



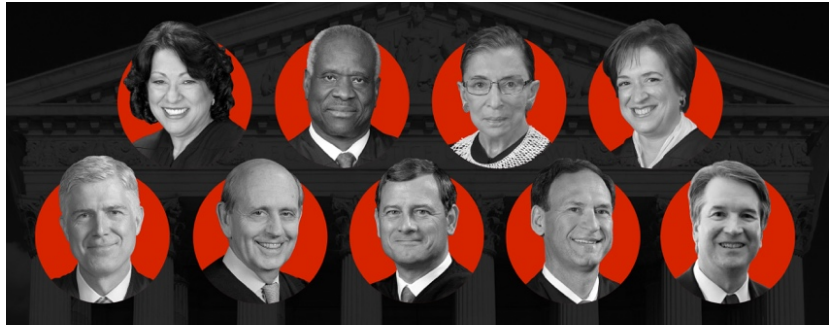
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The Supreme Court has become our most powerful, least accountable government institution.

Here's how we can fix this. But should we? You decide.

The Supreme Court has **immense power to affect the lives of every American**. Its decisions on who can vote, who can marry, where we can pray, what freedoms we enjoy and even who lives and dies are binding on us all.

Yet the nine justices **are not held accountable** for their words or actions. They are 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 conceal their supposedly public work 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**.



This secrecy means **the public 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 those in other branches.

Fix the Court has proposed six institutional reforms to the Supreme Court, and it's up to you to determine whether you support or oppose each proposal.

1. ALLOWING BROADCAST MEDIA COVERAGE

The justices should allow for the live audio and video broadcasts of oral arguments and opinion announcements.

PROS

- A. The people have a right to see their government in action, no matter where in the country they live.
- B. Cameras in appellate courts – state supreme courts, federal district court and high courts in other democracies – have proven to be as distracting as wall-mounted clocks.

CONS

- A. Justices and attorneys won't be able to resist grandstanding or playing to the cameras.
- B. As Justice Breyer says, "Oral argument is only about five percent of what goes in to a case," meaning the public won't understand what's going on, and they'll put too much emphasis on one-liners or quarrels between justices.

2. ENDING LIFE TENURE

The justices should not be allowed to serve for life; instead, they should be limited to a single, fixed term of 18 years, staggered so that a vacancy occurs every two years.

PROS

- A. No individual should hold so powerful a position as Supreme Court justice for 30 or 35 years.
- B. No president should have an outsized impact on the law decades after his or his term(s) has ended.

CONS

- A. Life tenure for the justices is necessary to keep the nine insulated from the political pressures of the day and to ensure they're not deciding cases with an eye toward a future job.
 - B. The Constitution intended for the justices to serve for life, and there's no reason to change that.
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3. IMPROVING JUDICIAL ETHICS

The justices should follow the Code of Conduct for U.S. Judges.

PROS

- A. The justices are the only federal judges not required to follow the code, which describes how justices not only should avoid blatant conflicts but also should "avoid the appearance of impropriety."
- B. The justices have spoken about open cases, spent time with litigants outside of the courtroom and have not recused from cases they may have worked on in other capacities. An ethics code could fix that.

CONS

- A. The justices already must follow various federal laws about recusals, stock holdings, family member involvement in cases, etc., and the code is superfluous, looking for a problem where there is none.
 - B. There's currently a bill in Congress that would compel the justices to follow the code, but can Congress really force the justices' hand here with a law? What about separation of powers?
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4. REQUIRING PUBLIC RECUSALS AND BLIND TRUSTS

The justices should announce the reason(s) for recusal when they decide to step aside from a case and should place their securities in blind trusts while they're on the bench.

PROS

- A. Currently, the justices announce recusals in their orders by stating, "Justice X took no part in the consideration of this case." Instead, they should be more transparent as to their reasons and not leave the public guessing.
- B. Justices often hear cases in which they own shares in a company that has filed an *amicus* brief, which doesn't require recusal. But a case won by the goose (a tech co.) may benefit the share price of the gander (a tech *amicus*).

CONS

- A. Should a justice announce the reason for a recusal – e.g., a family member is representing a litigant – that would signal that the case of special importance to that justice and may compel the others to rule a certain way.
 - B. The justices should be allowed to invest in the market like the rest of us and shouldn't have additional rules dictating their stock ownership, since they already must recuse if a company whose shares they own is a litigant.
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5. IMPROVING FINANCIAL DISCLOSURE

The justices should submit detailed financial disclosure reports each year and publish them online like other government officials, including the President and members of Congress.

PRO: Uploading the reports would be a simple way the court could signal its intention to become a more open institution, especially since each report already gets redacted in a way that obscures any too-personal information.

CON: Anyone with a modicum of patience can obtain the reports via thumb drive and upload them themselves.

6. IMPROVING PUBLIC ACCESS TO THE JUSTICES AND TO THE COURT

The justices should be more accessible to the public in two ways: they should announce when they give speeches or appear at civic events, and they should allow the public to demonstrate on the huge plaza in front of the court building, so long as such demonstrations remain civil.

PRO: Citizens learn a great deal each time a justice gives a public talk; notice of such events should be publicized.

CON: The court, to quote Justice Kennedy, "is not a teaching institution," so the public shouldn't get special notification.