

Judicial Review Answer Key

Name: _____ Date: _____
AP Gov't.

Unit 2 (Judicial Branch) Review

- Who/what has the power to create courts?
 - Article 1 of the Constitution gives Congress the power to create all inferior courts (federal district courts & federal circuit courts of appeal)
 - Article 3 of the Constitution creates the Supreme Court
- How long is a Supreme Court justice/judge's term?
 - Life ("good behavior")
- How is a Supreme Court justice/judge chosen?
 - Appointed by the President & confirmed by the Senate
- According to Article III of the Constitution, what powers does the judicial branch have?
 - Outlines original and appellate jurisdiction
 - Original jurisdiction -- involves ambassadors, consuls, or high ranking political positions & if a state is the party being sued
- What are some of the main ideas (and powers) of the judicial branch according to **Federalist #78**?
 - Federalist viewpoint (supports strong central government & ratification of the Constitution)
 - The judicial branch is the weakest branch (alleviate fears of a national court system)
 - Judicial review: to check the other branches and to ensure people's liberties/rights are protected
 - Life term for judges is good (judges will be highly qualified & they won't serve anyone/branches but they'll only serve the law)
- Explain the facts, constitutional provision (question SCOTUS was asked) and decision/reason of **Marbury v. Madison**.
"Original Jurisdiction/Judicial Review:"
 - Facts
 - Madison: new Secretary of State who doesn't deliver the confirmations/appointments made by the previous administration
 - Marbury: one of the judges who doesn't get his appointment and he wants the court to issue a writ of mandamus (the courts having the power to tell someone to do something - allowed by the Judiciary Act of 1789)
 - Constitutional Question
 - Did Congress's Judiciary Act change and violate **Article 3 of the Constitution** and the

Judicial review answer key is a significant concept in the legal system, providing a mechanism for courts to evaluate the actions of legislative and executive branches of government. It serves as a check on governmental power, ensuring that laws and actions comply with the Constitution. This article explores the fundamentals of judicial review, its historical development, significance, and its implications on modern governance.

Understanding Judicial Review

Judicial review is the power of courts to assess whether a law, policy, or executive action is consistent with the Constitution. If a court finds a law unconstitutional, it can invalidate it, effectively nullifying the government's action. This power is essential for upholding the rule of law and protecting individual rights.

Key Features of Judicial Review

The following are key features that define judicial review:

- **Constitutional Supremacy:** The Constitution is the supreme law of the land. Any law or action that contradicts it can be deemed invalid.
- **Checks and Balances:** Judicial review acts as a check on the powers of the legislative and executive branches, preventing abuses of power.
- **Protection of Rights:** Through judicial review, courts can protect the

rights of individuals and minority groups from the majority's will.

- **Precedents:** Decisions made during judicial review often create legal precedents that guide future cases.

Historical Development of Judicial Review

The concept of judicial review is often traced back to the landmark case of *Marbury v. Madison* (1803). In this case, Chief Justice John Marshall articulated the principle that it is the duty of the judiciary to say what the law is. This established the judiciary's role in interpreting the Constitution, laying the groundwork for judicial review in the United States.

Key Cases in Judicial Review

Several important cases have shaped the practice of judicial review:

1. **Marbury v. Madison (1803):** Established the principle of judicial review.
2. **Brown v. Board of Education (1954):** Declared racial segregation in public schools unconstitutional.
3. **Roe v. Wade (1973):** Affirmed a woman's right to choose an abortion under the right to privacy.
4. **United States v. Nixon (1974):** Limited executive privilege, reinforcing the principle that no one is above the law.

Each of these cases not only demonstrated the power of judicial review but also helped define its scope and impact on American society.

Significance of Judicial Review

The significance of judicial review in the legal framework cannot be overstated. It serves several crucial functions:

1. Maintaining Constitutional Integrity

Judicial review ensures that all laws and actions taken by the government respect the Constitution. By invalidating laws that violate constitutional principles, courts maintain the integrity of the legal system.

2. Safeguarding Individual Rights

Judicial review acts as a protector of individual rights. It provides a mechanism for individuals to challenge laws or actions that infringe upon their rights, ensuring that the government cannot overreach its authority.

3. Promoting Stability and Predictability

The existence of judicial review promotes stability in the legal system. Citizens and lawmakers can have confidence that their rights and responsibilities are clearly defined and protected. When courts consistently apply constitutional principles, it creates a predictable legal environment.

4. Enhancing Public Trust in the Legal System

When citizens see the judiciary actively protecting rights and ensuring government accountability, it fosters trust in the legal system. This trust is vital for the functioning of democracy, as it encourages civic engagement and adherence to the rule of law.

Critiques of Judicial Review

Despite its importance, judicial review is not without criticism. Some of the main critiques include:

- **Judicial Activism vs. Judicial Restraint:** Critics argue that judges sometimes overstep their bounds, engaging in judicial activism by making decisions based on personal beliefs rather than strictly interpreting the law.
- **Lack of Democratic Accountability:** Judicial review allows unelected judges to overturn laws passed by democratically elected representatives, which some view as undemocratic.
- **Inconsistency in Application:** The application of judicial review can sometimes seem inconsistent, leading to a perception of bias or unpredictability in court decisions.

These critiques highlight the ongoing debate about the role of the judiciary in a democratic society and the balance between judicial power and legislative authority.

Contemporary Issues in Judicial Review

In recent years, judicial review has been at the forefront of several high-profile legal battles, reflecting its continued relevance in contemporary society. Some of the pressing issues include:

1. Environmental Laws and Regulations

As environmental concerns have escalated, courts have been tasked with reviewing laws and regulations aimed at protecting the environment. Judicial review plays a crucial role in determining the legality of environmental policies and their alignment with constitutional principles.

2. Civil Rights and Liberties

Judicial review remains essential in the ongoing struggle for civil rights. Cases involving voting rights, LGBTQ+ rights, and racial equality frequently come before the courts, where judicial review serves as a tool for enforcing constitutional protections.

3. Healthcare Legislation

Healthcare policies, such as the Affordable Care Act, have faced numerous challenges in court. Judicial review determines the constitutionality of such laws, impacting millions of Americans and shaping the future of healthcare in the country.

4. Immigration Policies

Judicial review has also played a critical role in evaluating immigration policies and executive actions. Courts have intervened to assess the legality of various immigration measures, balancing national security interests with constitutional rights.

The Future of Judicial Review

As society evolves, so too will the issues that come before the courts for judicial review. The ongoing debate about the scope and limits of judicial power will likely continue to shape the legal landscape.

Legal scholars and practitioners will need to grapple with questions such as:

- How can courts maintain their role as impartial arbiters while addressing the demands of an increasingly polarized political climate?
- What safeguards can be established to prevent potential abuses of judicial review?
- How can the judiciary effectively balance individual rights with government interests in a rapidly changing society?

In conclusion, the concept of judicial review is a cornerstone of the American legal system. It serves to uphold constitutional principles, protect

individual rights, and ensure government accountability. As society continues to change, the role of judicial review will remain a vital aspect of governance and the rule of law. Understanding its implications and challenges is essential for anyone engaged in the legal field or interested in the dynamics of democracy.

Frequently Asked Questions

What is judicial review?

Judicial review is the power of courts to assess whether a law is in compliance with the constitution, allowing them to invalidate laws or governmental actions that violate constitutional principles.

Which landmark case established the principle of judicial review in the United States?

The principle of judicial review was established in the landmark case Marbury v. Madison in 1803.

How does judicial review impact the balance of power among the branches of government?

Judicial review serves as a check on legislative and executive powers, ensuring that neither branch exceeds its authority or violates constitutional rights, thus maintaining the balance of power.

What are the main criteria that courts consider during judicial review?

Courts typically consider whether the law or action in question adheres to the constitutional text, precedents, and principles of justice and fairness.

Can judicial review be applied at both state and federal levels?

Yes, judicial review can be applied at both state and federal levels, allowing both state courts and federal courts to review laws and actions for constitutionality.

What are some criticisms of judicial review?

Critics argue that judicial review can lead to judicial activism, where judges impose their personal views rather than interpreting the law, potentially undermining democratic processes.

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Judicial Review Answer Key

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Unlock the essentials of judicial review with our comprehensive answer key. Discover how to navigate complex legal concepts effectively. Learn more now!

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