

A grayscale illustration of a woman, likely representing Lady Justice, holding a pair of scales. She is shown from the waist up, wearing a draped garment. Her right arm is raised, holding a gavel, and her left arm is extended, holding the scales. The scales have two pans hanging from a horizontal beam. The background is a textured, light gray.

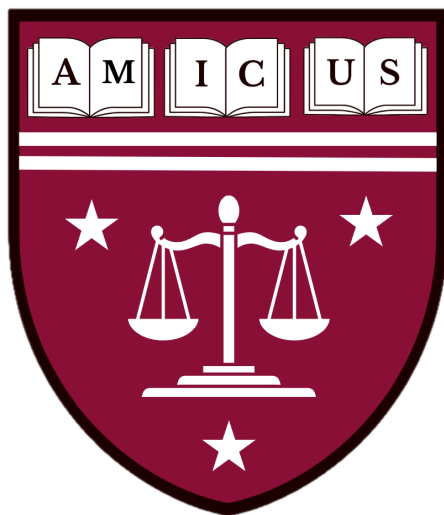
SIDWELL LAW REVIEW

SPRING 2025

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Letter from the Editors



Thank you for reading the inaugural edition of the Sidwell Law Review!

The Law Review is Sidwell's premier legal publication, dedicated to exploring the role of law in shaping our communities, our country, and the world. We aim to provide a forum where students can critically engage with legal questions and civic issues.

As the Sidwell Law Review, we believe that examining the law through diverse perspectives strengthens both our scholarship and our shared sense of civic duty. Each contribution in this issue reflects the creativity, curiosity, and dedication of our student writers, who bring fresh insight to our nation's most pressing legal questions.

Thank you to all of our contributors for their brilliant contributions.

We hope you enjoy this issue!

Eyob Sisay '26, Founder & President
Alex Fagell '26, Vice President & Editor-in-Chief
Maina Vaidya '26, Executive Editor

Masthead

Editors-in-Chief

*Eyob Sisay
Alex Fagell*

Executive Editor

Maina Vaidya

Advisor

Dr. Robert Gross

Contributors

*Nic Barac
Julia Bertele
Ava Ghassemi
Leo Herman
Hujja Moshood
Avery Mullen
Osewe Ogada
Suomo Quarshie
AJ Valbrune
Dylan Verma*

Mission Statement

The Sidwell Law Review is Sidwell's first legal publication. SLR strives to promote accessible legal and civic education through scholarship, dialogue, and service.



Cover art by Angela Ding '26

Supreme Court Eliminates Chevron Deference

Judges, not experts, will now interpret ambiguous statutes

Hujja Moshood '28

Photo/Graphic by Wikimedia Commons



On June 28, 2024, the Supreme Court eliminated Chevron deference from legal issues in the case of *Loper Bright Enterprises v. Raimondo*. Previously, the Chevron deference served as a legal doctrine that allowed certain government agencies, such as the FDA or the EPA, to interpret laws passed by Congress if their interpretation was reasonable, especially when the law was ambiguous in its definition.

Gina Raimondo, the former U.S. Secretary of Commerce, and *Loper Bright Enterprises*, a group of commercial fishing companies, disagreed over how the government is mandating that commercial fishermen pay for observers on board their ships, a requirement that the law does not explicitly state. The fishermen argue that the Magnuson-Stevens Act, the law governing fisheries, does not clearly state that the National Oceanic and Atmospheric Administration (NOAA) can mandate fishermen to pay for onboard observers. NOAA interprets the law to mean that it can require such payments.

The courts disagreed with this interpretation, as they did not believe it was appropriate for NOAA to interpret the law, stating that there needs to be an objective measurement of what the laws say; therefore, Chevron deference was nullified.

The Supreme Court's decision to elimi-

nate the Chevron deference will have significant implications for future legal battles between government agencies and other entities. This shift places the sole authority to interpret laws in the hands of the judiciary, removing the ability of agencies to rely on their own expertise when applying ambiguous statutes. As a result, complex technical decisions that scientists and experts within agencies once made may now be decided by judges who often lack the specialized knowledge needed to make informed determinations.

This change would likely lead to more legal challenges to agency actions, especially those based on vague statutory language. Regulated entities could challenge existing regulations, leading to potential uncertainty and forcing agencies to align their actions with statutory mandates better.

A lack of deference will lead to inconsistent statutory interpretations across jurisdictions, making compliance difficult for regulated entities. The decision is likely to have a significant impact in areas such as telecommunications, where agency interpretations of statutes have had a determinative influence on shaping policy.

Agencies like the Environmental Protection Agency (EPA) have long relied on Chevron deference

in interpreting and implementing broad environmental statutes, such as the Clean Air Act and the Clean Water Act. If authority shifts to the courts, then instead of scientists determining what qualifies as clean or not, underqualified judges would make those decisions. The removal of Chevron deference will limit these agencies in their ability to address environmental issues. The loss of judicial deference to agency expertise will enable more industries to challenge EPA regulations, potentially leading to setbacks in ecological protection. Climate change programs implemented by agencies such as the EPA could become less effective, particularly depending on the administration overseeing the regulations.

The Department of the Interior (DOI) and the U.S. Department of Agriculture (USDA), both responsible for managing public lands and natural resources, are facing challenges due to the removal of Chevron deference. The DOI's interpretation of environmental statutes may now be more frequently subject to judicial review, potentially leading to an increase in lawsuits challenging DOI regulations. Increased judicial scrutiny could also impact tribal land and resource policies, as well as delay the implementation of new agricultural and environmental policies by the USDA and DOI. The absence of Chevron deference could also result in increased litigation among stakeholders affected by these regulatory changes.

Ultimately, the end of Chevron deference would be a world where federal agencies, such as the DOI, EPA, and USDA, would have to face more judicial review, potentially leading to increased lawsuits, regulatory uncertainty, and challenges in effectively implementing environmental policy.

Works Cited

- John P. Elwood et al., "Chevron Overturned: Impacts on Environmental, Energy, and Natural Resources Regulation," *Arnold & Porter*, July 2, 2024.
- Sidley Austin LLP, "Environmental Law Implications of *Loper Bright* and the End of Chevron Deference," *Environmental & Energy Brief*, July 2, 2024.
- Mary Katherine Andrews, Christopher L. Bell, and David G. Mandelbaum, "Assessing *Loper Bright*'s Potential Real-World Effects on Environmental Regulation," *National Law Review*, September 19, 2024.
- Mark Nevitt, "Analysis: Nevitt on *Loper Bright Enterprises*," *Emory University School of Law*, July 30, 2024.
- "The Overturn of the Landmark Chevron Doctrine and The Implication for Climate Policy in the United States," *Cornell Institute for Public Affairs*, accessed April 13, 2025.
- "What Overruling Chevron Could Mean for Environmental Law," *Georgetown Environmental Law Review*, accessed April 13, 2025.
- Bittle, Jake, and Zoya Teirstein. "The Supreme Court Overturns the Chevron Doctrine, Gutting Federal Environmental Protections." *Sierra Club*, June 28, 2024.

Supreme Court Affirms USAID Payouts

Trump administration ordered to provide compensation

Julia Bertele '26

Photo/Graphic by USAID/Wikimedia Commons



On March 5, 2025, the U.S. Supreme Court denied the federal government's emergency application to block a lower court ruling requiring the U.S. Agency for International Development (USAID) to disburse nearly \$2 billion to contractors for work already completed under foreign aid programs. The Court's decision, issued in a 5–4 ruling, represents a significant exercise of judicial authority over executive power and raises broader constitutional questions regarding sovereign immunity, administrative procedure, and the separation of powers.

The dispute originated in Washington, D.C., where the U.S. District Court for the District of Columbia ruled in February 2025 that the government must release payments owed to various non-profit and private contractors. These organizations fulfilled obligations under foreign assistance agreements before the Biden administration issued a temporary pause on foreign aid disbursements through Executive Order 14169. The Biden administration intended the pause to serve as a broad administrative review of U.S. foreign development strategy, but it effectively froze billions in previously obligated funds.

On February 13, 2025, the District Court issued a temporary restraining order (TRO) blocking the pause, citing likely violations of the Administrative Procedure Act (APA). Two weeks later, the judge issued a second order compelling USAID and the Department of State to re-

lease \$2 billion in payments within 36 hours. This deadline prompted immediate pushback from the government and ultimately led to the Supreme Court's involvement.

At the heart of the case is the question of whether a federal judge can compel the executive branch to make payments it has chosen to pause or delay. The Biden administration argued that sovereign immunity shielded the government from such a coercive order and warned that the money, once disbursed, would likely be unrecoverable. Justice Alito, writing in dissent and joined by Justices Thomas, Gorsuch, and Kavanaugh, strongly endorsed that view, arguing that the District Court lacked jurisdiction and that the order amounted to an unconstitutional usurpation of executive authority.

The majority, however, took a narrower view. While the Court did not issue a full opinion explaining its rationale, it allowed the lower court's order to stand, suggesting an implicit affirmation of judicial oversight over agency decision-making—particularly where pre-existing legal obligations are at stake. The denial of the government's application effectively upheld the finding that the administration's abrupt halt likely violated administrative law and contractual norms.

The decision hinged on several key legal principles. First, the APA prohibits federal agencies from taking arbitrary or capricious ac-

tions. The plaintiffs, contractors, and NGOs that had already completed their work argued that retroactively pausing payment without proper notice or procedure was exactly such an arbitrary move. The District Court agreed, and its TRO signaled that the plaintiffs were likely to succeed on the merits.

Second, while the government raised sovereign immunity as a defense, the plaintiffs cited the APA's limited waiver of such immunity for claims seeking non-monetary relief (which, when involving pre-existing obligations, courts have occasionally interpreted to allow injunctive enforcement). The District Court took this view and deemed the government's obligations enforceable in equity rather than damages.

Third, the Court had to decide whether the District Court's second order constituted an unappealable TRO (as the lower court labeled it) or a preliminary injunction, which would have allowed for immediate appellate review. The D.C. Circuit took the former view, prompting Justice Alito's frustration with what he called a procedural "trap" preventing higher court oversight.

This ruling sets a critical precedent for the extent to which courts can enforce executive obligations, particularly when contracts and congressional appropriations are involved. It also subtly rebukes the trend of executive orders being used to alter major policy areas without procedural safeguards. From a political perspective, the decision may limit future administrations' ability to impose sudden changes on federal spending programs, particularly those with international ramifications. It underscores that even in matters of foreign aid, typically viewed as within executive discretion, agencies are not above the rule of law or judicial scrutiny.

The Supreme Court's denial reinforces the idea that courts can intervene to ensure the government honors its commitments, even when the executive branch would prefer to pause or revisit them. Whether viewed as a victory for contractors, for the administrative state, or for judicial oversight, the decision affirms one of the bedrock principles of American governance: the government must play by its own rules.

The decision also reinforces Congress's constitutional power of the purse, signaling that once funds are obligated, the executive branch cannot suspend payment without clear statutory authority. Future litigation will likely test the limits of judicial enforcement over such appropriations.

Works Cited

- National Public Radio. "Supreme Court Upholds a Lower Court Order to Force USAID to Pay Contractors." NPR, March 5, 2025. <https://www.npr.org/2025/03/05/nx-s1-5309498/scotus-usaid-news>.
- Supreme Court of the United States. Department of State v. AIDS Vaccine Advocacy Coalition, No. 24A831. Decided March 5, 2025. https://www.supremecourt.gov/opinions/24pdf/24a831_3135.pdf.
- United States Congress. Administrative Procedure Act. 5 U.S.C. §§ 551–559, 701–706. <https://www.law.cornell.edu/uscode/text/5/part-1/chapter-5>.

Supreme Court Backs Trump's Use of Alien Enemies Act

Ruling Revives Centuries-Old Statute for Immigration Enforcement

Nick Barac '28

Photo/Graphic by Wikimedia Commons

On April 7, 2025, the United States Supreme Court allowed President Donald Trump to continue enforcing the Alien Enemies Act of 1798 to conduct rapid deportations of alleged gang members. The Trump administration's emergency appeal comes as US District Court Judge James Boasberg considers whether to hold the administration in contempt of court after it ignored his order to return two planes carrying alleged members of the international cartel Tren de Aragua to El Salvador.

The Alien and Sedition Acts of 1798, of which only the Alien Enemies Act remains in effect, were enacted as wartime measures during a period of heightened tensions with France. When Congress passed this law, the United States had no immigration law or federal law enforcement agencies. After his election in 1800, President Thomas Jefferson repealed most of these acts, but allowed the Alien Enemies Act to remain. It has since been amended to apply to women as well in 1918.

The Act permits the President to detain and deport foreign nationals in the event of a "declared war between the United States and any foreign nation or government, or any invasion or predatory incursion." If the Act is invoked without a declaration of war from Congress, the President has the right to determine and proclaim threats of an invasion. The Act does not apply to U.S. citizens or lawful permanent residents.

Trump invoked the Alien Enemies Act on March 14 with a proclamation accusing Venezuelan criminal gang Tren de Aragua of "perpetrating, attempting, and threatening an invasion... against the territory of the United States." Following an executive order from Trump, Tren de Aragua was designated a foreign terrorist organization by the U.S. State Department in February. The Act's invocation authorizes the expedited deportation of all Venezuelan nationals aged 14 and older who are deemed affiliates

of the gang, calling such members "a danger to the public peace or safety of the United States."

The Alien Enemies Act has been previously invoked only three times, all in correlation with active military conflict. Notably, President Franklin D. Roosevelt used it during World War II to detain and place upwards of 31,000 Germans and Italians in internment camps, and used additional legislation to forcibly relocate and incarcerate more than 100,000 innocent Japanese Americans.

After World War II ended in 1945, President Harry Truman continued using wartime detention and deportation laws until 1951. In *Ludecke v. Watkins* (1948), the Supreme Court upheld this practice, holding that questions of postwar recovery and the determination of whether hostilities had ended were "political" matters reserved for the President, not the judiciary.

However, the Supreme Court's 1962 *Baker v. Carr* opinion gave the courts the authority to bypass the political question doctrine to correct "an obvious mistake" or "manifestly unauthorized exercise of power" by the Executive Branch.

The Fifth Amendment of the Constitution assures the right of U.S. citizens and immigrants to be protected against discrimination by the federal government. According to Katherine Yon Ebright, counsel with the Brennan Center's Liberty and National Security Program, the act "discriminates against immigrants based on their country of citizenship and, more broadly, based on their ancestry." The Act also classifies "natives," individuals born in a hostile state who have renounced their citizenship of that state, as alien enemies.

On May 16, the Trump administration ignored Boasberg's directive to return two flights carrying hundreds of deportees to a maximum security prison in El Salvador, with White

House Press Secretary Karoline Leavitt arguing that the alleged gang members "had already been removed from U.S. territory," and that "the written order and the administration's actions do not conflict."

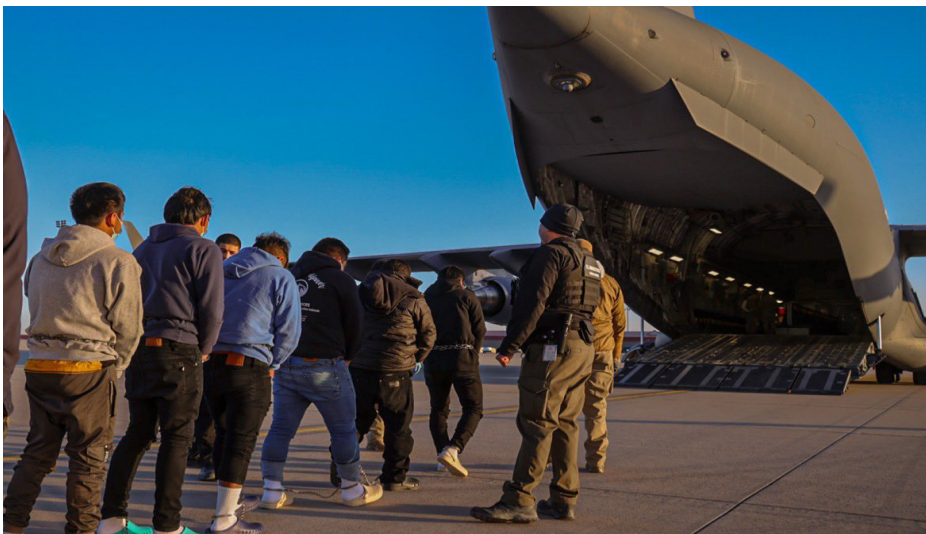
The American Civil Liberties Union has sued the Trump administration over its invocation of the Alien Enemies Act, calling it "not only unlawful but an outright assault on fundamental rights," according to Arthur Spitzer, senior counsel at the ACLU of the District of Columbia. Spitzer asserted that Trump's move to invoke the act was "designed to support an unchecked mass deportation program, all while bypassing the necessary judicial review."

Ebright expressed her concern over Trump's use of the law, referring to it as a "flagrantly illegal" power grab used to assist Trump's promised mass deportations. After failed attempts in recent years, Rep. Ilhan Omar (D-Minnesota) and Sen. Mazie Hirono (D-Hawaii) reintroduced the "Neighbors Not Enemies" Act in January, which would repeal the Alien Enemies Act. Omar asserted that "repealing this law is a necessary step toward creating an immigration system rooted in justice and compassion."

While the Supreme Court permitted Trump to continue justifying the deportations of alleged Tren de Aragua members with the Alien Enemies Act, the decision was unsigned, allowing lower courts to further deliberate the legality of the deportations.

Works Cited

- ABC News. Faulders, Katherine. "Trump Administration Ignores Judge's Order to Turn Deportation Planes Around: Sources." ABC News. Last modified March 16, 2025. <https://abcnews.go.com/US/trump-admin-ignores-judges-order-bring-deportation-planes/story?id=119857181>
- ACLU. Gelernt, Lee. "ACLU and Democracy Forward Sue Trump Administration Over Expected Invocation of Alien Enemies Act." News release. March 15, 2025. <https://www.aclu.org/press-releases/aclu-and-democracy-forward-sue-trump-administration-over-expected-invocation-of-alien-enemies-act>
- Alien Enemies Act, 50 U.S.C. § 21 (Apr. 16, 1918). <https://uscode.house.gov/view.xhtml?path=/prelim@title50/chapter3&edition=prelim>
- Brennan Center for Justice. Ebright, Katherine Yon. "The Alien Enemies Act, Explained." Last modified October 9, 2024. <https://www.brennancenter.org/our-work/research-reports/alien-enemies-act-explained>
- CNN. Fritze, John, and Devan Cole. "Supreme Court Allows Trump to Enforce Alien Enemies Act for Rapid Deportations for Now | CNN Politics." CNN. Last modified April 7, 2025. <https://www.cnn.com/2025/04/07/politics/supreme-court-deportation-flights-trump/index.html>
- Congressional Research Service. Eisea, Jennifer K. The Alien Enemies Act: History and Potential Use to Remove Members of International Criminal Cartels. Report no. LSB11269. April 2, 2025. <https://uscode.house.gov/view.xhtml?path=/prelim@title50/chapter3&edition=prelim>
- Exec. Order No. 14157, 90 Fed. Reg. 8439 (Jan. 29, 2025). <https://www.federalregister.gov/documents/2025/01/29/2025-02004/designating-cartels-and-other-organizations-as-foreign-terrorist-organizations-and-specially>
- Ludecke v. Watkins*, 335 U.S. 160 (1948). <https://supreme.justia.com/cases/federal/us/335/160/>
- NPR. Treisman, Rachel. "4 Things to Know about the Alien Enemies Act and Trump's Efforts to Use It." NPR. Last modified March 18, 2025. <https://www.npr.org/2025/03/18/nx-1-5331857/alien-enemies-act-trump-deportations>
- Proclamation No. 10903, 90 Fed. Reg. 13033 (Mar. 20, 2025). <https://www.federalregister.gov/documents/2025/03/20/2025-04865/invocation-of-the-alien-enemies-act-regarding-the-invasion-of-the-untied-states-by-tren-de-aragua>
- Proclamation No. 2525, 6 Fed. Reg. 6321 (Dec. 7, 1941). <https://www.presidency.ucsb.edu/documents/proclamation-2525-alien-enemies-japanese>
- Baker v. Carr*, 369 U.S. 186 (1962). <https://supreme.justia.com/cases/federal/us/369/186/>



Climate Activists Battle State of Montana

Young Activists Are Using Montana Law to Challenge Climate Change

Avery Mullen '26

Photos/Graphics by Wikimedia Commons



In 1971, the State of Montana passed the Montana Environmental Policy Act (MEPA). The Act's goal was to "to protect the right to use and enjoy private property free of undue government regulation" while "promot[ing] efforts that will prevent, mitigate, or eliminate damage to the environment (75-1-102(2), MCA)."

On March 13, 2020, a group of 16 young adults sued the state of Montana, then-Governor Steve Bullock, and a number of government agencies for contributing to the pressures they felt due to climate change.

They called for both injunctive and declaratory relief, specifically that the MEPA was unconstitutional based on a 1972 amendment of the Montana State Constitution that "[required] the state to provide a clean and healthful environment." The state first tried to dismiss the complaint on the basis that the plaintiffs had not gone through the full extent of administrative action.

Simultaneously, the state also claimed that the plaintiffs lacked a case or controversy standing and therefore had no right to present their complaint. The court ultimately decided to reject the State's dismissal while agreeing that the plaintiffs were not entitled to any injunctive measures beyond preventing the state from acting in accordance with any unconstitutional law.

In summary, the plaintiffs have the right to bring this case forward, but they will not receive any injunctive measures beyond preventing the State from taking any unconstitutional actions.

This decision demonstrates how "green" legislation is becoming an integral part of an increasing number of state laws, and how continued action like this can help reduce our country's carbon footprint. Furthermore, this decision exemplifies how state politics

continue to matter, even amidst massive national issues.

That a climate-centered case can gain statewide attention, especially in a conservative state like Montana, demonstrates that while national politics are essential, state power remains potent and should not be overlooked, particularly on matters like climate change.

Ultimately, this landmark decision shows young people and future activists that their voices are important and carry weight in their communities.

The Montana case also reflects a broader trend in American constitutional law: the use of state constitutions as independent sources of rights that can go beyond federal protections.

By recognizing a judicially enforceable right to a "clean and healthful environment," Montana has positioned itself as a testing ground for climate litigation nationwide. The ruling affirms the capacity of courts to hold governments accountable for environmental protection and shows how constitutional guarantees, often overlooked, can be mobilized to safeguard collective rights against climate harms.

More broadly, it reflects a growing willingness of courts to step in where legislatures or federal agencies may hesitate, signaling that climate litigation will remain a vital legal and political strategy.

For young people and activists, the case represents more than a symbolic win: it demonstrates how state constitutions can serve as laboratories for democratic innovation, with local action influencing national policy.

Montana's decision may thus serve as both a model and a catalyst, reminding policymakers that climate change implicates not only global cooperation but also fundamental rights within their own communities.

Works Cited

- Montana State Legislature. "Home." <https://archive.legmt.gov/>.
- Held v. State, 2024 MT 208, 429 Mont. 1 (Mont. 2024). <https://law.justia.com/cases/montana/supreme-court/2024/da-23-0575-0.html>.
- "Montana Supreme Court Recognizes Right to a Stable Climate." National Law Review. <https://natlawreview.com/article/three-takeaways-montana-supreme-court-decision-guaranteeing-right-stable-climate>.



The Stakes of the United States v. Skrametti

Supreme Court Reviews Tennessee's Ban on Gender-Affirming Care for Minors

Dylan Verma '26

Photos/Graphics by Wikimedia Commons

In a case with nationwide implications, the U.S. Supreme Court is reviewing Tennessee's Senate Bill 1 (SB 1), a law that bans gender-affirming medical care for transgender minors. The case, *United States v. Skrametti*, marks the first time the Court has directly considered how the Equal Protection Clause applies to gender-affirming care for minors.

According to UCLA's Williams Institute, the decision, expected in June, could set a precedent affecting some 25 similar laws across the country. SB 1 prohibits healthcare providers from administering puberty blockers, hormone therapy, or gender-affirming surgeries to minors for the purposes of "enabling the minor to identify with, or live as, a purported identity different than the minor's sex; or treating purported discomfort or distress from discordance between a minor's sex and

8, 2024. The plaintiffs argued that SB 1 creates unconstitutional sex discrimination. They contended that the law unfairly targets transgender minors by denying them medical treatments based on their gender identity: treatments that are otherwise available to cisgender youth for different medical conditions. This, they assert, violates the Equal Protection Clause of the Fourteenth Amendment.

A central component of the case is that the Court must determine which standard of review to apply — in other words, how carefully the Court should review the law.

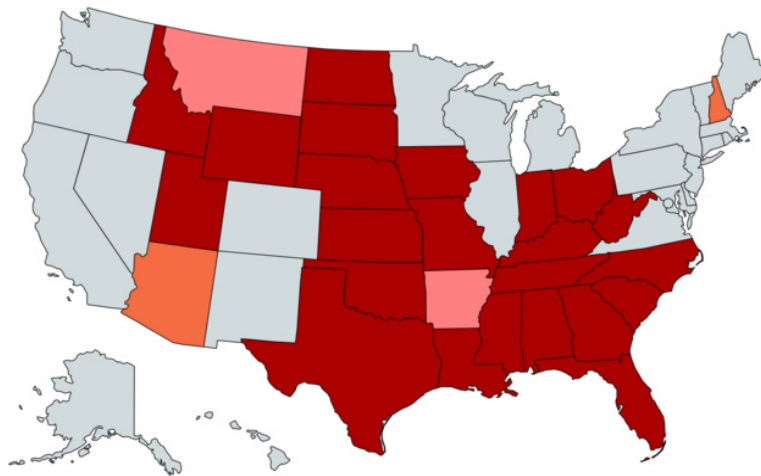
Laws pertaining to sex have historically received "intermediate scrutiny" from the judiciary, meaning that the Court will apply some degree of skepticism when examining the law. However, Solicitor General Elizabeth

political power. There is minimal precedent that exists on the issue of transgender rights, so this case will be foundational in civil rights cases to come.

The Court's decision in *United States v. Skrametti* could have far-reaching effects beyond Tennessee. A ruling upholding SB 1 may embolden other states to enact similar bans, potentially leading to a patchwork of laws affecting transgender minors nationwide.

Conversely, striking down the law could affirm the rights of transgender individuals and set a precedent for challenging discriminatory legislation. Additionally, the case may influence how courts evaluate laws affecting other marginalized 'suspect' groups, potentially reshaping the landscape of civil rights protections in the United States.

The decision will not only determine the legality of Tennessee's ban on gender-affirming care for minors but also signal how the highest court views the rights of transgender individuals under the Constitution. The ruling, expected by June 2025, will undoubtedly have significant implications for civil rights and healthcare access across the country.



Map of states with laws limiting minors access to gender-affirming care

asserted identity." Violations result in significant penalties, including fines and professional discipline. Transgender minors, their families, and a physician challenged the law in a Tennessee federal court, arguing it violates the Fourteenth Amendment's Equal Protection Clause.

The plaintiffs additionally claimed that SB 1 infringes upon the fundamental rights of parents to make medical decisions for their children, a right protected under the Due Process Clause. The Biden Administration's Department of Justice intervened, supporting the plaintiffs' position in 2024.

Initially, a federal district court in Tennessee granted a preliminary injunction, halting the law's enforcement. However, the Sixth Circuit reversed this decision, allowing SB 1 to take effect; the plaintiffs then petitioned the Supreme Court for review, which the Court granted, hearing oral arguments on December 4, 2024.

Prelogar argued in oral arguments that the law should be reviewed with strict scrutiny, the highest level of review. The Court must decide whether transgender individuals constitute a quasi-suspect class deserving of such protection.

Lawyers for the State of Tennessee defend SB 1 as a measure to protect minors from that it deems "experimental" medical procedures. The state argues that the law does not discriminate based on sex or gender identity but instead regulates specific medical treatments for all minors.

During oral arguments, Justice Amy Coney Barrett questioned whether there is a history of government-sanctioned discrimination against transgender people, a factor relevant to determining suspect classification. Conversely, Justice Sonia Sotomayor highlighted the vulnerability of transgender individuals, noting their small population size and limited

Works Cited

- Howe, Amy. "Supreme Court to hear challenge to ban on transgender health care for minors."
- SCOTUS Blog, December 3, 2024. <https://www.scotusblog.com/2024/12/supreme-court-to-hear-challenge-to-ban-on-transgender-healthcare-for-minors/>.
- Strangio, Chase. "Why Trans People Must Prove a History of Discrimination Before the Supreme Court."
- Time Magazine, March 31, 2025. <https://time.com/7272976/trans-people-prove-discrimination-supreme-court/>.
- The Williams Institute at UCLA School of Law. "Understanding US v. Skrametti." Updated December 2024. <https://williamsinstitute.law.ucla.edu/publications/understanding-skrmetti/>.
- United States v Skrametti. Petition for Writ of Certiorari, No. 23-477.

Opinion: The Future of Supreme Court Justices' Conduct

Should the Justices of the Supreme Court be subject to a legally enforceable code of ethics?

PRO

Osewe Ogada '26

The Supreme Court of the United States of America has long been held as the most illustrious and reputable of all of America's institutions. Although it has historically not dominated the public's attention, especially when compared to the executive or legislative branches, the Supreme Court continues to make key decisions that have profound effects on American life. Recent examples include deciding whether to continue the Florida recount in the 2000 Presidential Election, the 2010 Citizens United case, and the overturning of *Roe v. Wade* in 2022. As the Court repeatedly makes important decisions that increasingly keep it in the spotlight, attention has been drawn to the fact that the Supreme Court lacks any form of legally enforceable code of ethics. The Supreme Court should have a legally enforceable code of ethics for two key reasons. The first is that the current code has proven ineffective, especially given Justice Clarence Thomas' actions. Second, the Court's decisions are only powerful if the people respect the integrity of the Court.

Since both the executive and legislative branches have legally enforceable codes of conduct, the Supreme Court should adopt one as well to preserve the equal distribution of power. Why is the Supreme Court so special that its members could not succumb to the same impulsive and inappropriate behavior that anyone in government could succumb to? Further, the Supreme Court is meant to be the highest embodiment of the law in America. How can a body meant to uphold governance and order not be subject to any form of enforceable rules themselves? The answer is that said body has to be held accountable in some way, otherwise the court loses credibility. The court should lead by example and hold itself to a raised bar of honor and ethics. Finally, all other lower courts in America are subject to a legally enforceable code of ethics. Again, why should the Supreme Court, which is meant to be a leader in this realm, have a lower standard than those they are meant to serve as an example to? For the Supreme Court to lead by example, it must adopt a legally enforceable code of ethics.

Second, there is evidence that the Court needs a legally binding code of ethics, as exemplified by the improper, yet

presently legal, actions of Justice Clarence Thomas. Justice Thomas has recently come under fire for accepting numerous gifts and vacations from wealthy individuals without declaring them as required. Many of these wealthy individuals had immediate business interests represented in cases before the Court, yet Justice Thomas consistently failed to recuse himself from these cases. According to reporting from *Fix the Court*, between 2004 and 2023, Clarence Thomas accepted over \$2.4 million in gifts and vacations, failing to disclose the majority of these gifts. Most notably, Justice Thomas' relationship with billionaire republican donor Harlan Crow has brought the most scrutiny against him. In 2014, Crow purchased a house owned by Justice Thomas and his mother for well above market price, while allowing Justice Thomas' mother to remain living in said house. Furthermore, Crow paid over \$100,000 in private school tuition for the education of Justice Thomas's grandnephew. In addition, the nonprofit Liberty Central, created by Ginny Thomas, Justice Thomas' wife, is funded by Harlan Crow.

Lastly, Crow has paid for numerous trips for the Thomas's, even inviting them to his private resort in the Adirondacks and cruises on his super-yacht. If these actions from Crow were simply the mark of a generous friend, there would be no issue. However, that is not the case. Crow had immediate interests in several cases before the Supreme Court, benefiting greatly from rulings supported by Justice Thomas; for example, a decision that aided in lifting eviction bans during the COVID pandemic. The integrity of the Court would be preserved if underhanded dealings, such as Thomas's, were limited by a legally enforceable code of ethics.

The judiciary, unlike the executive branch, lacks an army or police force to enforce its will. Unlike Congress, the judiciary does not have the power of the purse to implement its directives. The power of the judiciary is found in its moral authority in the eyes of the people. With the allegations of unchecked power and corruption levied against the court, that moral authority is in limbo.

Adopting a legally enforceable code of ethics is the only way for the Court to remain a relevant player in the social order and governance of America today, and to realign its public perception with its intended purpose: upholding the norms of fairness and justice.

CON

Leo Herman '27

Over the past few decades, Justices of the US Supreme Court have been involved in numerous controversies. However, one Justice in particular has come under intense scrutiny for their controversial rulings and garnered questions about their impartiality: Justice Clarence Thomas.

Thomas has been accused of receiving gifts from Republican benefactors and refusing to recuse himself from cases related to Donald Trump's plot to overturn the 2020 election. These instances raise the question of whether the Supreme Court should be subject to an enforceable ethics code, similar to the one applied to lower courts.

An enforceable code of ethics in the Supreme Court would force the Justices to remain impartial while attempting to prevent conflicts of interest or corruption. While there are many problems within the Court, implementing a code of ethics would not solve the issues above.

The first question to tackle is who would make the code of ethics. Presently, the country is divided and partisan. If Congress were to establish a code of ethics, it would likely adhere to the values of the party in power. Therefore, the code would be driven by political considerations, the very thing it's trying to prevent in the Court.

Additionally, if Congress drafted the code of ethics, it would disrupt the system of checks and balances because it would give the legislative branch the authority to oversee the judicial branch's actions.

Second, a code of ethics is impractical because it would not be enforced.

If the court were to implement a code, it is unclear who would be responsible for enforcing it.

Although the legislative branch holds the power to impeach Justices, if a Justice belonged to the majority party in Congress, would the members of the Justice's party uphold their duty in a case of judicial misconduct?

As the highest court in the United States, the Supreme Court does not report to any other authority. If the public can't trust the Justices to uphold their own code of ethics, how can we trust them to enforce a code of ethics made by a different government body?

The third reason why the Supreme Court does not need a code of ethics is that president should only appoint -- and the Senate only confirm -- judges that have demonstrated both a mastery of United States law and legal tradition and a possession of a strong moral foundation.

Presidents should not appoint any person who has not already established a strong ethical background and they feel cannot uphold the Constitution of the United States. During appointment process, they should look for qualities of bipartisanship and someone with a reputation for maintaining judicial ethics.

In conclusion, the United States Supreme Court requires significant reforms to its justices and the process by which they are appointed. While reforms are necessary, a code of ethics is not the most effective approach to these reforms.

A code of ethics would disrupt the structure of our government due to the lack of enforcement of such a code, the extreme partisanship in all branches of government, and the expectation that the president would appoint fair and impartial justices.



Opinion: Judge Shopping Erodes Impartiality

Strategically selecting judges threatens confidence in the courts

AJ Valbrune '27

Photos/Graphics by Wikimedia Commons



“Judge shopping” is the practice of strategically choosing where to file a case in order to influence which judge will hear it, particularly in districts where one judge handles most or all cases. This growing phenomenon in the U.S. legal system raises serious concerns about fairness, trust, and judicial impartiality.

Judge shopping is more than a clever legal strategy, it exploits a loophole. In certain federal judicial districts, especially in Texas, plaintiffs can file lawsuits in divisions with only one or two judges, effectively predicting which judge will hear their case.

When litigants know a judge’s ideological leanings, they can file cases in that court to increase the chances of a favorable ruling. While judge shopping has been employed across the political spectrum, it has recently drawn attention for its deliberate use in high-profile national cases.

Some may frame it as smart legal maneuvering, but it undermines the fundamental principle that justice should be impartial, based solely on the merits of the case rather than the judge presiding over it.

The Northern District of Texas provides a striking example. Judge Matthew Kacsmaryk is the sole presiding federal judge in the district.

Conservative litigants challenging federal policies on abortion or immigration have increasingly filed cases there, hoping for rulings aligned with their views.

One notable case involved the abortion medication mifepristone. In 2023, the pro-life group Alliance for Hippocratic Medicine sued the Food and Drug Administration in Amarillo, Texas, anticipating that Judge Kacsmaryk would rule in their favor.

He did indeed issue a temporary injunction halting the approval of mifepristone. The Alliance’s precise targeting of Kacsmaryk illustrates how judge shopping can threaten judicial impartiality.

Judge shopping allows litigants to manipulate the system by steering cases toward

judges they believe will be sympathetic. While it may appear as strategic planning, it poses a serious risk to public trust.

When the public perceives that outcomes are predetermined or courts are “rigged,” confidence in the judiciary erodes.

Given that public trust in courts is already fragile, the perception that judges act as extensions of political parties rather than impartial arbiters could inflict lasting damage on the legal system.

Efforts are underway to limit judge shopping. In March 2024, the Judicial Conference of the United States recommended changes to better randomize judge assignments.

These proposals, however, have faced political pushback, with some lawmakers arguing that they might restrict access to justice or constitute legislative interference in the judiciary.

When a single courtroom becomes the focal point for national political battles, it ceases to function as a local court and instead b-

ecomes a stage for legal and political theater.

Judge shopping reflects a broader trend some call “planned justice”—orchestrating cases not merely to resolve legal disputes but to secure political or ideological victories

This tactic is increasingly about control: deciding who hears a case, how quickly it proceeds, and what message the ruling sends.

Though it may seem like a technical issue, judge shopping strikes at the heart of the legal system’s credibility. If justice is meant to be blind, the ability of litigants to handpick their judge undermines that ideal.

It effectively creates two systems: one for those who know how to manipulate the courts and one for everyone else.

Over time, judge shopping can give certain courts outsized influence, allowing strategic rulings to shape policy far beyond the district. This skews the legal system, making it seem less like a neutral forum and more like a tool for political advantage.

For courts to genuinely serve the public rather than political agendas, the practice of judge shopping must be addressed and reformed, or it risks permanently undermining the fairness and credibility of the judicial system.

Works Cited

- Raji, Tobi. “One Judge, One Courthouse: Why Judge Shopping is an Issue in the U.S.” *Washington Post*, September 23, 2024. <https://www.washingtonpost.com/national-security/2024/09/23/judge-shopping-kacsmaryk-courts-texas/>.
- Brennan Center for Justice. “The End of Judge Shopping.” March 14, 2024. <https://www.brennancenter.org/our-work/analysis-opinion/end-judge-shopping>.
- Mystal, Elie. “A Texas Court Has Decided to Let the Scariest Judge in Texas Keep Being Scary.” *The Nation*, April 3, 2024. <https://www.thenation.com/article/archive/matthew-kacsmaryk-judge-shopping-texas/>.



The Executive and the Judiciary

Presidential noncompliance and the separation of powers

Ava Ghassemi '27 and Suomo Quarshie '27

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The relationship between the executive branch and the judicial branch plays a critical role in maintaining the balance of power within the United States. From this relationship arises the question of whether presidents are obligated to heed the courts and what would happen if the executive branch defies the judiciary's orders.

The United States government consists of three branches: the executive branch, the legislative branch, and the judicial branch.

The executive branch includes the president, the vice president, the cabinet, and fifteen executive departments. Its main responsibilities are to enforce laws, command the military, conduct foreign policy, appoint federal officials, and issue executive orders.

The legislative branch, responsible for passing bills, declaring war, and confirming presidential nominees, is comprised of two bodies of Congress: the Senate and the House of Representatives.

Lastly, the judicial branch is made up of the Supreme Court and lower federal courts. Its primary responsibilities are to interpret laws, settle disputes, protect individuals' rights, and decide whether laws are constitutional.

The differing responsibilities and obligations between the branches stem from the separation of powers, which allows each branch to hold certain powers that the others do not, resulting in a more balanced government.

In 1803, the *Marbury v. Madison* case established that federal courts have the authority to review actions and decisions of the executive branch. As a result, the executive branch is obligated to consider the judiciary's directives.

When the executive branch defies the judiciary, it threatens the balance of power within the government and risks a constitutional crisis that can undermine democratic rule.

Throughout U.S. history, there have been several notable instances in which the executive branch either failed or outright refused to enforce the decisions of the Supreme Court, despite the general expectation that all branches of government must uphold and respect judicial authority.

One of the most well-known examples of the executive branch's defiance of judicial authority occurred in 1832 in the case of *Worcester v. Georgia*. This case involved white missionary Samuel Worcester, who lived among the Cherokee people. He was arrested and imprisoned by the state for residing on Cherokee land without a state-issued license and for refusing to take an oath to obey Georgia's laws.

The court ruled that, as Worcester was part of an "independent political community," he did not have to abide by Georgia's laws. Georgia, however, ignored the ruling.

The executive branch, led at the time by President Andrew Jackson, notoriously failed to take meaningful action to enforce the Court's decision, demonstrating the limitations of the judiciary when it lacks the cooperation of the executive branch.

Another notable example of executive resistance to judicial authority occurred during the Civil War in 1861. The case of *Ex parte Merryman* arose when John Merryman, a Maryland state militia member, was arrested by Union troops for allegedly destroying railroad bridges to hinder Union troop movements. President

Abraham Lincoln suspended the writ of habeas corpus without Congressional approval, citing the threat of rebellion and fearing the loss of border states like Maryland.

The writ of habeas corpus is a legal order requiring the custodian of an individual in custody to produce the individual before the court to determine whether the detention is lawful. Merryman's legal team petitioned for his release, and Chief Justice Roger B. Taney ruled that Lincoln's suspension was unconstitutional, asserting that only Congress had the authority to suspend habeas corpus, as specified in Article I of the Constitution.

Lincoln, however, ignored the ruling, justifying his actions as necessary to preserve the Union during a time of crisis. This case highlighted the tension between civil liberties and executive power during wartime and revealed the limitations of the judiciary when the executive branch chooses not to comply.

Since Merryman, there have been numerous other instances of the executive branch ignoring or defying the judiciary. Notably, during Donald Trump's first presidency, clashes with the judiciary became more frequent.

In 2017, after Trump issued a ban on certain visa holders from seven Muslim-majority countries, Federal Judge James Robart issued a restraining order against the ban.

Although the ban was not enforced, Trump publicly questioned the legitimacy of the judge and criticized the judiciary, later comparing it to "bad high school students."

On February 9, 2025, Vice President JD Vance tweeted that "judges aren't allowed to control the executive's legitimate power." Such rhetoric illustrates the fraying relationship between the executive and judiciary.

During Trump's second term, he took steps to address immigration, invoking the Alien Enemies Act of 1798 to deport South American immigrants.

On March 15, 2025, Trump sent flights to transport alleged Venezuelan gang





members to El Salvador, despite a court order from Chief Judge James Boasberg of the U.S. District Court for the District of Columbia to turn the flights around.

The Trump administration argued that the Alien Enemies Act exempted them from judicial oversight. Boasberg later stated he would investigate whether the order was violated and who would face consequences.

This incident demonstrates how violations of the checks and balances system by the executive branch often occur without formal accountability.

Federal courts have several mechanisms for enforcing their orders, including civil and criminal contempt proceedings and the imposition of sanctions.

For example, when the state of New York held Trump in contempt, he was fined \$110,000 (approximately \$10,000 per day) for failing to produce requested documents.

Presidents, however, can mitigate criminal contempt by issuing pardons; in 2017, Trump pardoned Maricopa County Sheriff Joe Arpaio, who was held in contempt for incarcerating presumed immigrants. Courts can also enforce sanctions and stricter rules against noncompliant parties.

When the executive branch defies the judiciary, the consequences can be immediate and far-reaching.

Such defiance undermines the foundational principle of checks and balances, designed to prevent any branch from becoming too powerful and essential to the functioning of a democratic government.

The judiciary relies on the executive branch to enforce its rulings. When a president refuses to do so, judicial authority is weakened, the legal system's functionality is compromised, and a constitutional crisis can emerge. The checks and balances system begins to erode, allowing certain branches to gain disproportionate power.

The consequences of executive defiance extend beyond the administration. When one branch acts without regard for oth-

er branches, that protects citizens' rights and prevents dictatorship.

The consequences of executive defiance extend far beyond the actions of a single administration and can weaken the stability of the entire government.

When one branch acts without regard for the authority of the others, it undermines the system of checks and balances designed to prevent any branch from gaining excessive power. This erosion of the separation of powers threatens citizens' rights, individual liberties, and the democratic principles that protect against authoritarian rule.

Maintaining balance among the branches requires that each one—especially the executive—respect the rule of law, even when doing so conflicts with political goals or popular opinion. Repeated defiance can weaken public trust in the judiciary and normalize the idea that laws and court decisions are optional, putting the integrity of the government at risk.



Works Cited

- Gerhardt, Michael J. "Presidential Defiance and the Courts" vol. 12 (2018): 67-87. <https://journals.law.harvard.edu/lpr/wp-content/uploads/sites/89/2018/03/Gerhardt.pdf>
- "Habeas Corpus." Legal Information Institute, 2022. https://www.law.cornell.edu/wex/habeas_corpus#:~:text=A%20writ%20of%20habeas%20corpus,holds%20the%20defendant%20in%20custody.
- Garrison, Tim. "Worcester v. Georgia." New Georgia Encyclopedia, last modified Feb 20, 2018. <https://www.georgiaencyclopedia.org/articles/government-politics/worcester-v-georgia-1832/>
- "I Oklahoma Historical Society." Oklahoma Historical Society | OHS. Accessed May 15, 2025. <https://www.okhistory.org/publications/enc/entry?entry=WO020.>
- "Federal Judicial Center." Executive Enforcement of Judicial Orders | Federal Judicial Center. Accessed May 15, 2025. <https://www.fjc.gov/history/administration/executive-enforcement-judicial-orders.>
- "Branches of the U.S. Government." USA Gov. Accessed May 15, 2025. <https://www.usa.gov/branches-of-government.>
- "Our Government." The White House, April 14, 2025. [https://www.whitehouse.gov/government/.](https://www.whitehouse.gov/government/)
- "Separation of Powers in Action - U.S. v. Alvarez." United States Courts. Accessed May 15, 2025. <https://tinyurl.com/4szkzx42>
- "Court Role and Structure." United States Courts. Accessed May 15, 2025. <https://www.uscourts.gov/about-federal-courts/court-role-and-structure.>

Mexico Sues U.S. Gunmakers: Exploring International Corporate Accountability

Can Foreign Governments Hold U.S. Companies Liable?

Hujja Moshood '28

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In an increasingly globalized world, U.S. companies need to operate well beyond the reach of America's borders. As U.S. companies expand abroad, they influence international economies, environments, and societies. Although US companies should have the freedom to operate independently, measured regulation is still necessary.

Without strong and consistent regulatory frameworks, foreign nations risk permitting companies to act unethically if such practices can produce quick, short-term profit. As a result, local communities will be harmed, fragile economies will be destabilized, and international trust will be damaged. Thus, the tension between corporate self-determination and foreign control is not just a legal concern, but a matter of global justice and sustainable development.

Companies should be minimally regulated, enough to ensure the protection of local communities while still allowing for free agency. Through free agency, firms are able to stay nimble, market-oriented, and in touch with the needs of their local environments.

International markets also introduce new challenges and cultural expectations, as well as new economic opportunities, that demand much more from companies than ever before. An adaptable operational structure enables startups to form valuable collaboration, seed the deployment of infrastructure and technologies, and build local economies through job creation and technology transfer.

The spirit of entrepreneurship flourishes only in spaces where firms have the flexibility to pursue emerging markets and opportunities without being weighed down by unnecessary red tape.

History has shown the dangers of unchecked corporate freedom. Without proper accountability, powerful companies operating in foreign countries have violated human rights, caused environmental damage, and fueled corruption—especially in areas where regulatory institutions are frail or corrupt themselves.

This kind of harmful and exploitative

behavior tends to create reputational harm for international commerce, resulting in public outcry and a demand for increased scrutiny and accountability.

Therefore, although freedom of operation is important for encouraging innovation, this freedom should be constrained by a legal and ethical framework that protects the rights of citizens and reinforces moral imperatives to work towards sustainability.

Foreign governments play a crucial role in determining the regulatory parameters that protect their citizenry, economy, and natural resources. By holding U.S. companies accountable through enforceable laws and regulations, these governments protect their citizens and communities by requiring foreign businesses to conduct themselves in ways that serve their national interests and international norms.

These regulatory measures, including labor, environmental, anti-corruption, and consumer protections, are not just bureaucratic requirements; they are essential safeguards against corporate malpractice.

Furthermore, by requiring all companies operating within their territory to follow the same rules, governments create a level playing field for both domestic and foreign enterprises, which encourages healthy competition based on innovation and service, rather than exploitation and abuse.

Regulatory frameworks can send a message to multinational corporations that doing business internationally means adhering to certain values, cultures, and legal bounds—not taking advantage of loopholes for profit.

A notable example of a jurisdiction successfully exercising its regulatory authority over foreign corporations is the European Union (EU). The EU's enforcement of its antitrust laws against multinational corporations marks the beginning of a significant new trend, as the union has levied hundreds of millions of euros in fines against major American tech companies under the recently enacted Digital Markets Act (DMA). The DMA is intended to curb anti-competitive behavior amo-

ng digital "gatekeepers."

For example, Apple was fined €500 million for preventing non-Apple app developers from informing users about opportunities to purchase products outside the App Store, while Meta received a €200 million fine for its "pay or consent" model, which regulators determined deprived consumers of a genuine choice regarding the use of their personal data.

Through these enforcement actions, the EU is sending a message that it will defend competition and consumer welfare within its borders even when that means standing up to powerful multinational corporations based outside of Europe.

Similarly, the EU's strong General Data Protection Regulation (GDPR) has penalized U.S. companies for their missteps in an increasingly data-privacy-focused era. In 2024, LinkedIn was ordered to pay €310 million for processing user data without valid consent, and Uber was fined €290 million for illegally transferring European user data to the United States without proper safeguards in place.

As these cases show, this is not just an example of the EU flexing its regulatory muscles, but a show of strength on enforcement, with the EU willing to hand out serious financial penalties to companies ignoring the rights of EU citizens.

The GDPR has set a new global baseline for data privacy, demonstrating how foreign governments can lead by raising the bar high and asserting their authority even over the most powerful actors.

These accountability measures, however, are not limited to foreign state actors. Domestic regulatory measures, too, underscore the growing norm that companies are expected to follow the international standard.

In November 2024, GlobalFoundries, a semiconductor foundry headquartered in the U.S., was penalized \$500,000 by the U.S. Department of Commerce for export control violations. The company had previously shipped semiconductor wafers valued at \$17.1 million to a Chinese firm placed on the Department of Commerce's Entity List without having obtained the required license, citing a data entry mistake.

This case highlights the crucial role domestic authorities can play in holding companies accountable for violating international trade rules, thereby setting a standard for corporate actors to operate with caution in international markets.

International anti-corruption efforts only further the case for strengthened regulations. The U.S. Department of Justice has increasingly taken a hard line against American companies bribing their way into foreign markets, bringing Foreign Corrupt Practices Act (FCPA) enforcement actions with increasing frequency over the past few years.

In 2024, RTX Corporation, formerly Raytheon Technologies, reached a settlement of over \$124 million to resolve allegations that it bribed Qatari military officials to win defense contracts. Similarly, Deere & Company paid nearly \$10 million for FCPA violations committ-

ed by its Thai subsidiary.

These cases are evidence that corruption knows no borders. Enforcing anti-corruption laws ensures that norms of accountability and transparency are upheld while protecting the world from corporate impunity. Expansive national security considerations continue to seep into corporate accountability.

Later that month, in August 2024, the Committee on Foreign Investment in the United States (CFIUS) imposed a \$60 million penalty on T-Mobile for breaching the terms of a national security agreement tied to its merger with Sprint.

T-Mobile did not take reasonable steps to protect customer-sensitive data from unauthorized access, nor did it report security breaches promptly. This case should serve as a reminder that corporate compliance with national security-related commitments is expected. Failing to do so will have clear and real consequences—no matter how large a company's market capitalization may be.

However, when foreign governments try to hold U.S. companies accountable through lawsuits in U.S. courts, major obstacles still exist. These complexities are at the heart of Mexico's landmark 2021 lawsuit against U.S. gun manufacturers.

The Mexican government sought \$10 billion in damages, arguing that companies like Smith & Wesson, Colt, and Glock knowingly facilitated the illegal trafficking of firearms into Mexico, exacerbating cartel violence.

The lawsuit challenged the 2005 Protection of Lawful Commerce in Arms Act (PLCAA), which broadly protects gun manufacturers from liability when their products are used illegally.

During March 2025 oral arguments, U.S. Supreme Court Justices seemed skeptical about Mexico's claims. Specifically, they questioned whether U.S. laws could apply to foreign arms on the statutory basis that Mexico cited.

The case's eventual outcome may benefit communities both directly and indirectly. It sets an important precedent for the future of international corporate liability.

This gap of impracticability and attitudinal hurdle of holding U.S. corporations accountable for overseas conduct is best demonstrated through cases like *Nestlé USA, Inc. v. Doe* (2021).

In the lawsuit, former Malian child laborers claimed that Nestlé and Cargill provided material support to an institutionalized form of child slavery on cocoa farms in the Ivory Coast.

The Supreme Court's 2021 ruling in *Nestlé v. Doe* found that the plaintiffs' claims did not sufficiently "touch and concern" the United States to justify extending the reach of the Alien Tort Statute (ATS).

In doing so, the Court ruled that the impacts of US-based corporations on human rights abuses occurring solely outside the United States are insufficient grounds to extend the jurisdiction of the ATS.

Judicial precedent has exacerbated

an already challenging situation and effectively removed corporate accountability from the table.

The Supreme Court's decision in *Kiobel v. Royal Dutch Petroleum Co.* (2013) reinforced this idea by ruling that the ATS did not apply to conduct that took place outside of the United States, stating that the corporate presence on U.S. soil was not enough to authorize jurisdiction beyond the nation's borders.

Likewise, the Court held in *Jesner v. Arab Bank, PLC* (2018) that foreign corporations could not be liable under the ATS for human rights violations committed outside the U.S., again citing worries over international relations.

While these decisions have been based on legal prudence, human rights advocates have criticized them for creating an accountability gap, thereby shielding corporations from accountability for serious abuses they commit outside the US.

The impact of these decisions cannot be understated. As pointed out by organizations such as the Electronic Frontier Foundation, victims of human rights abuses have an increasingly difficult time seeking justice in U.S. courts.

Despite limiting legal options for redress, cases like *Kiobel* have led to increased awareness of alternative routes for victims, including international treaties, transnational agreements, or the strengthening of foreign legal systems, to prevent multinational corporations from escaping justice entirely.

Together, these trends underscore the complexity and urgency of achieving corporate accountability at all levels—national, regional, and global.

Despite widespread recognition and calls for an ethical business imperative to respect human rights and international environmental standards, current laws rarely provide an adequate remedy, particularly for foreign plaintiffs.

Here, foreign governments are crucial actors, not only in implementing and enforcing U.S. domestic regulations but in leading the way in establishing and enforcing global standards for corporate conduct.

Ultimately, the key question isn't whether U.S. companies should be held liable abroad, but how these laws should be enforced in a fair, uniform, and efficient manner.

International collaboration, aligned legal frameworks, and purposefully designed governance frameworks provide a way forward.

Businesses that embrace responsible and forward-looking practices not only enhance their reputations and secure long-term success but also play a meaningful role in strengthening communities worldwide.

By committing to fair labor standards, environmental protection, and ethical innovation, they build trust, foster stability, and contribute to a more equitable global economy.

At the same time, foreign governments, together with international institutions, must continue to assert their sovereign right—and duty—to regulate corporate conduct within

their borders.

This responsibility includes not only establishing clear legal frameworks but also ensuring their effective enforcement so that economic activity respects human rights, labor protections, and environmental sustainability.

In doing so, they help ensure that globalization advances more than economic growth alone.

Instead, it evolves into a system rooted in justice, dignity, and sustainable development—one where prosperity is shared more widely across communities and where progress is measured not only by financial gain but also by social well-being and environmental responsibility.

In this way, globalization becomes a force that uplifts people, ensuring that its benefits extend to current and future generations.

Works Cited

- Alper, Alexandra, and Eric Beech. "US fines T-Mobile \$60 million over unauthorized data access." Reuters. Last modified August 14, 2024. <https://www.reuters.com/business/media-telecom/us-committee-slaps-60-million-fine-t-mobile-over-unauthorized-data-access-2024-08-14/>.
- European Commission. "Commission finds Apple and Meta in breach of the Digital Markets Act." News release. April 23, 2025. https://digital-markets-act.ec.europa.eu/commission-finds-apple-and-meta-breach-digital-markets-act-2025-04-23_en.
- "Irish Data Protection Commission fines LinkedIn Ireland €310 million." Data Protection Commission. Last modified October 24, 2024. <https://www.dataprotection.ie/en/news-media/press-releases/irish-data-protection-commission-fines-linkedin-ireland-eu310-million>.
- "*Jesner v. Arab Bank, PLC*, 584 U.S. ____ (2018)." JUSTIA. Accessed September 27, 2025. <https://supreme.justia.com/cases/federal/us/584/16-499/>.
- "*Kiobel v. Royal Dutch Petroleum Co.*, 569 U.S. 108 (2013)." JUSTIA. <https://supreme.justia.com/cases/federal/us/569/108/>.
- Mangan, Dan. "RTX subsidiary Raytheon to pay more than \$950 million to settle foreign bribery, export control fraud probes." CNBC. Last modified October 16, 2024. <https://www.cnbc.com/2024/10/16/rtx-subsi-dary-raytheon-to-pay-more-than-950-million-to-settle-foreign-bribery-export-control-fraud-probes.html#:~:text=The%20Raytheon%20subsidiary%20of%20defense%20contractor%20RTX%20agreed%20Wednesday%20to,State%20Department%20as%20legally%20required>.
- Nestlé USA, Inc. v. Doe, 593 U.S. ____ (2021)
- Rahman-Jones, Imran. "Apple and Meta attack 'unfair' €700m EU fines." BBC. Last modified April 23, 2025. <https://www.bbc.com/news/articles/cm248vzg9jwo>.
- "Supreme Court Limits Extraterritorial Reach Of The Alien Tort Statute." GIBSON DUNN. <https://www.gibson-dunn.com/supreme-court-limits-extraterritorial-reach-of-the-alien-tort-statute/>.
- Swanson, Ana. "Chipmaker GlobalFoundries Faces \$500,000 Fine for Banned Shipments to China." The New York Times. Last modified November 1, 2024. [https://www.nytimes.com/2024/11/01/us/politics/globalfoundries-chips-fine-china.html#:~:text=Trump%2DEpstein%20Timeline,Chipmaker%20GlobalFoundries%20Faces%20\\$500%2C000%20Fine%20for%20Banned%20Shipments%20to%20China,China's%20most%20advanced%20chip%20manufacturer](https://www.nytimes.com/2024/11/01/us/politics/globalfoundries-chips-fine-china.html#:~:text=Trump%2DEpstein%20Timeline,Chipmaker%20GlobalFoundries%20Faces%20$500%2C000%20Fine%20for%20Banned%20Shipments%20to%20China,China's%20most%20advanced%20chip%20manufacturer).
- Totenberg, Nina. "At the Supreme Court, justices are skeptical of Mexico's arguments against gunmakers." NPR. Last modified March 4, 2025. Accessed September 27, 2025. <https://www.npr.org/2025/03/04/nx-s1-5317609/supreme-court-mexico-gunmakers>.
- "Uber fined in Netherlands for sending drivers' data to the US." Reuters. Last modified August 26, 2024. <https://www.reuters.com/technology/cybersecurity/dutch-privacy-watchdog-fines-uber-sending-drivers-data-us-2024-08-26/>.
- U.S. Securities and Exchange Commission. "SEC Charges John Deere With FCPA Violations for Subsidiary's Role in Thai Bribery Scheme." News release. September 10, 2024. <https://www.sec.gov/newsroom/press-releases/2024-124>.



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