



# YALE NATIONAL INITIATIVE

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Curriculum Units by Fellows of the National Initiative  
2006 Volume II: The Supreme Court in American Political History

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## Introduction

by Robert A. Burt, Alexander M. Bickel Professor of Law

The Supreme Court has played a significant role in American political history; but there is considerable dispute about the actual practical effects of its rulings, about the desirability of any clearly demonstrable effects, and about the democratic legitimacy of its interventions. Our seminar examined landmark Court decisions, both in our past history and in our own times. We considered *Marbury v. Madison* (1803), the foundational ruling for judicial authority; *Dred Scott v. Sandford* (1857), which attempted to rebuff Northern attacks on slavery and, many would say, helped to provoke the Civil War; *Brown v. Board of Education* (1954), which overturned state-sponsored race discrimination and, many would say, precipitated the modern Civil Rights movement; *Roe v. Wade* (1973), which invalidated state abortion restrictions and fueled a continuing national political and social controversy; *Bush v. Gore* (2000) which made George W. Bush president and, many would say, cast an aura of illegitimacy over his accession; *Grutter v. Bollinger* (2003) which upheld race-based affirmative action admissions policy in universities; and *Lawrence v. Texas* (2003), which overturned state laws criminalizing consensual homosexual relations.

The curriculum units prepared by the Fellows address some specific political or social implication of the Supreme Court's work. Some of the units directly deal with the cases we discussed — Justin Boucher on the development of the idea of judicial supremacy in *Marbury*, *Dred Scott*, and *Bush v. Gore*; and Danielle Gothie on the implementation of *Brown v. Board of Education*. Other units used these cases as starting-points for exploring specific themes in the Court's work — Florilis Davis, Jr., on the development of individual rights in *Brown* as well as *Gideon v. Wainwright* (regarding criminal defendants' entitlement to state-appointed attorneys). Elouise White-Beck on the implications of the right to education recognized in *Brown* for protecting freedom of learning and thought generally. Still other units examined different cases with similar thematic exploratory goals — Deborah Samuel on the Court's response to state discrimination against Chinese immigrants at the end of the nineteenth century. And other units used Court decisions to illuminate general social issues — Daniel Addis on rhetorical techniques of advocacy revealed by comparing the majority and dissenting opinions in *Walker v. City of Birmingham* and Martin Luther King's *Letter from Birmingham Jail* (where he was imprisoned as a result of the Supreme Court's decision) and Jeffrey Joyce on the social psychology of obedience or resistance to law.

All of the units provide a rich perspective on the basic underlying question that we considered in our seminar discussions — that is, the actual practical effects of Supreme Court rulings, the desirability of any such effects and the legitimacy of the Court's claim to authority in resolving these intensely disputed issues.

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