitution and federal laws as the supreme law of the land, mandating all judges to adhere to it, superseding any conflicting state statutes.

Scope of Checks and Balances Relative to the Judicial Branch

The legislative and executive branches of the United States government hold substantial checks over the judiciary, which is a crucial aspect of the separation of powers doctrine. The Congress, specifically, has the authority to shape the structure and jurisdiction of the Supreme Court. It includes defining the appellate jurisdiction of the Court, as delineated in Article III, Section 2 of the Constitution, allowing Congress to influence the kinds of cases the Court may hear. Moreover, Congress can enact constitutional amendments that have the power to reverse judicial decisions, thereby directly affecting the legal landscape. On the executive side, the President plays a significant role in shaping the judiciary through the appointment of Supreme Court justices. These appointments require the advice and consent of the Senate, which can lead to significant negotiations and considerations, thus influencing the Court's ideological balance and judicial philosophy. This appointment power is outlined in Article II, Section 2 of the Constitution and underscores the

President's indirect but profound impact on the judicial branch's composition and, subsequently, its rulings.

Judicial Activism and Its Implications

The term "judicial activism" is often used pejoratively to describe court decisions that are perceived as overly progressive or departing from established legal norms. This concept has been recognized in U.S. legal discourse since at least the 1940s when it was used to criticize the Supreme Court's decisions that expanded civil rights and liberties. Judicial activism can be viewed as a form of checks and balances, providing a counterweight to actions of the other branches that may contravene constitutional principles. However, critics argue that it can undermine the stability provided by the doctrine of stare decisis, which promotes legal continuity. To address concerns about judicial activism, one could advocate for stricter adherence to originalist interpretations of the Constitution or promote a more rigorous Senate review of judicial appointments to ensure balanced judicial philosophies.

Case Study of Judicial Activism: Obergefell v. Hodges

In the landmark case of *Obergefell v. Hodges*, 576 U.S. 644, the United States Supreme Court held that the right to marry is a fundamental liberty that extends to same-sex couples, affirming their right under the Constitution's Fourteenth Amendment, which guarantees equal protection and due process rights (*Obergefell*, 576 U.S. at 669). The ruling was celebrated by many as a victory for civil rights but criticized by others as an act of judicial activism (*Obergefell v. Hodges*, n.d.). The dissenting justices contended that the decision usurped the democratic process, arguing that decisions on social policies like marriage should be left to the legislative branches, reflecting the electorate's will rather than the judicial mandate (*Obergefell*, 576 U.S. at 689). This division highlights the ongoing debate over the judiciary's role in shaping social policy in the United States.

Stare Decisis and Its Erosion

Judicial activism can potentially erode the doctrine of stare decisis, which requires courts to follow precedents to ensure legal predictability and uniformity. Horizontal stare decisis refers to a court adhering to its previous decisions, while vertical stare decisis mandates lower courts to follow higher courts' precedents. An example of horizontal stare decisis is the Supreme Court's adherence to its earlier decisions regarding the First Amendment in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (*Citizens United v. FEC*, n.d.).

Proposed Decision and Technological Implications

If I were to decide *Obergefell*, supporting the majority would align with evolving interpretations of equal protection and due process. Technology, especially legal research tools, facilitates broader access to legal precedents and scholarly critiques, supporting informed judicial decisions. However, the omnipresence of social media can skew public perceptions and pressures on judicial independence. Overcoming this requires enhancing digital literacy among the judiciary to discern and withstand such pressures effectively.

Conclusion

Judicial review serves as a dynamic interpretative tool that upholds the Constitution's supremacy, embodying a fundamental principle of American governance. Within this framework, judicial activism represents a complex and sometimes contentious force. It can provoke significant legal and societal changes, challenging traditional interpretations and promoting progressive norms. However, it also necessitates a delicate balance with judicial restraint to maintain legal consistency and predictability. Ensuring this equilibrium between activism and adherence to legal precedents is crucial for sustaining the judiciary's integrity, public trust, and the broader goal of fairness within our legal system. This balance helps the judiciary address contemporary issues effectively while respecting the foundational legal structures established by the Constitution.

References

Citizens United v. FEC, 558 U.S. 310 (2010). (n.d.). Justia Law. Retrieved June 21, 2024, from <https://supreme.justia.com/cases/federal/us/558/310/>

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