THE FEDERAL COURTS
THE NATURE OF THE JUDICIAL SYSTEM

• Introduction:
  • An Adversarial relationship
  • Two types of cases:
    • Criminal Law: The government charges an individual with violating one or more specific laws.
    • Civil Law: The court resolves a dispute between two parties and defines the relationship between them and their legal rights.
• Most cases are tried and resolved in state courts, not federal courts.
THE NATURE OF THE JUDICIAL SYSTEM

• Participants in the Judicial System
  • Litigants
    • Plaintiff - the party bringing the charge
    • Defendant - the party being charged
    • Petitioner – Civil Cases; bringing the suit
    • Respondent- Civil Case- the liable party
    • Jury - the people (normally 12) who often decide the outcome of a case
    • Standing to sue - petitioners have a serious interest in the case.
    • Justiciable disputes – A case must be capable of being settled as a matter of law.
THE NATURE OF THE JUDICIAL SYSTEM

- Participants in the Judicial System
  - Interest Groups and other groups
    - Use the courts to try to change policies.
    - *Amicus Curiae* briefs are used to influence the courts.
  - Law Clerks
    - Justices rely on them to determine which cases to hear (granting certiorari)
    - Prestigious position out of Law School; great for the resume
THE NATURE OF THE JUDICIAL SYSTEM

• Constitutional Grounds for Justices
  • Judicial Restraint/ Originalists
    • Believe that judges should strike down the action of the elected branches only if they violate the literal meaning of the Constitution
    • More conservative side
  • Judicial Activism
    • Believe that people need to be protected from interference from government in their private lives
    • Interpret the law to achieve social justice
    • The Constitution is a living document that can change with circumstances- Gay marriage
    • More liberal side
THE STRUCTURE OF THE FEDERAL JUDICIAL SYSTEM

Figure 16.1
THE STRUCTURE OF THE FEDERAL JUDICIAL SYSTEM

• District Courts
  • Original Jurisdiction: courts that hear the case first and determine the facts - the trial court.
  • Federal crimes
  • Civil suits under federal law and across state lines
  • Supervise bankruptcy and naturalization
  • Review some federal agencies
  • Admiralty and maritime law cases
  • NO APPELLATE JURISDICTION
THE STRUCTURE OF THE FEDERAL JUDICIAL SYSTEM

• Courts of Appeal
  • Appellate Jurisdiction: reviews the legal issues in cases brought from lower courts.
  • Hold no trials and hear no testimony.
  • NO ORIGINAL JURISDICTION
  • 12 circuit courts
  • U.S. Court of Appeals for the Federal Circuit – specialized cases
  • Focus on errors of procedure & law
THE STRUCTURE OF THE FEDERAL JUDICIAL SYSTEM

• The Federal Judicial Circuits (Figure 16.2)
THE STRUCTURE OF THE FEDERAL JUDICIAL SYSTEM

• The Supreme Court
  • 9 justices – 1 Chief Justice, 8 Associate Justices
  • Supreme Court decides which cases it will hear
  • Some original jurisdiction, but mostly appellate jurisdiction.
  • Most cases come from the federal courts
  • Most cases are civil cases
  • In order to hear a case there must be a minimum of 6 justices.
    • Recusal
THE POLITICS OF JUDICIAL SELECTION

• The Lower Courts District and Appellate
  • Senatorial Courtesy:
    • Unwritten tradition where a judge is not confirmed if a senator of the president’s party from the state where the nominee will serve opposes the nomination.
    • Has the effect of the president approving the Senate’s choice
  • President has more influence on appellate level
THE POLITICS OF JUDICIAL SELECTION

• The Supreme Court
  • President relies on attorney general and DOJ to screen candidates.
  • 1 out of 5 nominees will not make it.
  • Presidents with minority party support in the Senate will have more trouble.
  • Chief Justice can be chosen from a sitting justice, or a new member.
THE COURTS AS POLICYMAKERS

• Accepting Cases
  • Use the “rule of four” to choose cases.
  • Issues a *writ of certiorari* (a formal petition seeking to bring a case before the Supreme Court) to call up the case.
  • Very few cases are actually accepted each year.

Figure 16.4
THE COURTS AS POLICYMAKERS

• Making Decisions
  • Oral arguments may be made in a case.
  • Justices discuss the case.
  • Justices write opinions- an explanation of a decision of the Supreme Court or any other appellate court
  • One justice will write the majority opinion (statement of legal reasoning behind a judicial decision) on the case.

Figure 16.5
THE 8 STEPS TO A SUPREME COURT DECISION

1. Reviewing Appeals/ In Forma Pauperis/Docket/ issue writ of certiorari
2. Granting an appeal/Rule of 4
3. Briefing the case/ amicus curiae
4. Holding oral arguments- 30 minutes each side
5. Meeting in Conference
6. Explaining the decision/majority/dissenting/concurring
7. Writing the opinion
8. Releasing the opinion
THE COURTS AS POLICYMAKERS

• Making Decisions, continued
  • Dissenting opinions are written by justices who oppose the majority.
  • Concurring opinions are written in support of the majority but stress a different legal basis.
  • *Stare decisis*: to let the previous decision stand unchanged. Relying on precedent.
  • Precedents: How similar past cases were decided.
  • Original Intent: The idea that the Constitution should be viewed according to the original intent of the framers.
THE COURTS AS POLICYMAKERS

• Implementing Court Decisions
  • Must rely on others to carry out decisions
  • Interpreting population: understand the decision
  • Implementing population: the people who need to carry out the decision – may be disagreement
  • Consumer population: the people who are affected (or could be) by the decision
UNDERSTANDING THE COURTS

• The Courts and Democracy
  • Courts are not very democratic; however it is both a legal AND political institution
    • Not elected
    • Difficult to remove
    • Impacted by popular opinion
    • The nomination process can be quite political

• The courts do reflect popular majorities
• Groups are likely to use the courts when other methods fail – promoting pluralism
• There are still conflicting rulings leading to deadlock and inconsistency
UNDERSTANDING THE COURTS

• What Courts Should Do: The Scope of Judicial Power
  • Judicial restraint: judges should play a minimal policymaking role - leave the policies to the legislative branch.
  • Judicial activism: judges should make bold policy decisions and even charting new constitutional ground.
  • Political questions: means of the federal courts to avoid deciding some cases.
  • Statutory construction: the judicial interpretation of an act of Congress.