



The Supreme Court is the most powerful, least accountable government institution.

Here's how Congress can fix this.



The nine justices of the U.S. Supreme Court have immense power to affect the lives of every American – its verdicts on who can vote, who can marry, where we can pray, what freedoms we enjoy and even who lives and dies are binding and irreversible.

The justices are not held accountable for their words or actions. They're not required to follow a code of ethics, can keep their finances hidden, rule on disputes involving companies whose stock they own and don't have to report who pays for their travel.

At the same time, they keep their supposedly public work away from the vast majority of Americans and prohibit demonstrations in their midst. And unlike high court justices in every other democracy, they serve for life.

Such secrecy has resulted in an American public that knows little about these powerful figures and has grown accustomed to this opaqueness, even though the nine are public servants with responsibilities to the citizenry, like officials in other branches.

It's time to demand solutions to these problems. We believe many can be implemented by Chief Justice Roberts himself – but a push from Congress would be incredibly meaningful.

86 percent of Americans would like the justices to be required to follow the Judicial Code of Conduct like other federal judges.

- McLaughlin & Associates poll of 1,000 likely voters (Aug. 4-7, 2014)

Ethics code

Supreme Court justices are not bound to follow the Judicial Code of Conduct that all other federal judges are required to adhere by. The code establishes rules about gifts, recusals and travel and should be a basic part of a justice's commitment to ethical behavior.

Could Roberts fix? Yes. He could require that he and his fellow justices take an oath to uphold the code.

Could Congress fix? Yes. Congress could amend the Ethics in Government Act to require the nine to follow the code.

Media access

There's not a camera that the justices don't love – except the ones that want to film Supreme Court hearings. All year long, the nine give interviews to TV news outlets and public speeches in front of the broadcast media. But they believe the public is too daft to understand what goes on in the courtroom and thus prohibit cameras. Further, it's less well-known that the justices also do not allow audio recording devices to record and broadcast oral arguments or decision announcements.

Could Roberts fix? Yes. He could issue an order allowing TV news cameras in the courtroom or one saying that the audio feed that's already being broadcast elsewhere in the building will also be fed to the court website.

Could Congress fix? Yes. Leaders from both parties in the 114th Congress have indicated their willingness to press this issue, and we're looking forward to being part of the conversation as their proposals develop.

74 percent of Americans would like the justices to allow news cameras to film the court's proceedings and broadcast them live.

72 percent said the court should at least broadcast live audio of the court's hearings over the Internet and on the radio.

- McLaughlin & Associates' Aug. 2014 poll

Recusal reporting

Justices rarely sit out of cases in which they have a fiscal interest, and when they do recuse, they give no reason for their recusals. There have been dozens of instances over the years in which a justice was asked by various parties to abstain, yet in every instance he or she has still ruled on the case.

Could Roberts fix? Yes. He could require that the justices note reasons for their recusals in the weekly orders lists and could ask the Judicial Conference to serve a neutral third-party when a motion for recusal is filed.

Could Congress fix? Yes. Congress could pass an amendment to the 1978 Ethics in Government Act stating that the justices must be forthcoming in their reasons for abstaining for certain cases and do a more thorough job hearing motions for recusal.

Financial disclosures

Justices often omit financial assets from their annual financial disclosure reports with impunity. They make dozens of speeches each year, often at partisan events, but it's unclear who pays for their travel and if what they say violates their promise of impartiality. They don't release their reports online like members of Congress, the President or Vice President.

Could Roberts fix? Yes. He could release guidance on how to fill out the forms to ensure consistency, ask that his fellow justices list all assets and potential conflicts. He could direct the Administrative Office to place the reports online.

Could Congress fix? Congress could amend the Ethics in Government Act to require uniform financial disclosure reports and not the inconsistent mess we have now. And they could add a line stating that the reports should be placed online.

Contact information: Gabe Roth | FixTheCourt.com | Gabe@FixTheCourt.com | 312-545-8556

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