

Legitimacy of the Judicial Branch

Explain how the exercise of judicial review in conjunction with life-tenure can lead to controversy about the legitimacy of the Supreme Court's power.

1. Critics of the Supreme Court have pointed out that judges increasingly waded into the "political thicket." What does this mean?

- a. Judges have grown accustomed to becoming policy makers
- b. Judges have increasingly endorsed candidates from the bench
- c. Judges have increasingly opted to leave the bench to run for office
- d. Judges have turned their opinions into partisan political platforms

2. The United States judiciary has boasted of its "independence." What does this mean?

- a. Free of private and partisan interests
- b. Free of controversy and debate
- c. Free of media scrutiny and examination
- d. Free of any real check and balance from the other branches

3. In recent years the Supreme Court has been accused of deciding politically charged cases, thus challenging its legitimacy as an independent judiciary. *In this case the Court allowed for corporations to participate in donating independent expenditures during national campaigns.* Critics alleged this case countered decades of agreed upon Court precedent.

- a. *District of Columbia v. Heller* (2008)
- b. *Citizens United v. FEC* (2010)
- c. *McDonald v. Chicago* (2010)
- d. *Fisher v. University of Texas* (2013)

4. In recent years the Supreme Court has been accused of deciding politically charged cases, thus challenging its legitimacy as an independent judiciary. *In this case the Court stated, "...the Second Amendment conferred an individual right to keep and bear arms."* Critics alleged this case countered decades of agreed upon Court precedent.

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5. The process of making judicial decisions is called

- a. Jurisdiction
- b. Jurisprudence
- c. Amicus curiae
- d. Stare decisis

6. Which of the following scenarios characterizes a judge who practices judicial restraint?

- a. The judge felt it necessary to help low income workers in the absence of any other public policy
- b. The judge chose to give meaning to a vague portion of Congress' new law on marriage
- c. The judge chose to wait in deciding due to a change in public opinion
- d. The judge deferred to Congress by choosing to deny jurisdiction in the case

7. All of the following would characterize a judge who practices activism EXCEPT

- a. Bound by the intent of the constitution
- b. Belief in a “living” constitution
- c. See them as a “last resort” for the powerless
- d. Need to remedy vague laws

8. Politicizing the judicial decision process challenges this long held legal ideal

- a. Justice is blind
- b. Justice delayed is justice denied
- c. A stitch in time saves nine
- d. Justice for all

9. The Courts today has been criticized for reaching beyond their constitutional imperative by becoming a policy-making institution. An example of this would be

- a. When the court rules an act of Congress unconstitutional
- b. When the court rules an act of the president unconstitutional
- c. When the court interprets the reach of First Amendment freedoms
- d. When the court changes the meaning of an act of Congress

10. Today judges who practice restraint tend to be _____ while judges who practice activism tend to be _____.

- a. Liberal; conservative
- b. Conservative; liberal
- c. Libertarian; Liberal
- d. Conservative; Libertarian

11. The growth of judicial power today can best be explained by

- a. An outdated constitution
- b. Young, ambitious judges
- c. Frequent use of judicial review
- d. The rise of judicial restraint

12. Which of the following best protect judges from popular criticism?

- a. They serve for life
- b. The press is not allowed into the Court
- c. Few Supreme Court judges have ever been impeached
- d. Fear of legal retribution

13. In which of the following types of jurisprudence would you most expect the court to get involved in a “political thicket”?

- a. Judicial activist
- b. Judicial restraint
- c. Conservative jurist
- d. Originalist

Critical Thinking Prompt: What would be the advantages and disadvantages of electing our Supreme Court judges? Is having an independent judiciary important? How best to build an independent judiciary?