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# U.S. judicial system's bias against workers

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Republican operative lawyers Peter Rutledge, Leonard Leo, and Mark Paoletta are depicted with United States Supreme Court Justice Clarence Thomas and Republican donor Harlan Crow in this painting by Sharif Tarabay. The canvas is both set at Crow's lavish Adirondacks resort, Camp Topridge, and part of the compound's decor.

There are various concepts of the law. One often hears reference to "Constitutional Law." The U.S. Constitution, with the passage of the Judiciary Act of 1789, did not



extend equal rights to people kidnapped from Africa, the Indigenous population, women and other oppressed genders, or those without property — only white men with substantial property holdings. Constitutional law was written primarily to protect the rights of private property. This “Constitutional law” is presented as intractable rules carved into marble, with the upholders as sacrosanct.

At the same time, others call on the law to protect and support the advance of human society. Recently this concept of the law was affirmed in Cuba by the passage of the 2022 Family Code. In a 2022 referendum, 87% of the entire population approved a constitutional reform that provided for the protection of all forms of families, including chosen families; the rights of children, elders, and the right of people with disabilities to independence, dignity, accessibility; the right of gender equality, including for trans and nonbinary Cubans; and a duty to contribute to the family and recognition of the value of domestic labor; and finally the institutional and community responsibility to uphold these rights.

In a debate on the U.S. judiciary, various U.S. Republican and Democratic think tanks raise the difference between elected and appointed judges. While they acknowledge that elections are a more democratic option, they claim that judges and judicial rulings should be based on an “[objective interpretation of the law and therefore must not be influenced by public opinion.](#)”

U.S. federal judges, Supreme Court justices, Court of Appeals judges, and District Court judges are nominated by the President and confirmed by the Senate. State judges are chosen by appointment or an election.

### **Corporate lawyers who become judges**

A study conducted by Emory University found that former prosecutors and corporate lawyers make up nearly 7-in-10 judges in the federal district courts, which consider cases over employment, immigration, the environment, and other topics.



[Judges appointed by former President Barack Obama](#) who have a background as prosecutors are most likely to decide in favor of employers. Obama-appointed judges with corporate backgrounds are 36% less likely to rule on behalf of employees.

Further, former President Donald Trump's judges are overwhelmingly white and male, with one-quarter coming from the country's 200 biggest law firms.

After an investigation of judicial stock holdings in the U.S., the Wall Street Journal reported in 2022 that 152 federal judges improperly heard 1,076 court cases between 2010 and 2018 in which they or their family members owned shares of companies that were plaintiffs or defendants in the litigation. In two-thirds of those cases, they ruled in favor of the company.

## **The Supreme Court**

Public opinion on the nature of the Supreme Court has sunk to an all-time low, and in December, Chief Justice John Roberts urged, "We must support judges by ensuring their safety." However, he notably said nothing about the revelations of the judges' gross breach of ethics.

A ProPublica report on April 6 centered public attention on Harlan Crow, a Dallas, Texas, real estate magnate who has given more than \$13 million in publicly disclosed political contributions to right-wing political campaigns and judicial appointments.

Featured in [the ProPublica report](#) were Crow's undisclosed contributions to Supreme Court Justice Clarence Thomas and his wife, far-right activist Ginni Thomas. Ginni Thomas co-founded the [secretive right-wing strategy group Groundswell](#) with Steve Bannon.

ProPublica details trips gifted by Crow in super yachts and private jets for luxurious holidays at properties owned by Crow in Indonesia, New Zealand, California, Texas,



and Georgia.

Harlan Crow is also involved in refurbishing and selling a Thomas property in Savannah, Georgia.

The mainstream media reports on the Thomas bribes often contrast them to the “untarnished ethical standards” of the other Supreme Justices.

Chief Justice John Roberts has declined to respond to a Congressional request to investigate Justice Clarence Thomas. Since he became Chief Justice in 2005, his spouse Jane Roberts began a career as a legal recruiter, earning more than \$10 million in commissions from a host of elite law firms and corporations. At least one of those firms argued a case before Chief Justice Roberts after paying his spouse hundreds of thousands of dollars. “There are many paths to the good life,” Jane Roberts reportedly said. “There are so many things to do if you’re open to change and opportunity.”

Roberts appears to be overwhelmed with revelations such as this and scandals involving his cohorts.

For example, Politico reported that Supreme Court Justice Neil M. Gorsuch gained nearly \$2 million in the sale of a 40-acre property on the Colorado River. It was sold to Brian Duffy, chief executive officer of the prominent law firm Greenberg Traurig in May 2017, just one month after Gorsuch was sworn in as a Supreme Court associate justice.

The Greenberg Traurig law office represented the state of North Dakota in a dispute over the Environmental Protection Agency’s authority in regulating carbon emissions as part of the Clean Air Act.

Gorsuch was part of a six-member majority on the Supreme Court that ruled last June in favor of North Dakota and other Republican-led states to cut back the EPA’s



authority to regulate carbon emissions from existing power plants.

### **Funding a far-right agenda**

Scalia Law School at George Mason University in a Virginia suburb of Washington, D.C., was funded with \$30 million by Leonard Leo, an executive of the Federalist Society, in 2016.

Leo's scheme is to shift the federal judiciary to a far-right agenda. He boasts of significant ties to the Vatican. He has spent millions of dollars in television advertisements attacking schools for teaching "critical race theory" and "WOKE agendas." His initiatives are financially supported by an opaque, sprawling network of wealthy patrons such as the Koch Foundation, usually through anonymous donations commonly called "dark money."

The network has spent nearly \$504 million, including grants to about 150 allied groups. Leo's efforts have been turbocharged by [an unusual \\$1.6 billion infusion](#) from Barre Seid, a Chicago electronics manufacturing (Tripp Lite) mogul, in late 2020.

Among the [school's most notorious alumni was William Consovoy](#), a Supreme Court clerk who helped persuade the high court to strike down key provisions of the Voting Rights Act.

The Scalia law school faculty includes Justice Gorsuch, Justice Thomas, and Justice Kavanaugh.

Documents show how Scalia Law has offered the justices academic cocoon, where their legal views can be promoted, where they are given top payouts and treated to "teaching" trips abroad, where their personal needs are anticipated from lunch orders to – in Justice Gorsuch's case – house hunting.



When the law school courted Gorsuch in 2017, it asked him to help choose the Italian city where he would co-teach a seminar on national security and the separation of powers. A memo offered options including Padua (a “first-tier city in a picturesque setting”), Venice (with a “seven-mile-long-sandbar known as Lido”), and Bologna (“Italy’s most prestigious academic city”).

“Fantastico!” Gorsuch responded.

As a [Roll Call](#) report points out, the Supreme Court justices have no formal limits outside the annual financial disclosure requirement. “Other federal judges are bound by the Code of Conduct for U.S. Judges, which places strict limits on honorariums, gifts and political activity. But the code does not apply to Supreme Court justices.”

Justices Gorsuch and Kavanaugh each made salaries approaching \$30,000 for teaching summer courses that generally ran for up to two weeks.

Many justices have augmented their government salaries, roughly \$300,000, by holding classes at schools including Harvard, Duke, and Notre Dame.

Justice Amy Coney Barrett, Trump’s final appointee to the high court, recently felt obliged to say, in a speech at the University of Louisville, “My goal today is to convince you that this court is not comprised of a bunch of partisan hacks.” Barret is a longtime faculty member at Notre Dame.

The Scalia law school creates the perks programs for the justices in far-flung locations. Justice Gorsuch has traveled to Iceland and Italy to teach; Justice Kavanaugh has taught in Britain.

Gorsuch, Kavanaugh, and Thomas regularly used the employees in their chambers to coordinate their outside academic duties in performing activities for which extra compensation was to be received.



“The school has also been able to entice the court’s liberals: Justice Elena Kagan, who has called for the court’s conservative and liberal wings to rediscover ‘common ground,’ Kagan joined Justice Gorsuch as a distinguished guest when he taught his summer course in Iceland in 2021. Justice Sonia Sotomayor spoke on a Scalia Law panel with him the same year,” the [New York Times](#) reported.

