

**REGULATING THE COURT THAT REGULATES EVERYTHING,  
EXCEPT ITSELF: AN ANALYSIS OF THE UNITED STATES SUPREME  
COURT’S CODE OF ETHICS AND RECOMMENDATIONS  
ON HOW TO ENFORCE IT**

ARTÍCULO

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INTRODUCTION

**T**he Supreme Court of the United States has been under scrutiny due to increased perception of partisanship among the Court, and alleged violations of ethical principles by different Justices.<sup>1</sup> The allegations include failure to comply with the financial obligations of Justices, refusals to recuse from cases with personal conflict, and inconsistent rulings. The public, along with the other branches of government, expressed concerns about the events. As a result, the Supreme Court of the United States published a Code of Ethics in November 2023.<sup>2</sup> In the Code’s introduction, the Supreme Court argues

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<sup>1</sup> Alison Durkee, *Here Are All the Supreme Court Controversies That Led to Adopting An Ethics Code*, FORBES (Nov. 14, 2023), <https://www.forbes.com/sites/alisondurkee/2023/11/14/here-are-all-the-supreme-court-controversies-that-led-to-adopting-an-ethics-code/?sh=7abcoao264ca>.

<sup>2</sup> *Code of Conduct for Justices of the Supreme Court of the United States*, SUPREME COURT OF THE UNITED STATES (Nov. 13, 2023), [https://www.supremecourt.gov/about/Code-of-Conduct-for-Justices\\_November\\_13\\_2023.pdf](https://www.supremecourt.gov/about/Code-of-Conduct-for-Justices_November_13_2023.pdf).

that they are merely codifying their established norms and principles based on common law and existing regulations.<sup>3</sup> However, critics are already warning that the new Code lacks any new internal or external reviews or enforcement mechanisms for the existing principles and regulations.<sup>4</sup> The new Code of Ethics does not truly address the aforementioned ethical and political problems. As a result, the Court has experienced a historic level of mistrust from the public.<sup>5</sup> This article focuses on the relevant regulations to legal professionals at the local and international level, as well as the importance of a trustworthy legal system to a civil society to highlight why the court should implement an additional enforcement control to the Code of Ethics.

## I. THE POLITICS AND LEGAL IMPLICATIONS

### A. *Current events and public opinion*

The public expressed concerns about the judicial independence of the Supreme Court of the United States when reports of alleged ethics violations by Justices flooded the news.<sup>6</sup> Additionally, the public is concerned that this is one of the more partisan Courts in recent history; leading the public's confidence in the Court to an all-time low<sup>7</sup>. The recent appointment of Justice Brown Jackson, Justice Coney-Barrett, Justice Kavanaugh, and Justice Gorsuch were marked by controversy, since the confirmation votes concluded with increasingly split votes along party lines.<sup>8</sup> As such, the public views the Court as a political tool, rather than an independent dispute resolution tool. This is compounded by news of alleged ethical violations by specific Justices, like Justice Clarence Thomas and Chief Justice John Roberts. Regarding the former, it was published that the Justice was receiving gifts from people with business before the Court and was failing to report them.<sup>9</sup> The latter was singled out when it was published that his spouse is a successful headhunter for law firms with business before the Court.<sup>10</sup> Thus, the current composition of the court is

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3 *Id.*

4 Michael Waldman, *New Supreme Court Ethics Code Is Designed to Fail*, BRENNAN CENTER FOR JUSTICE (Nov. 14, 2023), <https://www.brennancenter.org/our-work/analysis-opinion/new-supreme-court-ethics-code-designed-fail>.

5 Katy Lin & Carroll Doherty, *Favorable views of Supreme Court fall to historic low*, PEW RESEARCH CENTER (Jul. 21, 2023), <https://www.pewresearch.org/short-reads/2023/07/21/favorable-views-of-supreme-court-fall-to-historic-low/>.

6 Alison Durkee, *supra* note 1.

7 Lin & Doherty, *supra* note 5.

8 United States Senate, *Supreme Court Nominations (1789-Present)* (Mar. 7, 2024), <https://www.senate.gov/legislative/nominations/SupremeCourtNominations1789present.htm>.

9 Alison Durkee, *Clarence Thomas Has Received An 'Unprecedented' Number Of Gifts From Wealthy Friends — Beyond Harlan Crow, Report Says*, FORBES (Aug. 10, 2023), <https://www.forbes.com/sites/alisondurkee/2023/08/10/clarence-thomas-has-received-an-unprecedented-number-of-gifts-from-wealthy-friends-report-says-beyond-harlan-crow/?sh=750e56a68da4>.

10 Nicholas Reimann, *Chief Justice John Roberts' Wife Made Over \$10 Million As Legal Consultant, Report Says*, FORBES (Apr. 28, 2023), <https://www.forbes.com/sites/nicholasreimann/2023/04/28/chief-justice-john-roberts-wife-made-over-10-million-as-legal-consultant-report-says/?sh=5dd13acdie9a>.

perceived as political, and the public is concerned about the court's ability to bring down impartial rulings.

The public's confidence in the Supreme Court of the United States has reached a record low, and several factors are to blame.<sup>11</sup> A sector argues that the main issue is the politicization of the Judicial Branch, as the nomination of Justices has become increasingly partisan.<sup>12</sup> Others consider the recent rulings departing from precedent to have delegitimized the court.<sup>13</sup> However, some highlight that the lack of a Code of Ethics with concrete enforcement mechanisms to hold the Justices accountable led the public to view the Justices as above the law.<sup>14</sup> As a response to critics, the Supreme Court released a written Code of Ethics that compiled all the principles and guidelines that regulate the Justices' conduct.<sup>15</sup> This publication was not satisfactory to many, as it was a mere codification of principles and did not provide a process of complaints or enforcement mechanisms for violations.<sup>16</sup> The lack of a new accountability process left the public longing for a comprehensive Code of Ethics that can enforce the principles said to regulate the Justices' conduct. For this reason, this article proposes additional safeguards via a comprehensive Two-Step Complaint process that involves the public, as well as all branches of government. This article strives to create a system that the public can trust by implementing new ideas and adopting ones that work abroad. Nonetheless, any new regulation needs to be compliant with the law of the land, the Constitution.

### B. *Constitutional limitations*

Article III, Section I of the Constitution states that judges of the federal government shall enjoy their positions if they do so in good behavior.<sup>17</sup> However, it does not provide any guidelines for a process of the removal of judges, other than impeachment. Article II, Section IV of the Constitution of the United States expresses that “[t]he President, Vice President, and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors,” which makes the Justices of the Supreme Court subject to impeachment, since they are civil Officers of the United States.<sup>18</sup> Justices would go through an impeachment inquiry in the House of Representatives and a trial at the Senate in order to be removed from of-

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<sup>11</sup> Lin & Doherty, *supra* note 5.

<sup>12</sup> See Richard L. Hansen, *The Supreme Court's pro-partisanship turn*, 109 G. L. J. ONLINE 50 (2020), <https://www.law.georgetown.edu/georgetown-law-journal/wp-content/uploads/sites/26/2020/07/Hasen-The-Supreme-Court%E2%80%99s-Pro-Partisanship-Turn.pdf>.

<sup>13</sup> Hassan Kanu, *Even some justices are raising questions about the U.S. Supreme Court's legitimacy*, REUTERS (Jul. 10, 2023), <https://www.reuters.com/legal/government/column-even-some-justices-are-raising-questions-about-us-supreme-courts-2023-07-10/>.

<sup>14</sup> Waldman, *supra* note 4.

<sup>15</sup> SUPREME COURT OF THE UNITED STATES, *supra* note 2.

<sup>16</sup> Russell Wheeler, *The Supreme Court's Code of Conduct: enforcement confusion, extrajudicial activism*, BROOKINGS (Nov. 29, 2023), <https://www.brookings.edu/articles/the-supreme-courts-code-of-conduct-enforcement-confusion-extrajudicial-activism/>.

<sup>17</sup> U.S. CONST. art. III, § 1.

<sup>18</sup> *Id.* art. II, § 4.

19 Nonetheless, this requires the Speaker of the House to decide to bring articles of impeachment to the floor for a vote and then have the majority of the House and Senate vote in favor of removing the Justice,<sup>20</sup> which seems increasingly difficult in a time of such engrained partisan divides in the legislative bodies. This process has only been used once in the history of the United States. In 1804, Justice Chase was subjected to an impeachment vote when the public and Congress accused Chase of “refusing to dismiss biased jurors and of excluding or limiting defense witnesses in two politically sensitive cases.”<sup>21</sup> However, the Justice was later acquitted in the Senate and was able to resume his charge.<sup>22</sup> The political nature of this process hinders the capacity of this mechanism to hold the Justices accountable, unless it is a gross violation. Creating a new process that can regulate the removal of Justices through independent investigations can increase accountability. However, while the transparency and integrity of such a process should be of the utmost regard, any new process is beholden to constitutional limitations.

### i. Separation of powers

One of the essential pillars of the Constitution of the United States is the separation of powers that provides for checks and balances in the government. The Constitution enumerates directly and indirectly the powers of each branch; the Judicial Branch was tasked with the resolution of disputes,<sup>23</sup> while Congress retained the legislative functions.<sup>24</sup> When it comes to Congress, the representatives that compose the bodies have term limits with elections that serve as a type of referendum on the representative’s performance.<sup>25</sup> However, there are no real guidelines for the regulation of the members of the federal Judicial Branch, since they do not have term limits, leaving the public concerned that its members are beyond the reach of the law. As a result, this article proposes a Two-Step Complaints review process, combining internal and external protocols, to regulate the Justices’ behavior and complement the current impeachment process. This process would precede the impeachment inquiry but would arrive with convincing investigative determinations.

Now, can the Legislative Branch delegate part of their responsibilities in the impeachment process? Can the Judicial Branch or Executive Branch conduct independent investigations that can lead to the removal of one of the Justices from their position? The Constitution of the United States establishes in Article I, Section II that “[t]he House of Representatives . . . shall have the sole power of Impeachment.”<sup>26</sup> In Section III of the same Article, it states that “[t]he Senate shall have the sole Power to try all Impeachments.”<sup>27</sup>

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19 *Id.* art. I, §§ 2-3.

20 *Id.* art. I, § 3.

21 *Impeachment Trial of Justice Samuel Chase, 1804-1805*, UNITED STATES SENATE, <https://www.senate.gov/about/powers-procedures/impeachment/impeachment-chase.htm> (last visited Mar. 23, 2024).

22 *Id.*

23 U.S. CONST. art. III, § 2.

24 *Id.* art. I, § 1.

25 *Id.* art. I, §§ 2-3.

26 *Id.* art. I, § 2.

27 *Id.* art. I, § 3.

This means that the House of Representatives and Senate have the constitutional ability to initiate an impeachment inquiry and carry out impeachment trials, respectively. However, debates persist on Congress' ability to regulate the Judicial Branch, as the Constitution of the United States is brief and concise when discussing the causes for removal of office of a Justice. The Constitution only makes mention of good behavior as a basis of removal of a federal judge.<sup>28</sup> This, in turn, has been interpreted by many to mean different things, which further sustains the need of adopting a uniform system.<sup>29</sup> However, the Constitution does not define good behavior or have any other ethical implications regarding this matter, leading to confusion as to who is actually able to regulate the conduct of this Court. The recent concerns about the alleged ethical violations led the House Judiciary Committee to pass the first ever Congress-led Code of Ethics for Supreme Court Justices.<sup>30</sup> The House Judiciary Committee centered their efforts around the financial disclosure requirements for the Justices. However, this initial attempt was before the Supreme Court released their own written Code of Ethics. As such, the House Judiciary Committee halted their efforts to pursue the implementation of the code, as the financial disclosure provisions were included in the Code of Ethics released by the Supreme Court.<sup>31</sup> Nonetheless, some critics of the bill creating the code, including Justice Alito, argue that Congress does not even have constitutional power to regulate the Judicial Branch.<sup>32</sup> On the contrary, other Justices like Justice Kagan have publicly expressed that they believe Congress has limited, but broad powers, to regulate the Court, as Congress already regulates other aspects such as salary and term start dates.<sup>33</sup> There is no clear answer as to whether Congress can regulate the Judicial Branch. This article argues that the Legislative, Executive, and Judicial Branches all have the power, at least in some capacity, to oversee the conduct of the Justices, as has been previously argued.<sup>34</sup> However, constitutional claims against this interpretation are inevitable. For this reason, while exploring the constitutionality of the Two-Step Complaints measure proposed is important, it should not be and is not the focus of this investigation.

## ii. Ex-Post Facto

The Constitution of the United States prohibits carrying out punishments for crimes through laws for conduct committed prior to the laws being in effect.<sup>35</sup> This makes sense,

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<sup>28</sup> *Id.* art. III, § 1.

<sup>29</sup> *Art III.SI.10.2.3 Good Behavior Clause Doctrine*, CONSTITUTION ANNOTATED, ANALYSIS AND INTERPRETATION OF THE U. S. CONSTITUTION (last visited Mar. 24, 2024), [https://constitution.congress.gov/browse/essay/artIII-SI-10-2-3/ALDE\\_00000686/](https://constitution.congress.gov/browse/essay/artIII-SI-10-2-3/ALDE_00000686/).

<sup>30</sup> Carl Hulse, *Senate Panel Approves Supreme Court Ethics Bill With Dim Prospects*, THE NEW YORK TIMES (Jul. 20, 2023), <https://www.nytimes.com/2023/07/20/us/politics/senate-supreme-court-ethics-rules.html>.

<sup>31</sup> See SUPREME COURT OF THE UNITED STATES, *supra* note 2, Canon 4 § H.

<sup>32</sup> Kimberly Strawbridge Robinson, *Congress Can't Force Ethics Code on Supreme Court, Alito Says*, BLOOMBERG LAW (Jul. 28, 2023), <https://news.bloomberglaw.com/us-law-week/congress-cant-force-ethics-code-on-supreme-court-alito-says>.

<sup>33</sup> Josh Gerstein, *Kagan enters fray over Congress' power to police Supreme Court*, POLITICO (Aug. 3, 2023), [HTTPS://WWW.POLITICO.COM/NEWS/2023/08/03/KAGAN-ENTERS-FRAY-OVER-CONGRESS-POWER-TO-POLICE-SUPREME-COURT-00109770](https://www.politico.com/news/2023/08/03/kagan-enters-fray-over-congress-power-to-police-supreme-court-00109770).

<sup>34</sup> Amanda Frost, *Judicial ethics and Supreme Court Exceptionalism*, 26 G. J. LEG. ETHICS 443, 447 (2013).

<sup>35</sup> U.S. CONST. art. I, § 9.

as you would not want to be punished for doing something you did not know would be considered a crime in the future. However, that prohibition does not apply to civil measures.<sup>36</sup> Considering that the Impeachment process is neither a criminal nor a civil trial, one can argue that the removal of office for a federal official is closer to a civil measure. This process parallels the one established in administrative law, which deals with the removal of officials from their position.<sup>37</sup> As such, if Congress decides to put in place a public safety measure with a civil purpose, then it is allowed to look into events prior to the measure being put in place, as it would not violate the *ex-post facto* clause of the Constitution.<sup>38</sup> The reason for this argument is that if Congress decided to enact additional internal and external controls, and also make it a mission to investigate past behavior, then Justices could claim that this was prohibited by the *ex-post facto* clause. However, as a civil measure with civil consequences, the removal from office can be considered constitutional. Even though this author believes that it is possible to implement the system of accountability for past behavior, we consider that any new Code of Ethics implemented in the future would not seek to punish the Justices for past behavior. The actions would be considered too political and could further destabilize the confidence in the court. Nonetheless, this author does not rule out a retroactive application of new regulations for the Code of Ethics.

### C. *The Proposal: An Ethics Code with a Two-Step approach*

The Code of Ethics that the Supreme Court of the United States published fails to meet the demands of the public, with the main criticism of the Code of Ethics being that there are no tangible enforcement mechanisms.<sup>39</sup> As such, this author proposes a new internal and external review process through a Judicial Review Council with a robust complaints process for the conduct of federal judges, including the Justices of the Supreme Court. Implementing additional internal and external controls can increase the predictability and transparency of the Court. Additionally, this article explores the complexities of the current recusal system, *stare decisis*, and possible implementation of term limits. Nonetheless, since the focus of the article is on the enforcement of the Code of Ethics, this article does not get into the minutiae of the process for recusals, breaking precedent, or term limits; instead, it focuses the proposals on the enforcement mechanisms for the Code of Ethics.

The Two-Step Complaints Process proposed includes the Judicial Branch as one step and the Executive Branch as the other. The Two-Step Complaints Process allows the public to submit complaints directly to a Judicial Review Council created via legislation, with a Chairperson heading the efforts. The Chairperson will be a Justice of the Supreme Court, that is not the serving Chief Justice. Additionally, the Complaints can be submitted by the other members of the council, which is composed of current federal judges. In summary, this process can be initiated by the Judicial Branch or the public with the submission of an

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<sup>36</sup> *Calder v. Bull*, 3 U.S. 386 (1798).

<sup>37</sup> Administrative Procedure Act, 5 U.S.C. § 7521 (2018).

<sup>38</sup> *Calder*, 3 U.S. 386.

<sup>39</sup> Russell Wheeler, *supra* note 16.

official complaint. This process is similar to the current process inferior judges are subject to but centralizes the administration of the complaints. After, the process moves to the investigative phase. The investigative phase is handled by the Executive Branch through the Office of the Inspector General. The results of the investigation are then returned to the Judicial Review Council with a determination and recommendation. If the Judicial Review Council deems the complaint of merit, then it can refer the Justice to Congress and have them start an Impeachment inquiry. This process is supplementary to the current Impeachment process, but serves as an initial control that removes the political aspect of the Impeachment process to transform it into a fact-finding process. The determinations given to Congress are persuasive, as the Chairperson needs to validate the claims prior to the process moving to Congress, or the process is dismissed. The details of this proposal are discussed below.

The Justices of the Supreme Court of the United States were the only federal court judges not bound by a written Ethics Code, leading to the publication of a Supreme Court Code of Ethics. In their publication, the Supreme Court argues that this is a mere codification of norms and regulations that the Justices already had to follow, based on common law rulings and established rules.<sup>40</sup> This article does not argue that Justices' behavior were not subject to any regulation prior to the codification and publication. However, this author argues that the publication is fruitless, as it does not provide new review or enforcement mechanisms. The public still believes that the Code of Ethics allows the Justices to continue their actions without accountability, because the Court still lacks the internal and external regulating mechanisms to tend to the conduct that sparked the criticisms in the first place, thus maintaining the confidence in the Court at a historic low. This article aims to highlight the key threats to civil society a historic low confidence in the highest court poses by evaluating the specific issues that led to a historical low in confidence in the Court, comparing how other jurisdictions regulate their courts to determine significant factors to a trustworthy legal system, and arguing that additional enforcement mechanisms are still needed to maintain a functioning and trustworthy legal system.

## II. EXPLORING THE ISSUES THAT CAUSED A HISTORIC LOW IN CONFIDENCE IN THE SUPREME COURT TO PROPOSE A NEW JUDICIAL REVIEW COUNCIL WITH A ROBUST COMPLAINTS SYSTEM

### A. *The Domestic Dilemma*

#### i. The scandals that got the public concerned

The Supreme Court of the United States has been under increased scrutiny due to alleged ethical violations by Justices of the Court.<sup>41</sup> However, the issues do not end there, as there are multiple factors contributing to a historic low confidence in the Court.<sup>42</sup> Such

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<sup>40</sup> SUPREME COURT OF THE UNITED STATES, *supra* note 2.

<sup>41</sup> Durkee, *supra* note 1.

<sup>42</sup> Lin & Doherty, *supra* note 5.

factors include, but are not limited to, the controversial appointments of members of the Court, an increased perception of partisanship, and alleged ethical violations by members of the Court or their families.<sup>43</sup> The country relies on the rulings of this Court for matters of national and private interest. As such, the Supreme Court cannot afford to have even the appearance of controversy. In an effort to turn the public opinion in favor of the Supreme Court, the Court published a written version of the ethical principles and regulations that govern the behavior of Justices. However, the Code of Ethics lacks any enforcement mechanism to hold the Justices accountable for any infractions. To solve this issue, we must question the current system that the Court has, explore the issues that lead to such low confidence in the Court, and propose tangible measures to improve the transparency of the Court.

The Supreme Court of the United States is composed of nine Justices. Due to the importance of the Judicial Branch to a functioning democracy, when Justices engage in questionable behavior, like accepting lavish gifts from litigants with business before the Court, the public takes notice. This is exactly what has happened with Justice Clarence Thomas in the past couple of years.<sup>44</sup> Justice Thomas is the longest serving member of the current Supreme Court of the United States, since President Bush nominated him to the Court in 1991.<sup>45</sup> Currently, he is in the spotlight for several possible ethical violations, including accepting gifts from people who bring cases to the Court and not recusing himself in cases that involve personal matters.<sup>46</sup> Furthermore, Chief Justice John Roberts was also placed under scrutiny when it was uncovered that his spouse is a successful headhunter for law firms with business in the Supreme Court.<sup>47</sup>

First, let's explore the allegations concerning Justice Clarence Thomas. As previously mentioned, it was uncovered that the Justice allegedly received lavish gifts from donors and failed to report them. The report states that the Justice was receiving lavish gifts, from collectable memorabilia to trips to exotic lands, and failed to disclose them as part of his financial obligations; more importantly, the main donor in question was identified as Harlan Crow, a GOP megadonor.<sup>48</sup> Once the report was published, the Justice went to his defense stating that he has been friends with Crow for around 25 years and that, because of the close nature of their relationship, he did not think it was necessary to report the exchanges.<sup>49</sup> However, these gifts were above the federally set threshold, and thus were

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43 Effenus Henderson, *Questioning the Objectivity and Impartiality of Recent Supreme Court Decisions: Concerns of an Average Citizen*, MEDIUM (Jul. 1, 2023), <https://effenus-henderson.medium.com/questioning-the-objectivity-and-impartiality-of-recent-supreme-court-decisions-concerns-of-an-8ea5c632d046>.

44 Durkee, *supra* note 9.

45 *Current Members*, SUPREME COURT OF THE UNITED STATES, <https://www.supremecourt.gov/about/biographies.aspx> (last visited Mar. 24, 2024).

46 Nina Totenberg, *Legal ethics experts agree: Justice Thomas must recuse in insurrection cases*, NPR (Mar. 30, 2022), <https://www.npr.org/2022/03/30/1089595933/legal-ethics-experts-agree-justice-thomas-must-recuse-in-insurrection-cases>.

47 Reimann, *supra* note 10.

48 Durkee, *supra* note 9.

49 Olivia Land, *Clarence Thomas admits he and wife took trips with GOP donor Harlan Crow 'as friends do'*, NEW YORK POST (Apr. 7, 2023), <https://nypost.com/2023/04/07/clarence-thomas-admits-he-and-wife-took-trips-with-gop-donor-harlan-crow-as-friends-do/>.

required by law to be reported.<sup>50</sup> Additionally, the Justice claims that he and Crow were friends for a long time as a pretext to not abide by Court regulations, but he met the billionaire while already in his current position, as their friendship is younger than his over thirty year tenure in the United States Supreme Court. The aforementioned is significant as the integrity of the Court is questioned when people like Harlan Crow are spending millions on Justices when they repeatedly have matters in front of the Court.<sup>51</sup> As a result, the rulings can be interpreted as tainted.

The controversies surrounding Justice Thomas do not end there. The Justice keeps sparking controversy by insisting on not recusing himself from cases in which the public believes there is a conflict of interest. He was the lone dissenter in the United States case against former President Trump, where the Court allowed the release of information related to the events of January 6, 2021.<sup>52</sup> However, it was later published that Justice Thomas had a personal conflict with the case, as there was information to be released concerning his spouse.<sup>53</sup> It was reported that the Justice's spouse, Ginni Thomas, was instrumental in the planning of the event prior to the march towards the Capitol that day.<sup>54</sup> However, when it came to the decision, he chose not to recuse himself, even though his ruling would have an impact on his wife's life.<sup>55</sup> Unfortunately, this is not the only instance where a Justice's refusal to recuse themselves from a case is controversial.<sup>56</sup> This is also in direct violation of Canon 2 of the Supreme Court's Code of Ethics.<sup>57</sup> However, the Justices hold the final decision of whether to recuse themselves or not from cases.<sup>58</sup> Some states have processes in place for a judge's recusal, but the federal government does not have a tangible process that the public can rely on for this type of matters. The Code of Conduct for federal judges states that judges must disqualify themselves if they fall into one of the prohibited categories of conflicts.<sup>59</sup> This high degree of discretion afforded to the Supreme

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50 *Gifts and Entertainment*, U.S. DEPARTMENT OF JUSTICE: JUSTICE MANAGEMENT DIVISION, <https://www.justice.gov/jmd/gifts-and-entertainment> (last visited Mar. 24, 2024).

51 Sharon Zhang, *Report: Harlan Crow Has a Stake in 4 SCOTUS Cases – and Thomas Hasn't Recused*, TRUTH-OUT (Oct. 11, 2023), <https://truthout.org/articles/report-harlan-crow-has-a-stake-in-4-scotus-cases-and-thomas-hasnt-recused/>.

52 Erin Snodgrass & Oma Seddiq, *Clarence Thomas was the lone dissent in the Supreme Court's January order rejecting Trump's bid to withhold documents from the January 6 panel*, BUSINESS INSIDER (Mar. 24, 2022), <https://www.businessinsider.com/clarence-thomas-only-justice-dissent-in-trump-january-6-bid-2022-3>.

53 Jane Mayer, *Legal Scholars Are Shocked By Ginni Thomas's "Stop the Steal" Texts*, THE NEW YORKER (Mar. 25, 2022), <https://www.newyorker.com/news/news-desk/legal-scholars-are-shocked-by-ginni-thomass-stop-the-steal-texts>.

54 *Id.*

55 Adam Liptak, *Justice Thomas Ruled on Election Cases. Should His Wife's Texts Have Stopped Him?*, THE NEW YORK TIMES (Mar. 25, 2022), <https://www.nytimes.com/2022/03/25/us/supreme-court-clarence-thomas-recusal.html>.

56 *Recent Times a Justice Failed to Recuse Despite a Conflict of Interest*, FIX THE COURT (Jan. 12, 2024), <https://fixthecourt.com/2024/01/recent-times-justice-failed-recuse-despite-clear-conflict-interest/>.

57 SUPREME COURT OF THE UNITED STATES, *supra* note 2, Canon 2.

58 *Code of Conduct for United States Judges, Guide to the Judiciary Policy, Vol. 2A* (2019), UNITED STATES COURTS, [https://www.uscourts.gov/sites/default/files/code\\_of\\_conduct\\_for\\_united\\_states\\_judges\\_effective\\_march\\_12\\_2019.pdf](https://www.uscourts.gov/sites/default/files/code_of_conduct_for_united_states_judges_effective_march_12_2019.pdf) (last visited Mar. 28, 2024).

59 *Id.*

Court Justices on whether to recuse themselves has sparked public concern about rulings where Justices are taking part while having personal conflicts of interest.<sup>60</sup> Not having an enforcement mechanism for the departures of recusal practices poses a threat to the stability of the Court. Despite Canon 2's provisions, it is not enforceable in practice since allegations cannot be investigated, which functions as a *de facto* immunity. Nevertheless, that can change.

Furthermore, the issues surrounding Chief Justice Roberts are of equal concern. As mentioned, the Chief Justice's spouse is a successful headhunter for essential positions in law firms with business in the court.<sup>61</sup> The nature of the exchanges taking place ignites all worries. The Chief Justice's wife makes her livelihood on recommendations of who could win those cases. Who is the person who determines which of these cases will be presented to the Court? Her husband.<sup>62</sup> This not only breaks the integrity of the rulings, but of the whole democratic process, as these rulings establish norms that society will follow going forward. One could argue that her job is just a traditional role in the legal field, and it would be a fair argument for an average individual. However, it becomes a concern when the subject is the closest, legally protected confidant to the individual dictating the agenda in the court. This matter might be deemed harmless upon the conclusion of an investigation. Nonetheless, the mere appearance of impropriety solidifies the claim for an independent enforcement mechanism for claims concerning violations of Canon 2.

In conclusion, multiple alleged ethical violations are tainting the image of the Supreme Court. This article does not claim that the Court was free from criticism prior to the events mentioned above. However, we argue that there should be some sort of mechanism that can protect the public interest in situations where it is alleged that a Justice engages in behavior contrary to the Code of Ethics. The current system lacks a proper mechanism of checks and balances, leading the public to perceive the members of the Court as immune from prosecution, unless it is an overt crime.

## ii. The increasing partisanship of the current court

Justice Thomas and Chief Justice Roberts have not been the only Justices of the Supreme Court under heightened scrutiny, as the public is concerned with the Court's current composition.<sup>63</sup> The public increasingly perceives the court as a political body, rather than a neutral dispute resolution tool. This is the result of the nature of the most recent appointments to the Court, most of them only receiving partisan support. Interestingly, the results of the votes to confirm rarely have to do with the qualifications of the prospective Justices themselves; instead, they highlight a clash in the philosophies that the

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60 Supreme Court of the United States, *supra* note 2, Canon 3, § B (2).

61 Durkee, *supra* note 9.

62 *How The Court Works—The Chief Justice's Role*, SUPREME COURT HISTORICAL SOCIETY, <https://supreme-court-history.org/how-the-court-works/the-chief-justice-role/> (last visited Mar. 25, 2024).

63 Joanna R. Lampe, "Court Packing": Legislative Control over the Size of the Supreme Court, CONGRESSIONAL RESEARCH SERVICE (Dec. 14, 2020), <https://crsreports.congress.gov/product/pdf/LSB/LSB10562>.

Justices will likely adopt in their future rulings. Congress is concerned with the risk of potentially appointing judges who will seek to change the norm, thus increasing the unpredictability and instability of the Court. The public has responded with concerns about the Court's ability to remain impartial, leading to a historic mistrust in the Court, and rightfully so.

The controversy on the Court's current composition and the appearance of partisanship goes back several presidents. Prior to Barack Obama being in office, Justice Roberts, Justice Thomas, and Justice Alito were appointed by President Bush to serve in the Supreme Court. The appointment of Justice Thomas, the longest-serving member of the current Court, sparked public interest due to allegations of improper conduct by the nominee.<sup>64</sup> However, all Justices nominated by President Bush received some sort of bipartisan support in their confirmation.<sup>65</sup> Additionally, the Justices that were first appointed during President Obama's terms, Justice Sotomayor and Justice Kagan, were confirmed with bipartisan support as well.<sup>66</sup> When President Barack Obama was in his last year in office, Justice Scalia's seat opened up due to his unexpected death. Nonetheless, the Republican-controlled Senate halted the President from confirming another Justice because the nomination "was too close to the election," or so they claimed.<sup>67</sup> As such, the position was vacant until the presidency of Donald Trump. When President Trump took office, he quickly named Justice Gorsuch, another originalist, for the vacant position. He received only three votes from Democrats, even though none were required, which added controversy to the confirmation. What followed were a series of increasingly political confirmation hearings, including those of Justice Kavanaugh, Justice Coney Barrett, and Justice Brown Jackson.<sup>68</sup>

It is not preposterous to witness the President of the United States nominating Justices whose philosophies incline with those of the party they belong to. Nonetheless, the increased perception of partisanship by the Court has brought concern to the public, because of threats to *stare decisis*, or precedents. The United States operates its legal system under common law. This means that the majority opinions that judges author carry the same power as a law when it comes to enforcing a certain outcome or norm.<sup>69</sup> The historical practice of the Court is to provide similar rulings in similar cases to preserve precedents and maintain the congruence of the legal system. This is what is known as *stare decisis*. However, the stability of the Courts and the societal implications are threatened if there are judges willing to part from the historical practice of *stare decisis*, to implement

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64 Adam Clymer, *THE THOMAS CONFIRMATION; Senate's Futile Search for Safe Ground*, THE NEW YORK TIMES (Oct. 16, 1991), <https://www.nytimes.com/1991/10/16/us/the-thomas-confirmation-senate-s-futile-search-for-safe-ground.html>; Anita Hill testifying in front of the Senate Judiciary Committee during Clarence Thomas's Supreme Court confirmation hearing, LIBRARY OF CONGRESS, [HTTPS://WWW.LOC.GOV/RESOURCE/PPM-SCA.65032/](https://www.loc.gov/resource/ppm-sca.65032/) (last visited Mar. 24, 2024).

65 United States Senate, *supra* note 8.

66 *Id.*

67 Eric Bradner, *Supreme Court nomination*, CNN (Sep. 19, 2020), <https://edition.cnn.com/2020/09/18/politics/merrick-garland-senate-republicans-timeline/index.html>.

68 United States Senate, *supra* note 8.

69 U.S. CONST. art. III, § 2.

rulings founded on different philosophies. These concerns began to materialize in cases like *Dobbs v. Jackson Women's Health Organization*, where 50 years of precedent was undermined by originalist interpretations of the Constitution.<sup>70</sup> Another partisan vote in *Students for Fair Admissions v. President and Fellows of Harvard College* struck down race-based admission systems aimed at affirmative action. The Court reasoned that the programs did not meet the strict scrutiny needed to demonstrate a compelling government interest, violating the Equal Protection Clause of the Constitution's Fourteenth Amendment.<sup>71</sup> This case brought controversy to the Court as many believe the ruling was based on partisan beliefs rather than the rule of law. Furthermore, the current Supreme Court also ruled in *Biden v. Nebraska*, and *303 Creative LLC v. Elenis* along party lines.<sup>72</sup> Both cases also sparked political discussions of partisan rulings with political connotations. One case struck down the President's effort to cancel a portion of student loan debt,<sup>73</sup> while the other prioritized contractual and religious rights over LGBTQ+ societal rights.<sup>74</sup> When combining the aforementioned rulings with the notion of common law in the United States, the focus turns to the impact that the rulings have on society, not necessarily the philosophies the Justices carry themselves. The problem is that when the Court parts from precedents, society is forced to transform its understanding of laws, such as the Constitution, which the public may have enjoyed for decades. Thus, combining the reality that Justices are willing to part from precedent in their rulings with the allegations that Justices are receiving lavish gifts from plaintiffs of the court. It should not be surprising that doubts related to the integrity of the Court start to arise, and the need to implement internal and external controls for the behavior of Justices materializes evermore.

### III. THE ADDITIONAL CONTROLS FOR SUPREME COURT JUSTICES' CONDUCT

The Supreme Court of the United States can amend their Code of Ethics to include enforcement mechanisms. However, internal and external controls can be implemented via legislation, without hindering the separation of powers so vital to a functioning democracy. In order to restore the confidence in the Court and legitimize the Code of Ethics, the legislature should implement a Judicial Review Council where the public, or judges themselves, can submit complaints about a judge's behavior. This process would be supplemental to and would precede an impeachment. The United States can benefit from adding such auxiliary regulations to the Judicial appointment process as the current system generated the perception that judges are immune from any accountability measure.

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<sup>70</sup> *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022).

<sup>71</sup> *Students for Fair Admissions v. President and Fellows of Harvard College*, 600 U.S. 181 (2023).

<sup>72</sup> *Biden v. Nebraska*, 143 S. Ct. 2355 (2023); *303 Creative LLC v Elenis*, 600 U.S. 570 (2023).

<sup>73</sup> *Biden*, 143 S. Ct. 2355.

<sup>74</sup> *303 Creative LLC*, 600 U.S. 570.

### *A. Implementation of internal and external controls*

A Two-Step Complaints process should be implemented as an additional control on the behavior of Supreme Court Justices. The legislation required consists of the creation of a Judicial Review Council. The objective of the Council would be to regulate all federal judges, but for the purpose of this article the focus is on Supreme Court Justices. This Council would be headed by a single chairperson who is a member of the Supreme Court, but not the serving chief justice. The rest of the members are to be selected from the existing roster of federal judges. The selection method for the Council should aim to include different ideologies, legal philosophies, and affiliations. As such, the appointment of the members of the Council should be by the United States House Committee on the Judiciary. This committee is not only bipartisan by design, but also can allow the public to have a voice on the matter, as they can reach out to their representatives and provide feedback on the selection process. The purpose of establishing a Judicial Review Council is to create a mechanism where the public or members of the Council themselves can initiate a complaints process and, if the results of an investigation validate the complaint, then the resulting reports can increase public pressure to start an impeachment process. The distinctive feature of this process, diverging from the existing system, lies in the initiation of the Two-Step Complaints process through the Judicial Branch. Subsequently, an investigation would be conducted by an independent council, ideally selected from the Office of the Inspector General.

The problem with the current process to remove a Justice from the Supreme Court is that it is perceived as a political process. Consequently, Congress can be extremely cautious about initiating an impeachment process. Nonetheless, the proposed complaints process would be complementary and serve as a basis to the impeachment. Engaging the Office of the Inspector General places the investigation within the purview of the Executive Branch, given that the office is an administrative agency of the Executive Power. This system enhances the balance of powers, with the Judicial Branch overseeing the administrative aspects of receiving complaints and publishing reports, the Executive Branch handling investigations and reporting findings, and the Legislative Branch being able to commence an impeachment process.

The system is labeled as a Two-Step Complaints review because it requires someone to first submit an official complaint to initiate the process, followed by an investigation and results phase. As proposed, the Complaints system would be available to the public or the internal members of the Council themselves. The system allows citizens to submit complaints directly to the Judicial Review Council alleging a violation to a Canon of the Code of Ethics published by the Supreme Court. Additionally, the system allows judges and members of the Council to make complaints themselves. The allegation in the complaint needs to be backed up with evidence and specific descriptions of the Canons under question. Due to the controversial nature of the avenue that allows judges to submit complaints, this method requires at least two judges to jointly submit the complaint. The judges may do so either with their names attached or anonymously. Therefore, the proposal provides a platform for both the public and federal judges, both of whom currently have limited influence in the existing process.

Once the complaint is submitted, the Judicial Review Council reviews it for purposes of completion. If the complaint includes all the elements to be considered a proper complaint, then it is sent to the Office of the Inspector General for review. The Office of the Inspector General will assign a Special Council to the case, who then reviews the complaint on the merits. Once the Special Council completes the review of the complaint through an investigation, the Special Council releases a report with findings and a recommendation to the Judicial Review Council. The findings in the report include the facts relevant to the allegations implicating the justice and then a recommendation of what should be the next step: impeachment or dismissal of the complaint.

The Special Council can recommend that the complaint be dismissed on the basis that the allegations were frivolous, did not meet the criteria of a complaint, or that the allegations were not of merit. The standard of proof to determine a recommendation depends on preponderance of the evidence, similar to other administrative procedures. However, if the Special Council recommends moving forward with an impeachment, then the Judicial Review Council will be forced to complete their own version of the report.

Providing a mechanism that allows a justice of the Supreme Court to conduct an investigation through the Judicial Review Council maintains the sanctity of the separation of powers that the constitution requires. Nonetheless, having the Judicial Review Council start their investigation with an independent report from the Office of the Inspector General adds another level of control. The purpose of the Two-Step Complaints process is evident at the second step. The second step forces the chairperson justice to either validate or go against the findings of the Inspector General in a separate investigation. When the Judicial Review Council completes the investigation, its members will undergo a vote. If the vote yields a convincing majority of at least seventy-five percent of the total Council members, the Judicial Review Council will proceed to recommend impeachment.

The Legislative Branch will not be alienated from this process, as they have the final word in the impeachment process. The Constitution of the United States establishes in Article I Section II that “[t]he House of Representatives . . . shall have the sole power of Impeachment.”<sup>75</sup> In Section III of the same Article, it states that “the Senate shall have the sole Power to try all Impeachments.”<sup>76</sup> This means that the House of Representatives and Senate have the constitutional ability to initiate an impeachment inquiry and carry out impeachment trials, respectively. However, the public sees the mechanisms to accomplish an impeachment process as political. Adding additional internal and external controls alleviates the political nature of investigations from Congress. The additional mechanisms concluded before the commencement of the impeachment inquiry can exert significant pressure to initiate the process in a non-political fashion due to the publicity generated during the investigation and reporting phase. If a single member of Congress brings a frivolous impeachment inquiry to the floor of the House of Representatives, it can easily be dismissed. Albeit, beginning the impeachment inquiry with an impartial report containing convincing determinations of whether to impeach or not carries a dis-

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<sup>75</sup> U.S. CONST. art. I, § 2, cl. 5.

<sup>76</sup> *Id.* art. I, § 3, cl. 6.

tinct weight, especially given that the recommendation would have to be validated by a Justice of the Supreme Court.

#### IV. AN INTERNATIONAL POINT OF VIEW

Recommendations for additional controls in a new Ethics Code for the Supreme Court of the United States should not be limited to a domestic point of view, as other nations utilize similar texts. This part of the article evaluates other jurisdictions to uncover the best practices contributing to transparent and efficient legal systems globally, and to also highlight the areas to stay away from. In order to evaluate the efficiency of other legal systems around the world, this article used the World Justice Project’s Rule of Law Index.<sup>77</sup> The World Justice Project is an independent organization that seeks to share knowledge of the advances of the rule of law worldwide.<sup>78</sup> The international community values the index for its comprehensive factors measuring the transparency and efficiency of the legal systems of different nations. These include Constraints in Government Powers; Absence of Corruption; Open Government; Fundamental Rights, Order and Security; Regulatory Enforcements; Civil Justice; and Criminal Justice.<sup>79</sup> This part compares the placement of the United States to other countries to determine potential areas where the United States can improve.

The United States ranked twenty-sixth out of 142 countries in the overall Rule of Law Index.<sup>80</sup> More specifically, the United States ranks twenty-eighth in Constraints in Government Powers, twenty-second in Absence of Corruption, fifteenth in Open Government, thirty-eighth in Fundamental Rights, thirty-third in Order and Security, twenty-second in Regulatory Enforcements, thirty-eighth in Civil Justice, and twenty-ninth in Criminal Justice.<sup>81</sup> There are areas where the United States ranks lower than their overall score, which sparks concern. The first factor highlighted is the Constraints on Government Power; this “measures whether legislative bodies have the ability in practice to exercise effective checks on and oversight of the government” and whether “government officials in the executive, legislature, judiciary, and the police are investigated, prosecuted, and punished for official misconduct and other violations.”<sup>82</sup> Additionally, the lower than average ranking in Civil Justice is concerning since this factor measures the level of “accessibility and affordability of civil courts,” whether “the civil justice system is free of bribery and improper influence by private interests,” and whether “the civil justice system is free of improper government or political influence.”<sup>83</sup> Both of these factors measure aspects of the legal system that can address the negative perception the current Supreme Court holds.

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<sup>77</sup> *Rule of Law Index*, WORLD JUSTICE PROJECT, <https://worldjusticeproject.org/rule-of-law-index/> (last visited Mar. 26, 2024).

<sup>78</sup> *Id.* at *About Us*, <https://worldjusticeproject.org/about-us> (last visited Mar. 26, 2024).

<sup>79</sup> *Id.* at *Factors*, <https://worldjusticeproject.org/rule-of-law-index/factors/20233> (last visited Mar. 26, 2024).

<sup>80</sup> *Id.* at *United States*, <https://worldjusticeproject.org/rule-of-law-index/global/2023/United%20States/> (last visited Mar. 26, 2024).

<sup>81</sup> *Id.*

<sup>82</sup> *Id.* at *Constraints on Government Powers*, <https://worldjusticeproject.org/rule-of-law-index/factors/2023/Constraints%20on%20Government%20Powers/> (last visited Mar. 26, 2024).

<sup>83</sup> *Id.* at *Civil Justice*, <https://worldjusticeproject.org/rule-of-law-index/factors/2023/Civil%20Justice/> (last visited Mar. 26, 2024).

They assess government official's abilities avoid accountability for actions that violate any ethical or disciplinary standards. As such, the objective of this endeavor is to determine the improvements needed to reinstate the confidence in the United States legal system, especially when it comes to concerns surrounding the Supreme Court's Code of Ethics.

A. *Countries with a history of trustworthy legal systems*

i. Canada

Canada's legal system is not only one of the most advanced in the Americas, but also globally. Their legal system originates from the British and the French, which means it responds to a combination of common and civil law.<sup>84</sup> Additionally, the legal system has a hierarchical court system which starts at the local level and ends with the Supreme Court of Canada and has other specific purposes tribunals like a tax court.<sup>85</sup> Overall, the judicial system is similar to the current system in the United States. However, the judicial system is at the behest of the federal and local governments, as they are the ones that determine the structure of the system.<sup>86</sup> This means that the courts are subject to external regulations and structure implementations by Parliament. The United States has a similar provision for Congress in the Constitution, but the United States does not have a central system of judicial review and regulations like Canada does with the Canadian Judicial Council, implemented by the Judges Act.<sup>87</sup> As such, this section explores the virtues of the Canadian legal system and the complaints system in the Canadian Judicial Council that regulates judges' conduct.

According to the Rule of Law Index, Canada ranks twelfth; this is the best mark for any country in the Americas.<sup>88</sup> The Constraints of Government Power factor stands out because in the subfactor measuring whether Government Powers are Subject to Non-Government Checks, Canada ranked fourth.<sup>89</sup> This mark contrasts sharply to the United States' twenty-ninth position.<sup>90</sup> This disparity arises from the domestic dilemma surrounding justices, like Justice Thomas, for alleged ethical violations, and the fact that no real change has come about since the publication of the allegations.<sup>91</sup> In contrast Justice Russell Brown, a Supreme Court Justice in Canada, faced similar scrutiny for an alleged public altercation.<sup>92</sup> This incident resulted in his resignation from his post, which prompted the Canadian government to express their commitment to improving the flaws of their complaints system.<sup>93</sup> These responses highlight two contrasting approaches to similar situations.

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84 *Canada's System of Justice*, DEPARTMENT OF JUSTICE CANADA, <https://www.justice.gc.ca/eng/csj-sjc/> (last visited Mar. 26, 2024).

85 *Id.* at *The judicial structure - About Canada's System of Justice*, <https://www.justice.gc.ca/eng/csj-sjc/just/07.html> (last visited Mar. 26, 2024).

86 *Id.*

87 Judges Act, R.S.C. 1985, c J-1 (Can.).

88 WORLD JUSTICE PROJECT, *SUPRA* NOTE 76, AT *Countries Scored by Overall Score*, <https://worldjusticeproject.org/rule-of-law-index/global/2023/Canada> (last visited Mar. 26, 2024).

89 *Id.* at *Constraints on Government Powers*, <https://worldjusticeproject.org/rule-of-law-index/factors/2023/Canada/Constraints%20on%20Government%20Powers/> (last visited Mar. 10, 2024).

90 *Id.*

91 Alison Durkee, *supra* note 9.

The complaints system in Canada is built to allow the public to submit complaints concerning the behavior of any federal judge directly to the Canadian Judicial Council.<sup>94</sup> Additionally, the complaints system allows members of the Council to initiate the process, but this method requires at least two members of the council to submit the complaint.<sup>95</sup> This process, as a result, provides an internal and external review process for the judge's behavior, similar to the one proposed in this article. The complaints system is then regulated by a written Code of Ethics, which is updated regularly.<sup>96</sup> The complaints that are submitted by the public or internally by members of the council are then reviewed by an independent screening officer.<sup>97</sup> This step compares to the referral to the Office of the Inspector General suggested in this article's proposed process. If the screening officer deems the complaint frivolous or that it did not meet the criteria for a complaint, then the process is dismissed.<sup>98</sup> Overall, the process investigates complaints regarding the judge's behavior and uncovers any wrongdoing, providing a system where the public can tangibly track disciplinary protocols. The United States could benefit by implementing a similar system that provides an avenue for the public to submit complaints about alleged violations to the Code of Ethics before the impeachment process.

## ii. Costa Rica

With a global ranking of twenty-ninth, Costa Rica has the best placement in the Rule of Law Index among the countries in Central America or the Caribbean.<sup>99</sup> Costa Rica scored in the top percentile for Constraints of Government Powers at the sixteenth position,<sup>100</sup> compared to the United States that ranked twenty-eighth.<sup>101</sup> More importantly, Costa Rica ranked tenth in both subfactors measuring whether Government Powers are Subject to Non-Government Checks and if the Transition of Power is Subject to the Law.<sup>102</sup> This contrasts with the United States, which ranked twenty-ninth and thirty-seventh in

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92 Christopher Nardi, *Supreme Court Justice Russell Brown resigns amid probe into altercation, citing 'strain' and length of investigation*, NATIONAL POST (Jun. 12, 2023), <https://nationalpost.com/news/politics/supreme-court-justice-russell-brown-resigns>.

93 Andrea Lawlor & Erin Crandall, *Longstanding Canadian confidence in the judicial system may be on shaky ground*, POLICYOPTIONS (Aug. 24, 2023), <https://policyoptions.irpp.org/magazines/august-2023/judicial-system-confidence/>.

94 Judges Act, R.S.C. 2023, c. 18, s. 12 (Can.).

95 *Id.*

96 *Ethical Principles for Judges*, CANADIAN JUDICIAL COUNCIL, [https://cjc-ccm.ca/sites/default/files/documents/2021/CJC\\_20-301\\_Ethical-Principles\\_Bilingual\\_Final.pdf](https://cjc-ccm.ca/sites/default/files/documents/2021/CJC_20-301_Ethical-Principles_Bilingual_Final.pdf) (last visited Mar. 26, 2024).

97 Judges Act, R.S.C. 2023, c. 18, s. 12 (Can.).

98 *Id.*

99 WORLD JUSTICE PROJECT, *SUPRA* NOTE 76, AT *Overall Index Score*, <https://worldjusticeproject.org/rule-of-law-index/country/2023/Costa%20Rica> (last visited Mar. 26, 2024).

100 *Id.* at *Constraints on Government Powers*, <https://worldjusticeproject.org/rule-of-law-index/factors/2023/Costa%20Rica/Constraints%20on%20Government%20Powers/> (last visited Mar. 26, 2024).

101 *Id.*

102 *Id.*

the respective subfactors.<sup>103</sup> Investigating the Costa Rican judicial system in these areas could provide insights into additional measures the United States can adopt.

The judicial system in Costa Rica is designed to also have a Supreme Court with power over the other courts.<sup>104</sup> The first difference from the system in the United States is that the Supreme Court has twenty-two Magistrates, divided among different chambers.<sup>105</sup> These justices are nominated by the legislature for eight-year terms and require a two-thirds majority vote every time they are to be confirmed to their positions.<sup>106</sup> This contrasts from the simple majority requirement in the United States. Furthermore, the eight-year terms serve as a referendum for the public, with their elected officials voting to determine if the justices are fit to continue in their post. Additionally, the Costa Rican constitution provides for a Superior Council of the Judicial Power in charge of the administration of the Judicial Branch.<sup>107</sup> The Superior Council is tasked with the disciplinary components of the administration of the Judicial Branch, among other responsibilities. The Superior Council follows a similar process to the one proposed in this article, as they provide for an independent investigation into complaints.<sup>108</sup> If the complaints process proves to have merit, the Magistrates of the Supreme Court convene for an anonymous vote, requiring a two-thirds majority, to oust the implicated Magistrate. This level of internal controls is not proposed, as the only member of the Supreme Court of the United States involved in the Two-Step Complaints review is the Chairperson. However, a similar proposal—for example, a unanimous vote by members of the court to remove a Justice—is not beyond imagination for the United States.

### iii. Denmark

Denmark has what is considered the most trustworthy legal system according to the Rule of Law Index, where it consistently ranks first or second in almost every factor.<sup>109</sup> As such, it is easy to assume that Denmark has a comprehensive regulatory process to ensure transparency and congruence. However, the country lacks an extensive Code of Ethics, possessing only a set of principles akin to those of the United States.<sup>110</sup> This raises the question of whether such a document is even necessary. In lieu of a formal Code of

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<sup>103</sup> WORLD JUSTICE PROJECT, *SUPRA* NOTE 76, AT *Countries Scored by Overall Score*, <https://worldjusticeproject.org/rule-of-law-index/global/2023/Canada> (last visited Mar. 26, 2024).

<sup>104</sup> *Description of the Judicial System of Costa Rica*, CENTER FOR THE ADMINISTRATION OF JUSTICE, <https://caj.fiu.edu/national-cj-systems/central-america/costa-rica/> (last visited Mar. 26, 2024).

<sup>105</sup> *Id.*

<sup>106</sup> *Costa Rica's Constitution of 1949 with Amendments through 2020*, CONSTITUTE PROJECT (Aug. 26, 2021), <https://faolex.fao.org/docs/pdf/cos127451E.pdf>.

<sup>107</sup> *Id.*

<sup>108</sup> *Ley Orgánica del Poder Judicial*, SISTEMA COSTARRICENSE DE INFORMACIÓN JURÍDICA, [https://www.pgr-web.go.cr/scij/Busqueda/Normativa/Normas/nrm\\_texto\\_completo.aspx?nValor1=1&nValor2=33635](https://www.pgr-web.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=33635) (last visited Mar. 10, 2024).

<sup>109</sup> WORLD JUSTICE PROJECT, *SUPRA* NOTE 76, AT *Countries Scored by Overall Score*, <https://worldjusticeproject.org/rule-of-law-index/factors/2023/Denmark/> (last visited Mar. 26, 2024).

<sup>110</sup> *Ethical principles for judges*, DEN DANSKE DOMMERFORENING, <https://www.dommerforeningen.dk/english/ethical-principles-for-judges/#:-:text=A%20judge%20must%20abide%20by,2> (last visited Mar. 26, 2023).

Ethics, Denmark relies on its legislative body to enact laws and regulations governing ethical conduct. The Judicial Branch is completely regulated by the Legislative through laws as established by the Danish Constitution.<sup>111</sup> This means that the Legislature has continually enacted regulations concerning conduct that it deems important, including when a judge should recuse themselves, evaluating the conduct of judges and their trustworthiness in the eyes of their constituents, and incorporating statutes into the criminal code that prohibit judges from wrongfully receiving gifts or benefits.<sup>112</sup> More importantly, Denmark has established a series of specialized courts to meet the needs of the citizens.<sup>113</sup> One of the specialized courts include the Special Court of Indictment and Revision, which handles the “dismissal cases and disciplinary cases relating to judges and other jurists employed by the courts,”<sup>114</sup> including those of the Supreme Court. As such, the public has built confidence in the system where specialized courts handle topics like misconduct. The United States can benefit by adding specialized courts for Judicial matters, like those found in administrative agencies. That is why this article proposes a system like the dismissal of government officials in administrative agencies.

#### iv. Japan

Japan has the most trustworthy legal system in Asia, as they rank fourteenth on the Rule of Law Index.<sup>115</sup> The first factor to consider is Civil Justice as they rank twelfth overall and third in the subfactor that measures whether the Civil Justice is free of Corruption.<sup>116</sup> The United States ranks twenty-third in this subfactor.<sup>117</sup> Even though the United States scored around their overall average, focusing on this factor tackles the concerns Justice Thomas sparked when receiving gifts from people with matters of civil law in the court, as these allegations contributed to the Justices appearing less impartial in their rulings.<sup>118</sup> Japan implemented internal protocols for the removal of Justices, as well as term limits to improve judicial independence. Japan holds in Article 78 of their Constitution that judges can only be removed against their will if they are deemed physically or mentally unfit.<sup>119</sup>

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<sup>111</sup> DANMARKS RIGES GRUNDLOV [CONSTITUTION] of 1953, arts. 62 & 64 (Den.), [https://www.constituteproject.org/constitution/Denmark\\_1953](https://www.constituteproject.org/constitution/Denmark_1953) (last visited Mar. 10, 2024).

<sup>112</sup> DEN DANSKE DOMMERFORENING, *supra* note 109.

<sup>113</sup> *The 5 Best Countries for Judicial Independence and Rule of Law*, NOMAD CAPITALIST, [https://nomadcapitalist.com/global-citizen/best-countries-rule-of-law/#title\\_4](https://nomadcapitalist.com/global-citizen/best-countries-rule-of-law/#title_4) (last visited Mar. 10, 2024).

<sup>114</sup> Danmarks Domstole, *A Closer Look at the Courts of Denmark*, DOMSTOL, <https://domstol.dk/media/jqhg-2psf/a-closer-look-at-the-courts-of-denmark.pdf> (2021).

<sup>115</sup> WORLD JUSTICE PROJECT, *SUPRA* NOTE 76, AT *WJP Rule of Law Index*, [HTTPS://WORLDJUSTICEPROJECT.ORG/RULE-OF-LAW-INDEX/GLOBAL/2023/JAPAN](https://worldjusticeproject.org/rule-of-law-index/global/2023/japan) (last visited Mar. 10, 2024).

<sup>116</sup> *Id.* at *Civil Justice*, <https://worldjusticeproject.org/rule-of-law-index/factors/2023/Japan/Civil%20Justice/> (last visited Mar. 10, 2024).

<sup>117</sup> *Id.* at *Civil Justice*, <https://worldjusticeproject.org/rule-of-law-index/factors/2023/United%20States/Civil%20Justice/> (last visited Mar. 10, 2024).

<sup>118</sup> Elena Burnett et al., *A Look at Harlan Crow, The Billionaire Central in Clarence Thomas Controversies*, NPR (May 4, 2023), <https://www.npr.org/2023/05/04/1174083586/a-look-at-harlan-crow-the-billionaire-central-in-clarence-thomas-controversies>.

<sup>119</sup> NIHONKOKU KENPŌ [CONSTITUTION], art. 78, para. 1, [https://www.shugiin.go.jp/internet/itdb\\_english.nsf/html/statics/english/constitution\\_e.htm](https://www.shugiin.go.jp/internet/itdb_english.nsf/html/statics/english/constitution_e.htm) (last visited Mar. 10, 2024).

However, Article 80 states that the judges have terms of ten years, when they are then eligible for reappointment in a general election process.<sup>120</sup>

This system is interesting as the Justices of the Supreme Court in the United States do not have term limits. While there are some judges with elections in the United States, having a general election process for the Supreme Court Justices of the United States would be revolutionary. The process, in turn, could serve as a proxy for the measure of good behavior. As mentioned earlier in the article, the Constitution does not provide a clear definition for good behavior, the only criteria to consider for impeaching a Justice. Nonetheless, it is customary that the general elections in the United States serve as a barometer on the performance of the elected official during their time in office. As such, one could argue that the process of evaluated elected officials can be replicated in the Judicial Branch by implementing a term limit where the general public can vote on the good behavior of the Justices before they can be reappointed to the position. This process would require a convincing majority of the votes expressing a distrust of the Justice to move forward but can be an avenue for the public to maintain their confidence in the members of the court. This article is not promoting that the United States implement term limits on Justices, nor that the Justices are made subjects of a general election, as neither of those measures are strictly relevant to the enforcement of the Code of Ethics. However, in a holistic effort to achieve judicial independence, the United States could consider such ideas, as they have been efficient in other legal jurisdictions.

#### v. Uruguay

Uruguay ranked twenty-fifth in the overall global ranking,<sup>121</sup> one placement ahead of the United States.<sup>122</sup> More specifically, Uruguay scored well in the subfactors measuring whether the Government Powers are Subject to Non-Government Checks and if the Transition of Power is Subject to the Law. Uruguay ranked eighteenth and thirteenth, respectively.<sup>123</sup> In contrast, the United States ranked twenty-ninth and thirty-seventh in those subfactors.<sup>124</sup> Further investigation into Uruguay's legal system uncovered a significant societal component to the variance in scores.<sup>125</sup> During the past decades, the central government of Uruguay made it part of their mission to restore faith in the system, starting with the Judicial Branch.<sup>126</sup> Even the ex-president of the Supreme Court stated

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<sup>120</sup> *Id.* art. 80, para. 1.

<sup>121</sup> WORLD JUSTICE PROJECT, *SUPRA* NOTE 76, AT *Overall Index Score*, <https://worldjusticeproject.org/rule-of-law-index/global/2023/Uruguay/> (last visited March 26, 2024).

<sup>122</sup> *Id.* at *Overall Index Score*, <https://worldjusticeproject.org/rule-of-law-index/global/2023/United%20States/> (last visited Mar. 26, 2024).

<sup>123</sup> *Id.* at *Constraints on Government Powers*, <https://worldjusticeproject.org/rule-of-law-index/factors/2023/Uruguay/Constraints%20on%20Government%20Powers/> (last visited Mar. 26, 2024).

<sup>124</sup> *Id.* at *Constraints on Government Powers*, <https://worldjusticeproject.org/rule-of-law-index/factors/2023/United%20States/Constraints%20on%20Government%20Powers/> (last visited Mar. 26, 2024).

<sup>125</sup> Néstor Gandelman, *Confianza y valores: los ciudadanos, el sistema judicial y más*, EL PAÍS (Jul. 25, 2022), <https://www.elpais.com.uy/economia-y-mercado/confianza-y-valores-los-ciudadanos-el-sistema-judicial-y-mas>.

<sup>126</sup> *Id.*

in an interview that the effectiveness of their judicial system has brought international legitimacy.<sup>127</sup> As such, the Judicial system in Uruguay generated a sixty-one percent favorable view from the public,<sup>128</sup> compared to only forty-four percent in the United States.<sup>129</sup>

Finally, the Uruguayan Judicial system is organized similarly to the United States, as it has a Superior Court and inferior courts.<sup>130</sup> However, unlike the United States, Article 239 of the Constitution of Uruguay grants the Supreme Court the power to structure inferior courts.<sup>131</sup> The Supreme Court is composed of just five Justices that require two-thirds majority to confirm, which is another difference from the United States.<sup>132</sup> Nonetheless, the Constitution of Uruguay provides for an age limit of 70 years to the Justices.<sup>133</sup>

### B. Countries with a history of untrustworthy legal system

#### i. Nicaragua

Nicaragua's government has been criticized in the past decades due to an unstable and untrustworthy legal system. Most recently, the government has been criticized for continued oppression of the civilian population.<sup>134</sup> As such, they have earned the 137<sup>th</sup> position in the Rule of Law Index.<sup>135</sup> The more significant factors in this section are the Constraints in Government Powers (141<sup>st</sup>), Fundamental Rights (136<sup>th</sup>), Civil Justice (139<sup>th</sup>), and Criminal Justice (137<sup>th</sup>), as they all relate to the relationship between the legal system and the constituents.<sup>136</sup> As seen by the numbers and recent history, Nicaragua has adopted a legal system that only works for the ruling class and oppresses the civil-

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<sup>127</sup> En Perspectiva, *Expresidenta de la SCJ dijo que el Poder Judicial uruguayo “es pobre, pero reconocido”*, MONTEVIDEO PORTAL (Feb. 7, 2024), <https://www.montevideo.com.uy/En-Perspectiva/Expresidenta-de-la-SCJ-dijo-que-el-Poder-Judicial-uruguayo-es-pobre-pero-reconocido--uc879004>.

<sup>128</sup> *Encuesta ubica al Poder Judicial entre instituciones más confiables para los uruguayos*, PODER JUDICIAL URUGUAY (Apr. 29, 2022), [https://www.poderjudicial.gub.uy/novedades/noticias-institucionales/item/7915-encuesta-ubica-al-poder-judicial-entre-instituciones-mas-confiables-para-los-uruguayos.html#:~:text=El%20Poder%20Judicial%20genera%20una,ideológicamente%20al%20centro%20\(69%25\)](https://www.poderjudicial.gub.uy/novedades/noticias-institucionales/item/7915-encuesta-ubica-al-poder-judicial-entre-instituciones-mas-confiables-para-los-uruguayos.html#:~:text=El%20Poder%20Judicial%20genera%20una,ideológicamente%20al%20centro%20(69%25)).

<sup>129</sup> Lin & Doherty, *supra* note 5.

<sup>130</sup> *Description of the Judicial System of Uruguay*, STEVEN J. GREEN SCHOOL OF INTERNATIONAL & PUBLIC AFFAIRS CENTER FOR THE ADMINISTRATION OF JUSTICE, <https://caj.fiu.edu/national-cj-systems/south-america/uruguay/> (last visited Mar. 26, 2024).

<sup>131</sup> CONSTITUCIÓN DE LA REPÚBLICA ORIENTAL DEL URUGUAY [CONSTITUTION], art. 239, <https://www.ref-world.org/legal/legislation/natlegbod/1966/en/14926> (last visited Mar. 26, 2024).

<sup>132</sup> *Description of the Judicial System of Uruguay*, *supra* note 130 (last visited Mar. 26, 2024).

<sup>133</sup> CONSTITUCIÓN DE LA REPÚBLICA ORIENTAL DEL URUGUAY [CONSTITUTION], art. 250, <https://www.ref-world.org/legal/legislation/natlegbod/1966/en/14926> (last visited Mar. 26, 2024).

<sup>134</sup> *Nicaragua: A continuum of repression and systematic human rights violations under the Ortega-Murillo government*, AMNESTY INTERNATIONAL (Apr. 18, 2023), <https://www.amnesty.org/en/latest/news/2023/04/nicaragua-systematic-human-rights-violations-ortega-murillo/>.

<sup>135</sup> WORLD JUSTICE PROJECT, *SUPRA* NOTE 76, AT *Overall Index Score*, <https://worldjusticeproject.org/rule-of-law-index/global/2023/Nicaragua/> (last visited Mar. 26, 2024).

<sup>136</sup> *Id.* at *Factors*, <https://worldjusticeproject.org/rule-of-law-index/factors/2023/Nicaragua/> (last visited Mar. 26, 2024).

ian population. The government has been accused of using the court systems to violate civil rights when it comes to journalists, women, the indigenous population, and asylum seekers.<sup>137</sup> As such, there is no judicial independence between the Judicial Branch and the Executive or Legislative. This factor is highlighted due to the increased perception of partisanship the Court has acquired recently, as well as the United States' low score in Civil Justice.

## ii. Belarus

Belarus ranked the lowest in Europe at 104<sup>th</sup> globally.<sup>138</sup> However, this finding is not surprising as Belarus' President is considered the last dictator in Europe.<sup>139</sup> The President recently passed a law that provides lifelong immunity from all actions to former and future presidents.<sup>140</sup> The main issue with the policy is that the only President in the history of Belarus, after the dissolution of the Soviet Union, is the current President that passed the law. Consequently, the country is labeled as a dictatorship with no judicial independence. Given the aforementioned, it is no surprise that Belarus ranked 139<sup>th</sup> in Constraints on Government Powers,<sup>141</sup> almost in last place. The current system provides limited controls to the central government regarding the outcomes of the Judicial Branch, making their legal system untrustworthy.

This issue is so widespread that the United Nations released a statement expressing the need to establish judicial independence in Belarus.<sup>142</sup> The focus of the changes, the report claims, is to prohibit the central government from utilizing the Judicial Branch as a political tool to silence the opposition.<sup>143</sup> Even though the United States ranked twenty-eighth in Constraints on Government Powers, the increased partisanship of the court had generated similar concerns domestically.<sup>144</sup> In contrast to the United States, some of the Justices of the Supreme Court of Belarus are directly appointed by the President, without needing confirmation by the legislative chamber, leading to a structure with higher

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<sup>137</sup> *Nicaragua: Events of 2022*, HUMAN RIGHTS WATCH <https://www.hrw.org/world-report/2023/country-chapters/nicaragua> (last visited Mar. 26, 2024).

<sup>138</sup> WORLD JUSTICE PROJECT, *SUPRA* NOTE 76, AT *Overall Index Score*, <https://worldjusticeproject.org/rule-of-law-index/global/2023/Belarus/> (last visited Mar. 26, 2024).

<sup>139</sup> Richard Freedman, *Belarus: The Last Dictatorship in Europe*, PRESS SERVICE 1, [https://www.europarl.europa.eu/RegData/presse/pr\\_info/2006/EN/03A-DV-PRESSE\\_IPR\(2006\)03-31\(06898\)\\_EN.pdf](https://www.europarl.europa.eu/RegData/presse/pr_info/2006/EN/03A-DV-PRESSE_IPR(2006)03-31(06898)_EN.pdf) (last visited Mar. 26, 2024).

<sup>140</sup> Srishti Gaur, *Belarus president enacts stricter presidential candidate criteria and presidential immunity*, JURIST (Jan. 5, 2024), <https://www.jurist.org/news/2024/01/belarus-president-enacts-stricter-presidential-candidate-criteria-and-presidential-immunity/>.

<sup>141</sup> WORLD JUSTICE PROJECT, *SUPRA* NOTE 76, AT *Overall Index Score*, <https://worldjusticeproject.org/rule-of-law-index/global/2023/Belarus/Constraints%20Government%20Powers/> (last visited Mar. 26, 2024).

<sup>142</sup> *Belarus should ensure the independence of the judiciary and the legal profession (UN Statement)*, INTERNATIONAL COMMISSION OF JURISTS (May 7, 2021), <https://www.icj.org/belarus-should-ensure-the-independence-of-the-judiciary-and-the-legal-profession-un-statement/>.

<sup>143</sup> *Id.*

<sup>144</sup> WORLD JUSTICE PROJECT, *SUPRA* NOTE 76, AT *Constraints on Government Powers*, <https://worldjusticeproject.org/rule-of-law-index/factors/2023/United%20States/Constraints%20on%20Government%20Powers/> (last visited Mar. 26, 2024).

risks for corruption.<sup>145</sup> Nonetheless, the United States should be cautious of threats from the central government utilizing judges to facilitate political agendas.

### iii. Egypt

Egypt ranks dangerously low at 136<sup>th</sup> overall on the Rule of Law Index.<sup>146</sup> The African nation was the second least trustworthy legal system in the continent, trailing only behind the Democratic Republic of Congo. Nonetheless, this article examined Egypt due to the significant scoring of 140<sup>th</sup> in Constraints on Government, and 142<sup>nd</sup> in Open Government.<sup>147</sup> The Egyptian Judiciary system is based on the French system.<sup>148</sup> However, it was overrun by an authoritarian regime through a coup.<sup>149</sup> After the coup, the central government passed a series of constitutional amendments through questionable referendums that expanded the powers of the central government.<sup>150</sup> The most damaging amendment was one that made the President the chairman of the Supreme Judicial Council, breaking all judicial independence.<sup>151</sup> Ever since, the Judicial Branch has seen consistent political attacks from the central government in the form of judge removals.<sup>152</sup> The central government removed dissenters from the Judicial Branch, resulting in a judicial independence crisis observed at the international level.<sup>153</sup> Authoritarian governments do not provide trustworthy legal systems and Egypt is a prime example of this.

The Egyptian central government has taken over their Judicial Branch. Detainees experience increased delays in the process and reduced rights.<sup>154</sup> Abundance of corruption has led the citizens of Egypt to not trust the judicial system, and the courts are being used to silence the opposition.<sup>155</sup> This issue draws parallel to the current domestic threat facing the United States, where there are concerns that the country could shift toward an authoritarian regime if the legal system is manipulated by the Executive Branch for political ends.

<sup>145</sup> *The court system in Belarus*, BELARUS: OFFICIAL WEBSITE OF THE REPUBLIC OF BELARUS, <https://www.belarus.by/en/government/courts> (last visited Mar. 26, 2024).

<sup>146</sup> WORLD JUSTICE PROJECT, *SUPRA* NOTE 76, AT *Overall Index Score*, <https://worldjusticeproject.org/rule-of-law-index/global/2023/Egypt%2C%20Arab%20Rep./> (last visited Mar. 26, 2024).

<sup>147</sup> *Id.*

<sup>148</sup> Mohamed S.E. Abdel Wahab, *UPDATE: An Overview of the Egyptian Legal System and Legal Research*, HAUSER GLOBAL LAW SCHOOL PROGRAM (Dec. 2019), <https://www.nyulawglobal.org/globalex/Egypt1.html>.

<sup>149</sup> Amy Hawthorne, *Q&A – Between a Rock and a Hard Place: How Egypt’s Constitutional Amendments Erode Judicial Independence*, POMED (Apr. 18, 2019), <https://pomed.org/publication/qa-between-a-rock-and-a-hard-place-how-egypts-constitutional-amendments-erode-judicial-independence/>.

<sup>150</sup> *Id.*

<sup>151</sup> *Egypt: CFJ highlights attacks on judicial independence in submission to UN special rapporteur*, COMMITTEE FOR JUSTICE (Feb. 21, 2024), <https://www.cfjustice.org/egypt-cfj-highlights-attacks-on-judicial-independence-in-submission-to-un-special-rapporteur/>.

<sup>152</sup> Ahmed Aboulenein, *How Egypt’s crackdown on dissent ensnared some of the country’s top judges*, REUTERS (Oct. 18, 2016), <https://www.reuters.com/investigates/special-report/egypt-judges/>.

<sup>153</sup> *Id.*

<sup>154</sup> *Egypt: CFJ highlights attacks on judicial independence*, *supra* note 151.

<sup>155</sup> *Egypt: Citizens’ lack of trust in the justice system is the real danger*, CAIRO INSTITUTE FOR HUMAN RIGHTS STUDIES (Dec. 2, 2019), <https://cihrs.org/egypt-citizens-lack-of-trust-in-the-justice-system-is-the-real-danger/?lang=en>.

The debate related to this topic began with the increased partisanship of the court. However, former President Trump claimed that the Judicial Branch is currently being used as a political tool against him, even though he also said publicly that he would use the Judicial Branch in his favor if reelected.<sup>156</sup> As such, the dangers that materialized in Egypt pose a threat in the United States as well.

## CONCLUSION

In conclusion, the Supreme Court of the United States still needs additional enforcement mechanisms for the Code of Ethics published in November 2023. The Court needs to implement additional controls to ensure its integrity and legitimacy. Additional internal or external review mechanisms demonstrated increased confidence in judicial systems at the international level. The United States should strive to achieve similar results with their legal system. A change is possible with the implementation of the Two-Step Complaints review process. Therefore, the Supreme Court of the United States, in collaboration with the Executive and Legislative Branch, should begin the process to implement additional regulations governing the conduct of Justices, as there is an urgent need to restore the trust in the system.

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<sup>156</sup> Associated Press, *Trump campaign calls latest indictment part of a politically motivated 'witch hunt'*, PBS (Aug. 1, 2023), <https://www.pbs.org/newshour/politics/trump-campaign-calls-latest-indictment-part-of-a-politically-motivated-witch-hunt>.