

Why reform the Supreme Court ?

Document 1 – The Supreme Court, America's highest court needs term limits	Document 2 – Enlarging the Supreme Court is the only answer to the right's judicial radicalism	Document 3 – High-stakes election disputes headed for Supreme Court	Document 4 – Trump's Supreme Court packing	Document 5 – Supreme Court appointments & Supreme Court's political polarization
<i>The Economist</i> , 2018	<i>The Washington Post</i> , 2020	<i>The Hill</i> , 2020	<i>The Philadelphia Inquirer</i> , 2020	<i>Reuters</i> , 2015
<p>Increasing partisanship that is contrary to the framers' original intent. = The Supreme Court was originally meant to have neither force nor will but be a neutral instrument of judgment</p> <p>Supreme Court's position today deemed as « untenable » = gridlock / stalemate</p> <p>Origin : the increasing inability of Congress to pass laws or compromise so increase of power the two other branches of Government</p> <p>Consequence : political questions that would once have been settled by vote now end up in the Supreme Court => increasing power in the hands of 9 Justices and increasing political power of the SC</p> <p>Decisions are political and the nomination process to the SC has become too > political disputes to appoint, strategies to hamper nominations...</p> <p>By becoming too political it has two consequences :</p> <p>1) The Court can only be fully efficient when the President has the support of Congress to appoint, otherwise it becomes a battleground for political disputes</p> <p>2) It questions the credibility of the SC as a neutral referee</p> <p>Risks of decisions being dismissed or struck down => possible solutions :</p> <ul style="list-style-type: none"> - make the courts more deferential to precedent - limit the terms of Justices (no life term and each president can at least appoint one + need for renewal) to the risk of making it a political issue at each election 	<p>The SC has become a battleground for the domination of the right wing in politics > threat to democracy</p> <p>By becoming politically polarized, the SC has drifted away from its democratic origins</p> <p>From politicized nomination process to political manipulation of Justices that are deferential to the President that has appointed them (problem of neutrality) = presidential puppets</p> <p>Lack of institutional patriotism with « court-packing » tendency</p> <p>Need to balance a stacked court to fight right radicalism and avoid abuses</p> <p>Threat to Democracy itself with overturning decisions that were democratically made</p> <p>Crisis of a judiciary that is « dominated by reactionaries »</p> <p>Solution of court enlargement ? (proposed by Joe Biden)</p>	<p>Court increasingly appealed to with the current elections to review voting rules disputes > at the heart of political disputes and risk of infringing upon previous decisions protecting basic rights like voting rights</p> <p>Tricky position of the SC that either takes action or refuses to act, every time considered as a political statement => to tackle or to defer to state and local authorities ?</p> <p>Elections = first tests for a rightward-shifting SC => its decisions help shape the race, help shape politics and the nation</p> <p>Pressure of Republicans to pause the rulings => political sway and influence of right wing politicians outside the Court ?</p> <p>Question of striking down previous rulings and rewriting Civil Rights history by coming back on key landmark decisions</p> <p>Neutral referee guaranteeing the fundamental rights of citizens or political tool ?</p>	<p>Trump packed Supreme Court > either by Justices he appointed or by Conservative Justices that are in his favor (all represented as Trump-alikes) => deck stacked in his favor => all standing tall as the 4 other Justices look flabbergasted on the side</p> <p>Trump addressing himself the SC, infringing on his authority (political manipulation and pressure on the SC), accusing ironically the liberal Justices of not being impartial, pointing out conversely, as a mirror effect, at the lack of impartiality of the Conservative Justices</p>	<p>In the aftermath of SC that tackled liberal policies Obamacare and same-sex marriage, most Americans expressed themselves in favor of term-limits to the Supreme Court appointments and a majority for a more democratic for of nomination (election rather than appointment)</p> <p>A fair share of the population, Democrats (58%) and Republicans (60%) alike, tend to agree that the US SC has grown too entangled in political disputes and become too political</p>

Possible outline :

- 1) It is necessary to reform the Supreme Court as it has drifted away from the Framers' original intent and become too political and powerful (ideological foundations and ideological drift)
- 2) The Supreme Court needs to regain credibility and for now it has reached a stalemate as it can no longer serve its purpose and be of use to the nation (practical implications and possible solutions and their reasons for being considered)
- 3) It has become even more necessary today with the pressure of the elections and the latest conservative appointments that are a threat to democracy : a right-wing shifting SC that might threaten basic acquired rights > necessity to balance a stacked court