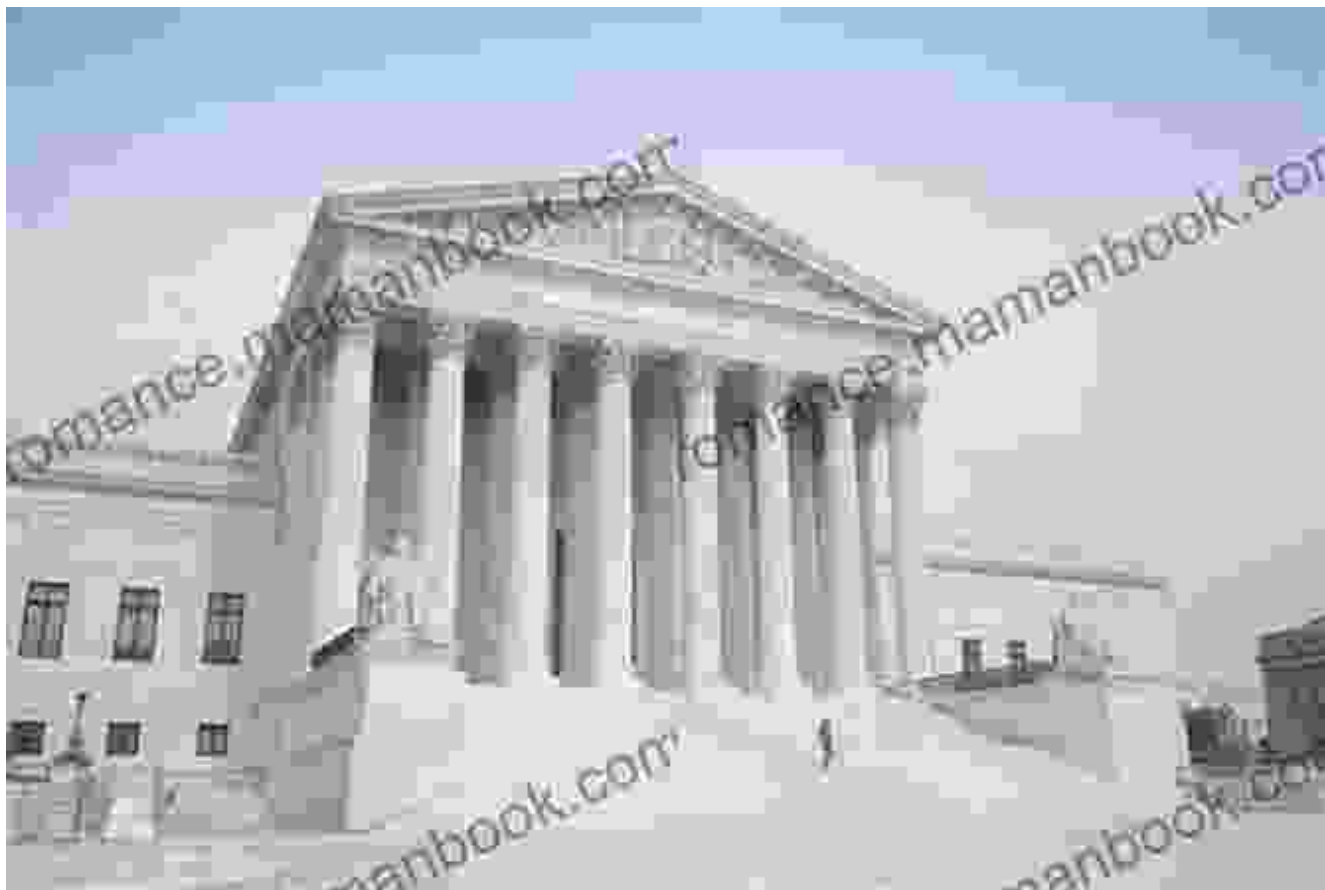


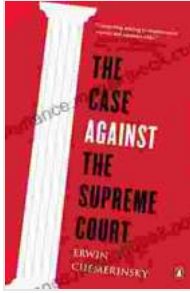
# The Case Against the Supreme Court: A Detailed Analysis of the Faults and Consequences of Judicial Supremacy



The United States Supreme Court, the highest court in the land, has long been considered the guardian of the Constitution and the final arbiter of the law. However, in recent years, the Court has come under increasing criticism for its perceived overreach, political bias, and lack of accountability. Some legal scholars and commentators have even argued that the Court has become a threat to democracy and the rule of law.

**The Case Against the Supreme Court** by Erwin Chemerinsky

★★★★☆ 4.6 out of 5



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|----------------------|-------------|
| Language             | : English   |
| File size            | : 1619 KB   |
| Text-to-Speech       | : Enabled   |
| Screen Reader        | : Supported |
| Enhanced typesetting | : Enabled   |
| Word Wise            | : Enabled   |
| Print length         | : 400 pages |



This article will examine the case against the Supreme Court, exploring its faults, consequences, and potential alternatives. We will begin by examining the Court's history and the origins of its power. We will then discuss some of the specific cases that have raised concerns about the Court's activism and political bias. Finally, we will consider some of the proposals that have been made to reform or even abolish the Supreme Court.

## **The History and Power of the Supreme Court**

The Supreme Court was established by the Constitution in 1789. The Court's original jurisdiction was limited to cases involving the Constitution, treaties, and maritime law. However, the Court's power has expanded over time, largely through the process of judicial review.

Judicial review is the power of the Supreme Court to declare laws unconstitutional. This power was first asserted in the landmark case of *Marbury v. Madison* (1803), in which the Court ruled that the Judiciary Act of 1789 was unconstitutional. Since *Marbury*, the Supreme Court has invalidated numerous laws, both state and federal.

The power of judicial review has given the Supreme Court a tremendous amount of power over the other branches of government. The Court can strike down any law that it believes violates the Constitution, and its decisions are final. This has led some critics to argue that the Court has become a "super-legislature," making laws without the consent of the people or their elected representatives.

## **The Case Against the Supreme Court**

There are a number of arguments that have been made against the Supreme Court. Some of the most common criticisms include:

\* **Judicial Activism:** Critics argue that the Supreme Court has become too activist, making decisions based on its own policy preferences rather than on the law. They point to cases such as *Roe v. Wade* (1973), which legalized abortion, and *Obergefell v. Hodges* (2015), which legalized same-sex marriage. \* **Political Bias:** Critics also argue that the Supreme Court is increasingly divided along partisan lines, with the Republican-appointed justices voting consistently with conservative principles and the Democratic-appointed justices voting consistently with liberal principles. This has led to a number of controversial decisions, such as the 5-4 decision in *Citizens United v. FEC* (2010), which allowed corporations and unions to spend unlimited amounts of money on political campaigns. \*

**Lack of Accountability:** The Supreme Court is not subject to any meaningful oversight or accountability. Its decisions are final, and there is no way to challenge them except through the long and difficult process of constitutional amendment. This has led some critics to argue that the Court has become a "rogue institution," operating outside the reach of the people and their elected representatives.

## Consequences of Judicial Supremacy

The increasing power of the Supreme Court has had a number of negative consequences for American democracy. These consequences include:

\* **Undermining the Rule of Law:** When the Supreme Court strikes down a law, it undermines the rule of law. This is because the rule of law requires that laws be made by the people or their elected representatives, not by judges. \* **Polarization of the Court:** The increasing partisan division of the Supreme Court has led to a polarization of the Court itself. This has made it more difficult for the Court to reach consensus on important issues, and it has also made the Court more susceptible to political pressure. \* **Loss of Public Confidence:** The public's confidence in the Supreme Court has declined in recent years. This is due to a number of factors, including the Court's perceived activism, political bias, and lack of accountability.

## Alternatives to the Supreme Court

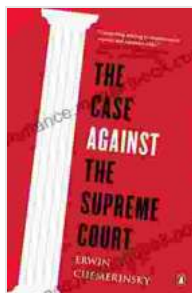
Some legal scholars and commentators have argued that the Supreme Court has become a threat to democracy and the rule of law. They have proposed a number of alternatives to the Court, including:

\* **Term Limits:** One proposal is to impose term limits on Supreme Court justices. This would help to ensure that the Court is not dominated by a particular set of justices for too long. \* **Judicial Review Reform:** Another proposal is to reform the process of judicial review. This could involve giving Congress the power to override Supreme Court decisions, or it could involve creating a new court to review the constitutionality of laws. \*

**Abolishing the Supreme Court:** The most radical proposal is to abolish the Supreme Court altogether. This would leave it up to the other branches of government to interpret the Constitution.

The Supreme Court is a powerful institution that plays a vital role in American democracy. However, the Court has also become increasingly activist, politically biased, and unaccountable. These factors have led to a number of negative consequences, including the undermining of the rule of law, the polarization of the Court, and the loss of public confidence.

It is time to consider alternatives to the Supreme Court. Term limits, judicial review reform, and even abolition are all worthy of consideration. We need to find a way to ensure that the Supreme Court remains a guardian of the Constitution, not a threat to democracy.

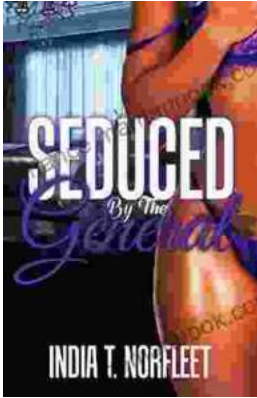


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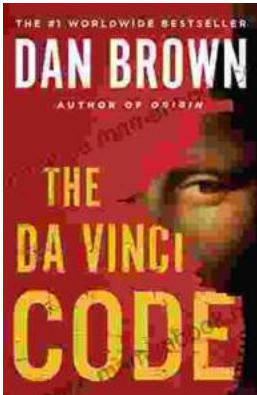
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